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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

Electronic Availability and Redaction of
Electronically Filed Transcripts

GENERAL ORDER 08-05

WHEREAS, at its September 2007 session, the Judicial Conference adopted a policy regarding electronic availability of transcripts of court proceedings,¹ and

WHEREAS, the Policy on Privacy and Public Access to Electronic Case Files approved by the Judicial Conference at its March 2008 session² contains procedures for redacting personal information from court filings that are electronically available to the public,

IT IS ORDERED that the following procedures regarding the availability and redaction of electronically filed transcripts are adopted and shall apply to transcripts of

¹ The language from the Judicial Conference's September 2007 session (JCUS - SEP 07, p. 11-12) 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.

² See Exhibit 1.

1 events taking place in the court's courtrooms:³

2 1. A transcript provided to the court by a court reporter will be available at the
3 Clerk's Office for inspection only, for a period of ninety (90) days after it is filed. No portion
4 of the transcript will be copied or printed at the Clerk's Office during the 90-day restriction
5 period.

6 2. During the 90-day restriction period, a copy of the transcript may be obtained
7 from the court reporter at the rate established by the Judicial Conference.⁴ The transcript
8 will be available within the court for internal use, available at the public terminals at the
9 courthouse, and remotely electronically available to attorneys who have purchased a copy
10 from the court reporter. The name(s) of the purchasing attorney(s) shall be provided to the
11 Clerk of Court (Clerk) by the court reporter via electronic mail sent to an e-mail address
12 designated for this purpose by the Clerk. Members of the general public including
13 unrepresented parties who purchase the transcript **will not** be given remote electronic
14 access to the transcript or any redacted version filed with the court during the 90-day
15 restriction period.

16 3. After the 90-day restriction period has ended, the transcript (or redacted
17 version if one has been filed) will be available for viewing and copying at the Clerk's Office
18 public terminals and remotely available for viewing, downloading, and printing through the
19 Judiciary's PACER system.

20 4. Each party's attorney⁵ is required to review a transcript for information that
21 should be redacted under the Judicial Conference's privacy policy and as more particularly
22 described in Fed. R. Bankr. P. 9037. References to social security numbers, individual
23

24 ³ These procedures shall not apply to transcripts of depositions taken outside of court, or to transcripts of
25 proceedings of state courts or other jurisdictions.

26 ⁴ Information concerning the requesting of hearing transcripts is available on the court's web site at
27 http://www.caeb.uscourts.gov/data/formpubs/transcript_requests.pdf.

28 ⁵ In the case of an unrepresented party, the party shall perform the tasks assigned to the attorney by this
General Order.

1 taxpayer identification numbers and financial account numbers shall include only the last
2 four digits of such numbers. Birth dates shall include the year of birth only. The names
3 of individuals, other than debtors, known to be and identified as minors shall include the
4 minor's initials only.

5 5. With the exception of transcripts, redaction of the information described in
6 Fed. R. Bankr. P. 9037(a) is the responsibility of the person filing the document. When a
7 transcript is filed, the attorneys and unrepresented parties who entered an appearance at
8 the hearing are solely responsible for redaction of the information described in Fed. R.
9 Bankr. P. 9037(a). Court reporters are not responsible for identifying a need for redaction
10 or for redacting transcripts absent a request by an attorney or an unrepresented party. The
11 court's responsibility is to follow Judicial Conference guidelines for providing public access
12 to the transcript and for restricting access in accordance with the privacy policy. The Clerk
13 is not required to review documents filed with the court for compliance with Rule 9037.

14 6. The date the transcript is filed is the starting date for all deadlines related to
15 restriction and redaction of the transcript.

16 7. Notice of the filing of a transcript (including notice of the deadlines related to
17 restriction and redaction of the transcript) shall be provided by the Clerk to the attorneys
18 and unrepresented parties who entered an appearance at the hearing.

19 8. Within seven (7) calendar days of a court reporter's filing of the transcript, an
20 attorney or unrepresented party must file a *Notice of Intent to Request Redaction* that
21 substantially complies with form EDC 3-300 (attached to this General Order as Exhibit 2)
22 with the Clerk if he or she intends to request redaction of information from the transcript,
23 and serve copies on the court reporter and the other attorneys and unrepresented parties
24 who entered an appearance at the hearing. An attorney or unrepresented party is
25 responsible for reviewing the opening and closing statements made on behalf of the party
26 he or she represents, any statements made by the party, and the testimony of any witness
27 called by the party. If no *Notice of Intent to Request Redaction* is filed during this seven-
28 day period, the court will conclude that redaction of personal data is not necessary, and

1 will make the transcript remotely electronically available to the public through PACER after
2 the 90-day restriction period.

3 9. Once an attorney or unrepresented party has filed a *Notice of Intent to*
4 *Request Redaction*, he or she has twenty-one (21) calendar days from the date of filing of
5 the transcript to review the transcript and file a *Redaction Request and List of Items to be*
6 *Redacted* that substantially complies with form EDC 3-301 (attached to this General Order
7 as Exhibit 3) with the Clerk and serve copies on the court reporter and the other attorneys
8 and unrepresented parties who entered an appearance at the hearing that indicates the
9 type of personal data identifier to be redacted, where it appears in the transcript by page
10 and line, and how it is to be redacted. The Court may order this time extended, for good
11 cause shown. If an attorney or unrepresented party files a *Notice of Intent to Request*
12 *Redaction* but fails to timely file a *Redaction Request and List of Items to be Redacted* or
13 a motion to extend time, no redactions will be made and the original transcript will be
14 remotely publicly available after the 90-day restriction period.

15 10. The court reporter must redact the identifiers, as directed by the attorney or
16 unrepresented party, and then re-file the redacted transcript within thirty-one (31) calendar
17 days of the filing of the original transcript. Also during this time period, an attorney or
18 unrepresented party may, by motion for a protective order, request that additional
19 information be redacted. No remote electronic access to the transcript will be allowed
20 (other than to attorneys who paid for the original transcript) until the Court has ruled on any
21 such motion.

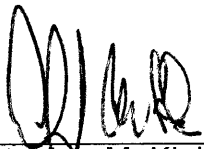
22 11. If a redacted transcript is filed with the Clerk, the Clerk shall permanently
23 restrict access to the original transcript and the redacted transcript will be remotely
24 electronically available through PACER after 90 calendar days from the date of filing of the
25 original transcript. If the original transcript is filed without redaction, the original transcript
26 will be remotely electronically available through PACER after 90 calendar days.

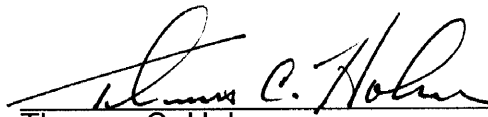
27 12. Charges for access through PACER apply during and after the 90-day
28 restriction period. Charges are not capped at 30 pages. The user will incur PACER

1 charges each time the transcript is accessed even though he or she may have purchased
2 it from the court reporter and obtained remote access. A free copy of the transcript is not
3 available via remote access.

4 13. This General Order shall apply to all transcripts of court proceedings ordered
5 from the court reporter on or after January 20, 2009, regardless of when the proceedings
6 took place.

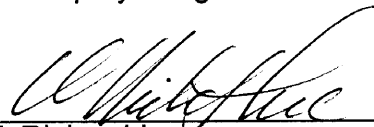
7 DATED: JAN 12 2009

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11 _____
12 Christopher M. Klein
13 Chief Bankruptcy Judge

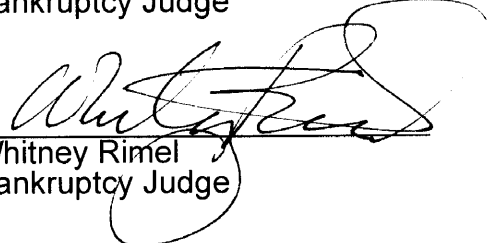


Thomas C. Holman
Bankruptcy Judge

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15 Michael S. McManus
16 Bankruptcy Judge



W. Richard Lee
Bankruptcy Judge

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17 Whitney Rimel
18 Bankruptcy Judge



Robert S. Bardwil
Bankruptcy Judge

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Exhibit 1 to General Order 08-05

Judicial Conference Policy on Privacy and Public Access to Electronic Case Files *March 2008*

Amendments to the Appellate, Bankruptcy, Civil, and Criminal Rules to implement the requirements of the E-Government Act of 2002 took effect on December 1, 2007. The new rules codify, to a large extent, the 2001 Judicial Conference privacy policy, as revised in 2003, requiring redaction of personal identifier information from filings.¹ The personal identifiers to be redacted are Social Security numbers, names of minor children, financial account numbers, dates of birth, and, in criminal cases, home addresses.²

Because of the enactment of the rules, the previous policy is no longer operative except for two portions of the earlier privacy policy that remain in force, separate from the new rules. They are listed below.

I. Documents in criminal case files for which public access should not be provided

The following documents in a criminal case shall not be included in the public case file and should not be made available to the public at the courthouse or via remote electronic access:

- unexecuted summonses or warrants of any kind (e.g., search warrants, arrest warrants);
- pretrial bail or presentence investigation reports;
- statements of reasons in the judgment of conviction;
- juvenile records;
- documents containing identifying information about jurors or potential jurors;
- financial affidavits filed in seeking representation pursuant to the Criminal Justice Act;
- ex parte requests for authorization of investigative, expert or other services pursuant to the Criminal Justice Act; and
- sealed documents (e.g., motions for downward departure for substantial assistance, plea agreements indicating cooperation or victim statements).

II. The redaction of electronic transcripts of court proceedings

Courts making electronic documents remotely available to the public shall make electronic transcripts of proceedings remotely available to the public if such transcripts are prepared. Prior to being made electronically available from a remote location, however, the transcripts must conform to Fed. R. Civ. P. 5.2(a), Fed. R. Crim. P. 49.1(a), or Fed. R. Bankr. P. 9037(a).

¹ JCUS-SEP/OCT 01, pp. 48-50 and JCUS-SEP 03, pp. 15-16.

² Fed. R. App. P. 25(a), Fed. R. Bankr. P. 9037, Fed. R. Civ. P. 5.2, and Fed. R. Crim. P. 49.1.

Once a prepared transcript is delivered to the clerk's office pursuant to 28 U.S.C. § 753, the attorneys in the case are (or, where there is a self-represented party, the party is) responsible for reviewing it for the personal data identifiers required by the federal rules to be redacted, and providing the court reporter or transcriber with a statement of the redactions to be made to comply with the rules. Unless otherwise ordered by the court, the attorney must review the following portions of the transcript:

- (a) opening and closing statements made on the party's behalf;
- (b) statements of the party;
- (c) the testimony of any witnesses called by the party;
- (d) sentencing proceedings; and
- (e) any other portion of the transcript as ordered by the court.

Within seven calendar days of the delivery by the court reporter or transcriber of the official transcript to the clerk's office, each attorney must inform the court, by filing a notice of redaction with the clerk, of his or her intent to direct the redaction of personal data identifiers from the electronic transcript of the court proceeding. If no such notice is filed within the allotted time, the court will assume redaction of personal data identifiers from the transcript is not necessary.

An attorney serving as "standby" counsel appointed to be available to assist a pro se defendant in his or her defense in a criminal case must review the same portions of the transcript as if the pro se defendant were his or her client. If the transcript relates to a panel attorney representation pursuant to the Criminal Justice Act (CJA), including serving as standby counsel, the attorney conducting the review is entitled to compensation under the CJA for functions reasonably performed to fulfill the redaction obligation and for reimbursement for related reasonable expenses.

A party is to submit to the court reporter or transcriber, within 21 calendar days of the transcript's delivery to the clerk, or longer if a court so orders, a statement indicating where the personal data identifiers to be redacted appear in the transcript. The court reporter or 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. During the 21-day period, or longer if the court so orders, an attorney may move the court for additional redactions to the transcript. The transcript shall not be made available on the internet until the court has ruled upon any such motion.

The court reporter or transcriber must, within 31 calendar days of the delivery of the transcript to the clerk of court, or longer if the court so orders, perform the requested redactions, and file a redacted version of the transcript with the clerk of court. The original unredacted electronic transcript should be retained by the clerk of court.

Policy Note

This policy applies to 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 or transcriber, pursuant to Judicial Conference policy, to promptly deliver to the clerk of court the court reporter's or transcriber's original records of a proceeding or the inclusion of a transcript with the records of the court.

If a party desires to respond to a motion for additional redaction, the court may establish a briefing schedule.

Nothing in this policy creates a private right of action.

Nothing in this policy changes any rules or policies with respect to sealing or redaction of court records for any other purpose.

This policy does not affect or limit the right of any party (or any other person or entity) to order production of a transcript on an expedited basis. This policy does not affect any court rules or ruling requiring the sealing of materials or the protection of sealed materials.

An attorney appointed pursuant to the Criminal Justice Act (CJA) is entitled to compensation under the CJA for functions performed to fulfill his or her obligations under the policy, including the following: (1) traveling to gain access to the transcript, if needed; (2) reviewing a transcript to determine whether to file notice of intent to redact; (3) filing a notice of intent to redact or a motion for an extension of time; (4) reviewing a transcript to determine the location of information to be requested to be redacted or whether to file a motion for additional redaction; (5) preparing and filing a redaction request or motion; and (6) other actions (including creating pleadings, attending hearings or other follow-up). The attorney is also entitled to reimbursement under the CJA for the costs of obtaining a transcript for purposes of review. If a case involving a CJA representation has already been closed and the original attorney is no longer available, or if 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, the attorney shall be permitted to file a supplemental voucher for compensation.

Extensions of time to comply with the deadlines set forth in these procedures should not be routinely granted, due to the potential for delay of court of appeals proceedings in the event redaction procedures extend beyond 31 days.

_____ [Name; State Bar ID No.]

_____ [Address]

_____ [Telephone]

Attorney for Party/Unrepresented Party

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

In re:	Bankruptcy Case No.:
Debtor(s).	

The following additional information is required when filing this form in an adversary proceeding.

v.	Adversary Proceeding No.:
Plaintiff(s),	
Defendant(s).	

NOTICE OF INTENT TO REQUEST REDACTION

Notice is hereby given that _____ [party name] intends to file a *Request for Redaction and List of Items to be Redacted* within 21 days from the filing of the transcript listed on the court docket as document number _____.

Date:

Signature of Attorney/Unrepresented Party

_____ [Name; State Bar ID No.]

_____ [Address]

_____ [Telephone]

Attorney for Party/Unrepresented Party

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

In re:	Bankruptcy Case No. :
Debtor(s).	

The following additional information is required when filing this form in an adversary proceeding.

v.	Plaintiff(s),	Adversary Proceeding No.:
	Defendant(s).	

REQUEST FOR REDACTION AND LIST OF ITEMS TO BE REDACTED

General Order 08-05 requires redaction of social security numbers (SSN) and individual taxpayer identification numbers (ITIN), birth dates, the names of individuals known to be minors, and financial account numbers from transcripts made electronically available. It is requested that consistent with the General Order, the following protected information be redacted as indicated below prior to the transcript listed on the court docket as document number _____ being made remotely electronically available:

Transcript Page #	Line #	Type of Identifier* (SSN, ITIN, birth date, minor's name, or account number)	How Identifier is to be Redacted (Example: XXX-XX-9999)

* Include the type of identifier only. **DO NOT** include the protected information to be redacted.

The undersigned understands that redaction of information other than the personal identifiers listed in the General Order requires that a separate motion for protective order be filed with the court within 21 days of the filing of the transcript and requires court approval.

Date:

Signature of Attorney/Unrepresented Party