

NOTICE TO MEMBERS OF THE BAR
REGARDING ELECTRONIC AVAILABILITY OF TRANSCRIPTS

This court is following the attached Judicial Conference policy on electronic availability of transcripts of court proceedings before making official transcripts of court proceedings electronically available to the public. The policy applies to all transcripts of proceedings or parts of proceedings ordered on or after **April 30, 2007**, regardless of when the proceeding took place. Please read this policy carefully.

The policy establishes a procedure for counsel to request the redaction from the transcript of specific personal data identifiers before the transcript is made electronically available to the general public. A party must file a notice of intent to request redaction within five business days of the filing of the official transcript by the court reporter. If a party fails to request redaction within this time frame, the transcript may be made electronically available without redaction in 90 days. A copy of the officially filed transcript will be available for review or purchase by the parties from the court reporter during this five-day period. This copy of the transcript may be in paper, disk or CDROM form.

If a party files a redaction notice, the transcript is not to be made remotely electronically available to the general public until the redactions are performed. A copy of the officially filed transcript will be available for review at the clerk's office or for purchase from the court reporter during this time. Within 21 calendar days from the filing of the transcript with the clerk, or longer if ordered by the court, the parties must submit to the court reporter or transcriber a statement indicating where the personal identifiers appear in the transcript by page and line and how they are to be redacted. For example, if a party wanted to redact the Social Security number 123-45-6789 appearing on page 12, line 9 of the transcript, the statement would read: "Redact the Social Security number on page 12, line 9 to read xxx-xx-6789." A party is only responsible for reviewing and indicating the redactions in the testimony of the witnesses it called and its own statements (e.g. opening statements and closing arguments). Only the personal identifiers listed in the Judicial Conference on the Electronic Availability of Transcripts may be automatically redacted. If a party wants to redact other information, that party should move the court for further redaction by electronically filing a separate motion for additional redaction and it shall be served on all parties and the court reporter or transcriber within the 21-day period. Counsel appointed pursuant to the Criminal Justice Act may claim compensation, at the applicable rate, for the time spent reviewing the transcript and preparing the request for redaction, as well as for costs associated with obtaining a copy of the transcript.

Please direct all questions concerning this policy to the Clerk's Office at (614) 719-3000 (Columbus), (513) 564-7500 (Cincinnati) or (937) 512-1400 (Dayton).

Attachment

Electronic Availability of Transcripts of Court Proceedings

Courts making electronic documents remotely available to the public, whether documents are filed electronically or converted to electronic form, shall make electronic transcripts of proceedings remotely available to the public if such transcripts are otherwise prepared.

Within five business days of the filing by the court reporter/transcriber of the official transcript with the clerk's office pursuant to 28 U.S.C. § 753, each party shall inform the court, by filing a notice of redaction with the clerk, of the party's intent to redact personal data identifiers from the electronic transcript of the court proceeding. Such personal data identifiers include: Social Security numbers; financial account numbers; names of minor children; dates of birth; and home addresses of individuals. The filing of this notice triggers the procedures set out below. If no such notice is filed within the allotted time, the court will assume that personal data identifiers do not exist within the transcript or that any personal identifiers conform to Judicial Conference Policy.

An attorney is only responsible for reviewing for redaction, and providing any redactions to the court reporter for, the testimony of the witnesses called on behalf of the party and opening and closing statements made on behalf of the party. In cases where "standby" counsel is appointed to be available to assist a pro se defendant in his or her defense, such counsel is only responsible for reviewing for redaction, and providing any redactions to the court reporter for, the testimony of the witnesses the defendant called and the defendant's opening and closing statements. In a proceeding where only the parties are present (e.g., entry of plea or sentencing) counsel is responsible for reviewing his or her own remarks (and those of predecessor counsel) and those of his or her client for redaction purposes.

If the transcript relates to a panel attorney representation pursuant to the Criminal Justice Act (CJA), the attorney conducting the review is entitled to compensation under the CJA for functions performed to fulfill the redaction obligation, including the following activities: (1) gaining access to the transcript, including travel, if needed; (2) reviewing to determine whether to file notice of intent to redact; (3) filing notice of intent to redact or motion for an extension of time; (4) reviewing for redaction request or motion; (5) preparing and filing redaction request or motion; and (6) other (including pleadings, hearings or other follow-up).

The panel attorney is also entitled to reimbursement under the CJA for costs

associated with obtaining a transcript for purposes of redaction review. Standby counsel appointed to assist a pro se defendant is likewise entitled to compensation and reimbursement. In the event that a case involving a CJA representation has already been closed and the original attorney is no longer available, or in the event that standby counsel is no longer available, new counsel may be appointed under the CJA and compensated as outlined above. In the event that the original appointed counsel is still available, but has filed a final voucher for the underlying case, such attorney shall be permitted to file a supplemental voucher for compensation.

If a notice of redaction is filed by any party, following the filing of the official transcript with the clerk's office, the official transcript is not to be made remotely electronically available to the general public. Within 21 calendar days of the filing of the transcript, or longer if the court so orders, the parties shall submit a signed statement to the court reporter/transcriber indicating where the following personal data identifiers appear in the transcript: Social Security numbers; financial account numbers; names of minor children; dates of birth; and home addresses of individuals.

The court reporter/transcriber shall partially redact these personal data identifiers from the electronic transcript as follows:

- Social Security numbers to the last four digits;
- financial account numbers to the last four digits;
- dates of birth to the year;
- names of minor children to the initials; and
- home addresses to the city and state.

During the 21-day period, or longer if the court so orders, attorneys may move the court for any additional redactions to the transcript. The transcript shall not be electronically disseminated until the court has ruled upon any such motion.

The Director of the Administrative Office may lengthen the period of time for electronic filing of a transcript when, in the Director's judgment, a district justifies such an extension.

POLICY NOTE

This policy is intended to apply to electronic transcripts, whether originally filed in electronic form or converted from hard copy to electronic form. It applies to electronic transcripts made available via CM/ECF, WEBPACER, PACER, RACER or a non-court related electronic depository (e.g., Exemplaris). It does not affect in any way the obligation of the court reporter/transcriber to file promptly with the clerk of court the court reporter's/transcriber's original records of a proceeding or the inclusion of a filed transcript with the records of the court pursuant to 28 U.S.C. § 753. This policy does not

affect the obligation of the clerk to make the official transcript included in the court file. The transcript will not be made available for copying by the public until all redactions are complete and the transcript is made available electronically.

If a party desires to respond to any notice of redaction or motion for additional redaction, the court may establish a briefing schedule to provide sufficient time for such response.

Nothing in this policy is intended to create a private right of action against court reporters/transcribers for any failure to redact the required information or for any errors associated with such redaction.

It is not the intent of this policy to affect court reporter/transcriber compensation in any way.

This policy is intended to deal with the Judicial Conference policy on privacy and public access to electronic case files as it applies to the electronic filing of transcripts. It is not intended to change any rules or policies with respect to sealing or redaction of court records for any other purpose.

This policy does not prevent the production of a transcript on an expedited basis for a party that may order such a transcript, subject to whatever court rules are currently imposed to protect sealed materials. Any non-party that orders a transcript on an expedited basis should be alerted to the Judicial Conference policy on privacy and public access to electronic case files.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

_____, :
Plaintiff(s), : Case No. _____
vs. :
_____, :
Defendant(s). :

NOTICE OF INTENT TO REQUEST REDACTION

Notice is hereby given that a statement of redaction will be submitted to the court reporter/transcriber within 21 days from the filing of the transcript with the Clerk of Court.

s/ _____
Attorney for (Plaintiff or Defendant)
Address: _____

Date: _____

CERTIFICATE OF SERVICE

I hereby certify that on ___(Date)___, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: _____, and I hereby certify that I have mailed by United States Postal Service the document to _____, Court Reporter, and the following non CM/ECF participants: _____.

s/ _____