

United States District Court

District of South Dakota

Office of the Clerk
Room 128, Federal Building
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Sioux Falls, SD 57104-6851

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NOTICE TO MEMBERS OF THE BAR

Judicial Conference Policy with Regard to the Availability of Transcripts of Court Proceedings

Effective May 15, 2008, the District of South Dakota, in accordance with Judicial Conference Policy and amendments to Federal Rule of Civil Procedure 5.2 and Federal Rule of Criminal Procedure 49.1 implemented the following policy regarding official court transcripts:

1. A transcript provided to the court by a court reporter or transcriber will be available at the Clerk's Office, for inspection only, for a period of 90 days after it is filed.
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 at the public terminal in the Clerk's Office and remotely electronically available to attorneys of record who have purchased a copy from the court reporter.
3. After the 90-day restriction period has ended, the transcript will be available to the general public for copying in the Clerk's Office and for download through PACER.

Note: This policy applies to transcripts of events that take place in federal courtrooms only. It does not apply to depositions taken outside of court or proceedings of state courts or other jurisdictions.

This policy establishes a procedure for counsel to request redaction from the transcript of specific personal identifiers before the transcript is made electronically available to the general public.

Counsel are strongly urged to share this notice with their clients so that an informed decision about the inclusion of certain materials may be made. **The responsibility for redacting personal identifiers rests solely with counsel and the parties.** Neither the Clerk's Office nor the court reporter will review transcripts for compliance with this policy.

Redaction Request:

If a redaction is requested, counsel **must** file with the Clerk's Office a Redaction Request (form is available on our website at www.sdd.uscourts.gov) **within 21 days from the filing of the transcript**, indicating where the personal identifiers appear in the transcript by page and line and how they are to be redacted. The filing party must certify that a copy of the

Redaction Request was provided to the court reporter.

Note: This procedure is limited to redaction of the specific personal data identifiers listed below:

- social security numbers (except for the last four digits)
- financial account numbers (except for the last four digits)
- dates of birth (except for the year)
- names of minor children (initials should be used in place of names)
- home addresses (except for city and state)

Requests for Additional Redactions:

If counsel would like to request further redactions in addition to those personal identifiers listed above, counsel must file a separate Motion for Redaction of Electronic Transcript with the court. Until the court has ruled on any such motion, the transcript will not be electronically available, even if the 90-day restriction period has ended.

Remote Public Access to Transcripts:

If a redacted transcript is filed with the court, that redacted transcript will be remotely electronically available through PACER after 90 calendar days from the date of filing of the original transcript and the unredacted original transcript will never be made available to the general public. If the original transcript is filed without redaction, that original transcript will be available at the public terminal in the Clerk's Office and remotely electronically available through PACER after 90 calendar days.

CJA Panel Attorneys:

An attorney who is serving as appointed "standby" counsel for a pro se litigant must review the transcript as if the pro se litigant was his/her client. If an attorney represents a client pursuant to the Criminal Justice Act (CJA), including serving as standby counsel, the attorney conducting the review of the transcript is entitled to compensation under the CJA for functions reasonably performed to fulfill the obligation and for reimbursement of related reasonable expenses.

PACER Fees:

PACER fees will be applicable during and after the 90-day restriction period. However, charges will not be capped at 30 pages as they are for other court documents, but will rather accrue for the entire transcript. The user will incur PACER charges each time the transcript is accessed even though he/she may have purchased it from the court reporter and obtained remote access through CM/ECF. There is no "free look" at transcripts.

Voir Dire Transcripts:

A transcript of voir dire proceedings will be filed as a separate volume. Voir dire transcript volumes will be filed under seal and will remain under seal during and after the 90-day restriction period. They will not be available at the public terminal in the Clerk's Office or through PACER or CM/ECF.