

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS**

IMPORTANT NOTICE TO MEMBERS OF THE BAR

Transcript Redaction Requirements

Effective May 15, 2008

The Judicial Conference has adopted a policy requiring court reporters to electronically file transcripts. This policy also provides that the transcript will not be viewable via PACER for a period of 90 days after the transcript is electronically filed with the Court, except by a user who has purchased the transcript from the court reporter. During this 90-day period, attorneys of record have the obligation to review and request redaction of personal identifiers listed in Fed. R. Civ. P. 5.2(a) and Fed. R. Crim. P. 49.1(a). (**Note:** This policy only applies to transcripts of events taking place in the district court, not to depositions taken outside of court or proceedings of state courts or other jurisdictions.)

The policy also provides that there is no “free look” for transcripts, that the PACER fees apply both during and after the 90-day restriction period, and that PACER charges for transcripts are not capped at 30 pages as they are for other court documents.

Pursuant to this Judicial Conference Policy, the Western District of Texas requires attorneys of record to review an electronically filed transcript and to timely request redaction of the personal data identifiers listed in Fed. R. Civ. P. 5.2(a) and Fed. R. Crim. P. 49.1(a). This notice explains the effects of this Judicial Conference policy and the redaction requirements as set out in this Court’s General Order entered May 8, 2008.

1. Electronic Filing of Transcripts - Remote Public Access Restriction

A transcript must be filed electronically by the court reporter. For a period of 90 days after filing, the electronic transcript will be available for public viewing only at the public terminals located in the clerk’s office.

During this 90-day period, a copy of the transcript may be purchased only from the court reporter at the rate established by the Judicial Conference. After this 90-day period has ended, the transcript may be purchased in the clerk’s office and will be electronically available for viewing and downloading via PACER (*See: PACER Fees, below*).

2. Responsibility to Request Redaction of Personal Data Identifiers

The attorney of record for a party has the responsibility to review and request a redaction of specific personal data identifiers from a transcript before the transcript is made remotely electronically available to the general public via PACER. Each attorney is obligated to review that

portion of the transcript involving the opening statement and closing argument made on behalf of the party the attorney represents, any statements made by the party, and the testimony of any witnesses called by the party. Additionally, both the attorney representing the government and the attorney representing the defendant must review the transcript of a sentencing proceeding. The responsibility for requesting a redaction of a personal data identifier rests solely with the attorneys for the parties. Neither the clerk nor the court reporter will review transcripts for personal data identifiers. Pursuant to the Judicial Conference policy, parties are required to serve the court reporter and/or transcriber with this request for redaction manually (in the traditional manner) since they are not served through CM/ECF in this Court.

3. Time for Making Redaction Request; Filing With Clerk

If a personal data identifier is included in the portion of a transcript that the attorney is obligated to review, the attorney must file a redaction request with the clerk on an approved form (see paragraph four below) **within 21 days** from the date of the filing of the transcript.

4. Content of Redaction Request

A redaction request must indicate where the personal identifier appears in the transcript by page and line number and must describe how the personal identifier is to be redacted (e.g., social security number is to be shown as XXX-XX-1234). A form entitled [Redaction Request - Transcript](#) is available on the [court's website](#) at Forms/Civil and at Forms/Criminal to assist you in preparing any redaction request.

This procedure requires the redaction of personal data identifiers to include only:

- the last four digits of the social-security number and taxpayer-identification number;
- the year of the individual's birth;
- the minor's initials;
- the last four digits of the financial-account number; and
- the city and state of the home address (in a criminal case).

5. Effect of Failure to Timely Submit a Redaction Request

If an attorney fails to timely submit a redaction request, or if no redactions are necessary, the original transcript will be remotely publicly available **after 90 days** from filing.

6. Sensitive Information Other than a Personal Data Identifier

Redaction requests may be made only for the personal data identifiers listed in Fed. R. Civ. P. 5.2(a) and Fed. R. Crim. P. 49.1(a). If an attorney of record wishes any sensitive information other than a personal data identifier to be redacted from a transcript or to be placed under seal, an appropriate motion and order of the court is required.

7. Remote Public Access to Transcripts

If no redaction request is filed, the original transcript will be remotely electronically available through PACER after 90 calendar days. If a redacted transcript is filed with the court, the redacted transcript, and not the original transcript, will be remotely electronically available through PACER after 90 calendar days from the date of filing of the original transcript.

8. CJA Panel Attorneys (including “standby” counsel)

If an attorney represents a client pursuant to the Criminal Justice Act (CJA), the attorney is entitled to compensation under the CJA for functions reasonably performed to fulfill the obligation of reviewing the transcript and for reimbursement of related reasonable expenses, including the cost of obtaining a copy of the transcript from the court reporter. An attorney who is serving as appointed “standby” counsel for a pro se litigant must review the transcript and request redaction of personal identifiers as if the pro se party was the client of the standby counsel. Standby counsel is also entitled to compensation for the time and related expenses reasonably required to fulfill this obligation.

9. PACER Fees

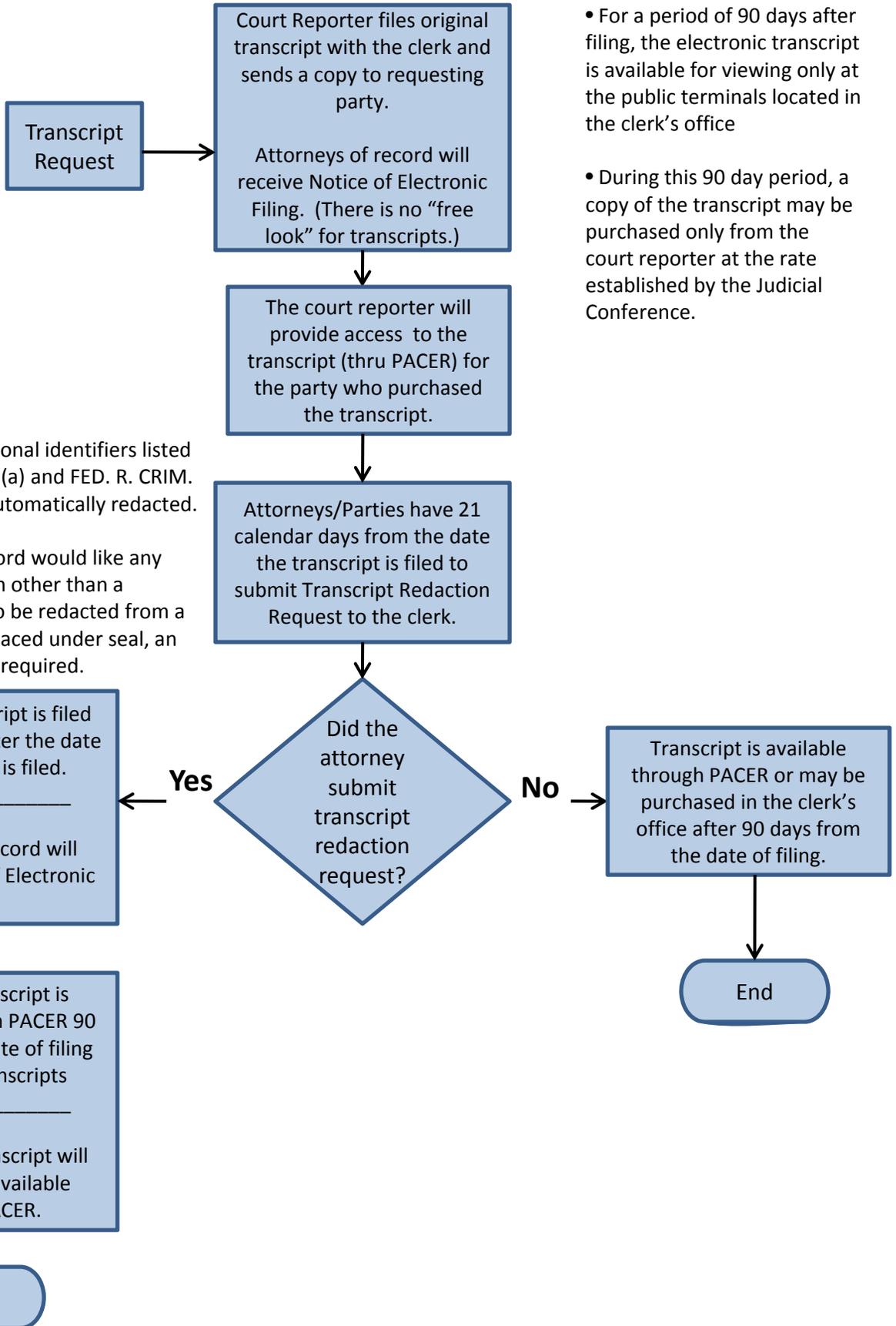
PACER fees will be applied both during and after the 90-day restriction period. Charges will not be capped at 30 pages as they are for other court documents. The PACER user will incur PACER charges each time the transcript is accessed even though the user may have purchased it from the court reporter. There is no “free look” for transcripts.

Avoid Inserting Personal Identifiers in the Record

To avoid having to redact personal data identifiers and other private or sensitive personal information from a transcript, it is advisable to keep this information out of the record in the first place. Please take this into account when questioning witnesses or making statements in court.

If during the course of a proceeding you realize that one of the restricted items has been mentioned in court, or if it is necessary to include sensitive personal information in the record to prove an element of your case, you may wish to ask the judge to have the information partially redacted or stricken from the record, whichever is appropriate (or the court may do so *sua sponte*).

U.S. District Court Western District of Texas Flowchart Regarding Transcript Redaction Policy



- For a period of 90 days after filing, the electronic transcript is available for viewing only at the public terminals located in the clerk's office
- During this 90 day period, a copy of the transcript may be purchased only from the court reporter at the rate established by the Judicial Conference.

Notes: Only the personal identifiers listed in FED. R. CIV. P. 5.2 (a) and FED. R. CRIM. P. 49.1 (a) may be automatically redacted.

If an attorney of record would like any sensitive information other than a personal identifier to be redacted from a transcript or to be placed under seal, an order of the court is required.