

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA**

In re:

New Electronic Transcript Policy)	Administrative Order No. 08-01
)	All Divisions

ADMINISTRATIVE ORDER
REGARDING NEW ELECTRONIC TRANSCRIPT POLICY

At its September 2007 session, the U.S. Judicial Conference approved a new policy regarding the availability of transcripts of court proceedings. A new release of CM/ECF, Version 3.2, includes software that facilitates the implementation of this policy. This Administrative Order replaces Administrative Order No. 07-04 regarding electronic transcripts.

I. Summary

- A. **Electronic Availability of Transcript of Court Proceedings.** The language from the Judicial Conference's September 2007 session regarding electronic availability of transcripts of court proceedings states:
1. A transcript provided to a court by a court reporter or transcriber will be available at the office of the clerk of court for inspection only, for a period of 90 days after it is delivered to the clerk.
 2. During the 90-day period, a copy of the transcript may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference, the transcript will be available within the court for internal use, and an attorney who obtains the transcript from the court reporter or transcriber may obtain remote electronic access to the transcript through the court's CM/ECF system for purposes of creating hyperlinks to the transcript in court filings and for other purposes.
 3. After the 90-day period has ended, the filed transcript will be available for inspection and copying in the clerk's office and for downloading from the court's CM/ECF system through the judiciary's PACER system.

B. **Application of Fed. R. Bankr. P. Rule 9037(a), *Redacted Filings*.** This rule, effective December 2, 2007, states:

Unless the court orders otherwise, in an electronic or paper filing made with the court that contains an individual's social security number and taxpayer identification number, or birth date, the name of an individual, other than the debtor, known to be and identified as a minor, or a financial account number, a party or nonparty making the filing may include only:

- (1) the last four digits of the social security number and taxpayer identification number;
- (2) the year of the individual's birth
- (3) the minor's initials; and
- (4) the last four digits of the financial account number.

The redaction procedures for transcripts (as well as the 90-day restriction policy) apply only to transcripts of federal courtroom proceedings.

With the exception of transcripts, redaction of the information described in Fed. R. Bankr. P. Rule 9037(a) is the responsibility of the person filing the document. When a transcript is filed, the attorneys and pro se parties who attended the hearing are solely responsible for redaction of the information described in the Rule. Redaction is accomplished only with input from the attorneys and pro se parties who attended the hearing. Transcribers are not responsible for identifying a need for redaction or for redacting transcripts absent a request by an attorney or pro se party.

The court's responsibility is to follow the Judicial Conference guidelines for providing public access to the transcript and for restricting access in accordance with the Judiciary's privacy policy. The clerk is not required to review documents filed with the court for compliance with this rule.

II. Overview of Process within CM/ECF

- A. Upon the request and purchase of a transcript by a party, the court reporter or transcriber (hereinafter "transcriber") electronically files the transcript of court proceedings with the court using the *Transcript* docket event. This event serves as a notice of the filing of a transcript and includes language that indicates that parties have seven (7) calendar days to file with the court a *Notice of Intent to Request Redaction* of this transcript.

- B. During the 90-day period (which may be extended by the court), access to the transcript in CM/ECF is restricted to four types of users:
- Court staff;
 - Public terminal users;
 - Attorney of record or parties who have purchased the transcript from the transcriber; and
 - Other persons as directed by the court.

Any party needing to review the transcript for redaction purposes may purchase a copy from the transcriber or view the transcript at the public terminal in the clerk's office. If a party purchases the transcript from the transcriber, and he or she is an attorney on the case, he or she will be given remote access to the transcript via PACER and CM/ECF. PACER fees apply at all times when accessing transcripts remotely. Except for public terminal viewers, persons authorized to view or download the transcript can also create hyperlinks to the transcript. The clerk's office will grant the access upon notification from the transcriber that payment was received.

- C. The date the transcript is filed is the starting date for all deadlines related to restriction and redaction of the transcript.
- D. A notice of the filing of the transcript (including notice of the 90-day restriction period and the deadlines related to redaction) is provided via the docket text of the transcript event and the Notice of Electronic Filing (hereinafter "NEF") and a separate notice mailed to pro se parties.
- E. The following deadlines apply to the restriction, redaction, and release of a transcript for public viewing.
1. Within seven (7) calendar days of the filing in CM/ECF of the official transcript, each party wishing to redact a transcript must inform the court, by filing a *Notice of Intent to Request Transcript Redaction* with the clerk, of the party's interest to redact personal data identifiers from the electronic transcript of the court proceedings. If no such notice is filed within the allotted time, the court will assume redaction of personal identifiers from the transcript is not necessary.
 2. If redaction is requested, a party has 21 calendar days from the filing of the transcript, or longer if a court so orders, to file a *Request for Redaction* indicating where the personal identifiers to be redacted appear in the

transcript. To identify parts to be redacted, the party filing the request for redaction should attach a list of information to be redacted with the request. The information should be identified by type of identifier (e.g., minor's name, birth date, etc.) and page and line number where the information appears in the transcript. The party filing the request for redaction must serve the request on the transcriber. The transcriber must redact the identifiers as directed by the party.

These procedures are limited to the redaction of the specific personal data identifiers listed in the rules. If an attorney wishes to redact additional information, he or she may make a motion to the court. The transcript will not be electronically available until the court has ruled on any such motion, even though the 90-day restriction period may have ended.

3. The transcriber must, within 31 calendar days of the filing of the transcript, or longer if the court so orders, perform the requested redactions, and file a *Redacted Transcript* with the clerk. The original unredacted electronic transcript will be retained by the clerk as a restricted document.
4. At the end of the 90-day restriction period, transcript restriction can be removed to allow remote electronic access to the transcript as follows:
 - a. If a redacted version of the transcript is not filed and if there are no other redaction documents or motions linked to the transcript, the unredacted version will be made available via remote electronic access and at the public terminal for viewing and printing.
 - b. If a redacted version of the transcript is filed, the redacted version will be made available via remote electronic access and at the public terminal for viewing and printing. The unredacted version will remain permanently restricted.

III. General Issues

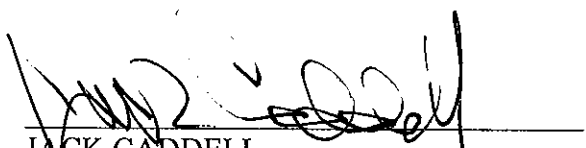
- A. During the 90-day restriction period, the transcript and any redacted versions will not be available via remote electronic access. An attorney who purchases the transcript during the 90-day period will be given remote electronic access to the transcript and any redacted version filed. Members of the general public, including pro se parties, will not be given remote electronic access to the transcript or any redacted version filed during the 90-day period.


- B. Charges for access through PACER apply during and after the 90-day restriction period. Charges are not capped at 30 pages. The user will incur PACER charges each time the transcript is accessed even though he or she may have purchased it from the transcriber and obtained remote access through CM/ECF. A free copy of the electronic transcript is not available via remote access. After purchasing the transcript from the transcriber, an attorney can receive the original and any redacted transcript in both paper and electronic format.
- C. The redaction-related documents (e.g., notice of intent to redact, etc.) should be in the court record to ensure that the changes to the transcript are documented.
- D. There is no obligation on the part of the clerk's office to perform any redaction. Instead, it rests on the attorneys or pro se parties to tell the transcriber where to redact, and on the transcriber to perform the redaction.


IT IS SO ORDERED, this 19th day of September, 2008.

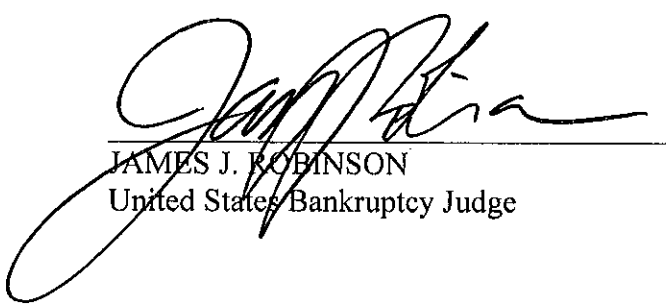

 BENJAMIN COHEN
 Chief United States Bankruptcy Judge


 TAMARA O. MITCHELL
 United States Bankruptcy Judge


 JACK CADDELL
 United States Bankruptcy Judge


 THOMAS B. BENNETT
 United States Bankruptcy Judge


 C. MICHAEL STILSON
 United States Bankruptcy Judge


 JAMES J. ROBINSON
 United States Bankruptcy Judge