

**United States Bankruptcy Court
Eastern and Western Districts of Arkansas**

In re

IMPLEMENTATION OF JUDICIAL CONFERENCE
POLICY ON ELECTRONIC AVAILABILITY AND
REDACTION OF TRANSCRIPTS OF COURT PROCEEDINGS

General Order No. 31

WHEREAS, at its September 2003 session, the Judicial Conference of the United States (“the Judicial Conference”) approved procedures (which were revised at its March 2007 session) to implement the Judiciary’s privacy policy (now reflected in Federal Rule of Bankruptcy Procedure 9037) as that privacy policy applies to electronic availability of transcripts;

WHEREAS, the protected personal information under Judicial Conference’s privacy policy and Federal Rule of Bankruptcy Procedure 9037(a) includes social security numbers, birth dates, the names of individuals known to be minors, and financial account numbers (“Personal Data Identifiers”);

WHEREAS, the Judicial Conference recognized the impact of electronically available transcripts of court proceedings on court reporter compensation;

WHEREAS, at its September 2007 session the Judicial Conference of the United States adopted a policy regarding electronic availability of transcripts of court proceedings and directed the Administrative Office of the United States Courts (“the AO”) to issue guidance to courts on the policy’s implementation;

WHEREAS, the AO and the Judicial Conference have mandated adoption of transcript availability and redaction procedures, the United States Bankruptcy Court for the Eastern and Western Districts of Arkansas (“the Court”) will implement these policies; accordingly, it is hereby

ORDERED that the following transcript availability and redaction procedures and policies are adopted:

I. Overview of Transcript Redaction and Transcript Availability

- A. A Transcript provided to the Court by a transcriber will be available at the Clerk’s Office for inspection only, for a period of 90 days (“the 90-day restriction period”) after it is delivered to the Clerk, subject to the exceptions stated in paragraph (I).B.
- B. However, during the 90-day restriction period, a copy of the Transcript may be obtained from the 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 transcriber may obtain remote electronic access to the Transcript through the Court’s Case Management/Electronic Case Filing (“CM/ECF”) system for purposes of

creating hyperlinks to the Transcript in court filings and for other purposes.

- C. After the 90-day restriction period has ended, if there are no redaction requests or motions linked to the Transcript, 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 Public Access to Court Electronic Records ("PACER") system.
- D. To comply with Federal Rule of Bankruptcy Procedure 9037(a) and Judicial Conference policies, the procedures below establish a process to 1) request the redaction of Personal Data Identifiers from Transcripts and 2) govern access to a Transcript.

II. The Process

- A. **Filing of Transcript.** A Transcript of a Court proceeding may be ordered from the transcriber at the rate established by the Judicial Conference. Transcripts are not produced unless requested. The transcriber shall submit the Transcript to the Court, and the Court will file it in the CM/ECF system.
- B. **Notice of Transcript Filing.** A notice of the filing of the Transcript will be provided by the Clerk via docket text entry of the Transcript event and via a Notice of Filing of Transcript.
- C. **Starting Date for Deadlines.** The date the Transcript is filed is the starting date for all deadlines related to restriction and redaction of the Transcript.
- D. **Restriction of Access.** The CM/ECF docket event for the Transcript will automatically restrict access to it to court staff and public terminal users. The Transcript will be available for viewing only at the public terminals in the Clerk's Office and may not be copied or printed by the public for 90 calendar days from the date of filing of the Transcript. However, an attorney who purchases the Transcript during the 90-day restriction period will be given remote electronic access to the Transcript and any redacted version filed, as stated in paragraph II.(E) below.
- E. **Access to Unredacted and Redacted Transcripts After Purchase by Attorneys.** After purchasing the Transcript from the transcriber, an attorney can receive the original and any redacted Transcript, in both paper and electronic format. During the 90-day restriction period, when an attorney purchases the unredacted Transcript, the attorney will be granted remote electronic access to the unredacted Transcript, as well as to any redacted version. If an attorney only purchases a redacted version of the Transcript, the attorney will not be given remote electronic access to the unredacted Transcript in CM/ECF.
- F. **Access to Transcript After Purchase by Non-attorneys.** Non-attorneys who purchase the Transcript from the transcriber **will not** be given remote electronic

access to the Transcript or any redacted version filed during the 90-day restriction period.

G. Responsibility for Transcript Review, Scope of Review, and Responsibility for Redaction. The redaction procedures for Transcripts (as well as the 90-day restriction period) apply only to Transcripts of federal courtroom proceedings.

1. Responsibility of Party. When a Transcript is filed, the attorneys and *pro se* parties who attended the hearing are solely responsible for redaction of Personal Data Identifiers. With the exception of Transcripts, redaction of Personal Data Identifiers is the responsibility of the person filing the document containing such Personal Data Identifiers.
2. Scope of Party's Responsibility. The scope of a party's¹ responsibility includes review of the following portions of the Transcript:
 - the opening and closing statements made on behalf of the party;
 - any statements made by the party;
 - the testimony of any witnesses called by the party and;
 - any other portion of the Transcript as ordered by the Court, or as determined necessary by the reviewing party.
3. Responsibility of Clerk and Transcriber. The Clerk is not required to review documents filed with the Court to ensure compliance with this rule. Transcribers are not responsible for identifying a need for redaction or for redacting Transcripts absent a request by a party.

H. Deadlines and Procedures. The following deadlines and procedures apply to the restriction, redaction, and release of a Transcript for public viewing:

1. Deadline for Filing of a Notice of Intent to Request Redaction (10 calendar days) Within ten (10) calendar days of the filing of the Transcript, any person who wishes to redact Personal Data Identifiers from a Transcript must file a *Notice of Intent to Request Redaction* and serve a copy of the notice on the transcriber. (The form *Notice of Intent to Request Redaction* may be found on the Court's Website: www.arb.uscourts.gov under "Forms.")
2. Deadline for filing a Request for Redaction (21 calendar days) Within 21 calendar days of the filing of the Transcript, or longer if the Court so orders, the filer of the *Notice of Intent to Request Redaction* shall file and serve on the transcriber a *Request for Redaction and List of Items to be Redacted* ("*Request for Redaction*") indicating the Transcript page, paragraph and line in which the Personal Data Identifiers appear and the manner in which they

¹The term "party" as used hereinafter in this General Order means the attorneys and *pro se* parties who attended the hearing and who are solely responsible for redaction.

are to be redacted. (The form *Request for Redaction List of Items to be Redacted* may be found on the Court's Website: www.arb.uscourts.gov under "Forms.") Although the *Request for Redaction* is filed and is entered on the docket, the contents of the *Request for Redaction* are not publically available.

3. Deadline for the transcriber filing the redacted version of the Transcript (31 calendar days) If a *Request for Redaction* is filed, the transcriber has 31 calendar days from the date of filing of the Transcript to file a redacted version of the Transcript. Upon receipt of the *Request for Redaction*, in accordance with Federal Rule of Bankruptcy Procedure 9037(a), the transcriber shall redact the Personal Data Identifiers from the Transcript as follows:

- Social security numbers to the last four digits;
- Financial account numbers to the last four digits;
- Names of minor children to the initials;
- Dates of birth to the year.

4. Date the Transcript restriction can be removed to allow remote access to the Transcript (90 calendar days):

a. At the end of the 90-day restriction period, 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, subject to any applicable fees.

b. At the end of the 90-day restriction period, if a redacted version of the Transcript is filed,

i. the redacted version will be made available via remote electronic access and at the public terminal for viewing and printing, subject to any applicable fees.

ii. the un-redacted version will **NOT** be available via remote access, but will remain available for viewing at the public access terminal. The un-redacted version will **NOT** be available for printing, unless the Court orders otherwise.

I. Remote Access and PACER Charges. Charges for access through PACER apply for remote electronic access to the Transcript and are not capped at 30 pages. The user will incur PACER charges each time he or she accesses the Transcript, even though the user may have purchased it from the transcriber and obtained remote access through CM/ECF. There is no remote "free look" for the Transcript.

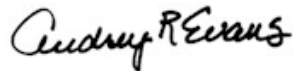
J. Request for Redaction under Rule 9037(d). Anyone wishing to redact information not covered in Federal Rule of Bankruptcy Procedure 9037(a) must file a Motion for Protective Order pursuant to part (d) of the Rule.

- K. Effect of Motions to Extend Time to File Documents or Motions for Protective Orders.** Remote electronic access to the Transcript will not be granted until the Court has ruled on intervening motions for extension of time or for protective orders related to the Transcript.

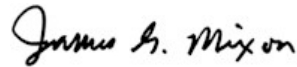
IT IS FURTHER ORDERED that this General Order shall become effective as of October 24, 2008

Dated: October 21, 2008

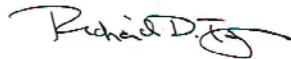
FOR THE COURT



AUDREY R. EVANS
CHIEF U.S. BANKRUPTCY JUDGE



JAMES G. MIXON
U.S. BANKRUPTCY JUDGE



RICHARD D. TAYLOR
U.S. BANKRUPTCY JUDGE



BEN T. BARRY
U.S. BANKRUPTCY JUDGE