

**United States Bankruptcy Court
Eastern District of Missouri**

Instructions on Electronic Availability and Redaction of Transcripts of Court Proceedings
December 2009

At its September 2007 session, the Judicial Conference adopted a policy regarding electronic availability of transcripts of court proceedings. This document outlines the policy and procedures to be used in complying with the policy.

I. Summary of Electronic Availability of Transcript of Court Proceedings

- A. **90-day Availability.** A transcript provided to the Court by a court reporter or transcriber will be available at the Clerk of Court's Office for inspection only, for a period of 90 days after it is delivered to the Clerk.

- B. **Access During 90-Day Period.** During the 90-day period, a copy of the transcript may be obtained from the court 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 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.

- C. **Availability After 90-day Period.** At the end of the 90-day restriction, if there are no redaction documents or motions linked to the transcript, the Court will remove the access restriction. The transcript will then 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.

II. Application of Rule 9037, Responsibility for Reviewing Filed Transcript, Scope of Review, and Responsibility for Redaction. When a transcript is filed, the attorneys and pro se parties who attended the hearing are solely responsible for reviewing the transcript for redaction and redacting the information described in Fed. R. Bankr. P. 9037. The Rule states:

Unless the court orders otherwise, in an electronic or paper filing made with the court that contains an individual's social-security number and taxpayer-identification number, or birth date, the name of an individual, other than the debtor, known to be and identified as a minor, or a financial-account number, a party or non-party making the filing may include only:

- 1) the last four digits of the social-security number and taxpayer-identification number;
- 2) the year of the individual's birth;
- 3) the minor's initials and
- 4) the last four digits of the financial-account number.

The scope of an attorney's or pro se party's responsibility includes review of the following

portions of a transcript:

1. Opening and closing statements made on the party's behalf;
2. Statements of the party;
3. The testimony of any witnesses called by the party; and
4. Any other portion of the transcript as ordered by the Court.

If only part of the transcript is filed, an attorney or pro se party is not responsible for reviewing other parts of the proceeding.

Redaction is accomplished only with input from the attorneys and pro se parties who attended the hearing. Transcribers are not responsible for identifying a need for redaction or for redacting transcripts absent a request by an attorney or pro se party. The Court's responsibility is to follow the Judicial Conference guidelines for providing public access to the transcript and for restricting access in accordance with the Judiciary's privacy policy. The Clerk is not required to review documents filed with the Court for compliance with Fed. R. Bank. P. 9037.

III. **The Process**

- A. **Filing of Transcript.** The court's transcriber (hereinafter "transcriber") submits a transcript of Court proceedings to the Clerk of Court.
- B. **Restriction of Access.** The CM/ECF docket event for the transcript automatically restricts access to the transcript to Court staff and public terminal users. The transcript will be available for viewing at the public terminal in the Clerk's Office and will include a permanent header, "AVAILABLE AT THE PUBLIC TERMINAL FOR VIEWING ONLY" alerting Court staff that they may not copy or print the transcript for a customer during the 90-day restriction period.
- 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. **Notice of Transcript Filing.** A notice of the filing of the transcript (including the notice of the 90-day restriction period and the deadline related to redaction) is provided by the Notice of Electronic Filing.
- E. **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 a Notice of Intent to Request Redaction (7 days) - Within 7 days of the filing of the transcript, any person who wishes to redact from a transcript those personal identifiers noted in Fed. R. Bankr. P. 9037(a) must electronically file a "Notice of Intent to Request Redaction" or in paper format with the Clerk's Office for all non-attorney filers.
 2. Deadline for filing a Request for Redaction (21 days) - After filing a notice of intent to request redaction, the filer has 21 days from the date of filing of

the transcript to file a Request for Redaction with a listing indicating where the personal data identifiers to be redacted appear in the transcript. To identify parts to be redacted, the attorney or pro se party filing a Request for Redaction must attach a list of information to be redacted with the request. The information should be identified by type of identifier (e.g., minor's name, birth date, etc.) and page and line number where the information appears in the transcript. The party requesting redaction must serve the Statement of Transcript Redactions by regular mail upon all parties that attended the hearing;

3. Deadline for the transcriber filing the redacted version of the transcript (31 days) - Once a request for redaction is filed with the court, the transcriber has 31 days from the date of the filing of the transcript to file a redacted version of the transcript; and
 4. Date the transcript restriction can be removed (90 days) to allow remote access to the transcript as follows:
 - a. At the end of the 90-day restriction period, if a redacted version of the transcript is NOT filed and there are no other redaction documents or motions linked to the transcript, the un-redacted version will be made available via remote electronic access and at the public terminal for viewing and printing.
 - 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.
 - ii. The un-redacted version will NOT be available via remote access but will remain available at the public access terminal and - at the end of the 90-day restriction period - the un-redacted version will be available for printing by Court staff unless the Court orders otherwise.
- F. **Remote Access.** During the 90-day restriction period, the transcript and any redacted versions will not be available via the remote electronic access. An attorney who purchases the transcript during the 90-day period will be given remote electronic access to the transcript and any redacted version filed. Members of the general public, including pro se parties who purchase the transcript will not be given remote access to the transcript or any redacted version filed during the 90-day period.
- G. **Request for Redaction under Rule 9037(d).** If a person wishes to redact information not covered in Fed. R. Bankr. 9037(a), he or she must file a Motion for

Protective Order pursuant to Fed. R. Bankr. P. 9037(d).

- H. **Effect of Motions to Extend Time to File Documents or Motions for Protective Orders.** A transcript will not be electronically available until the Court has ruled on intervening motions for extensions of time or for protective orders related to the transcript.

IV. Details of the Process in CM/ECF

1) **Initial Court Event** - The process by which a party requests a transcript is unchanged. When the Court receives the transcript from the transcriber, the Court docket a *Transcript* event which includes the full transcript. The event is restricted in that CM/ECF external users cannot access or “see” the transcript attached to the event for a 90-day period. The event also generates a form notice which is not restricted and is mailed to the parties who appeared at the hearing. A copy of the form notice is attached to this instruction memo. A sample docket text is included in the print screen below.

Transcript. Remote electronic access to the transcript is restricted until 10/29/2008. For additional information, contact the Director of Courtroom Services at (314) 244-4801. Court Certificate of Mailing of Form Notice Attached. Number of Notices mailed: 2. (RE: related document(s) [11](#) Motion for Summary Judgment filed by 3rd Pty Defendant Phyllis Veron. Barker Thomas) (moej) (Entered: 07/31/2008)

2) **Transcript Menu Option Under Bankruptcy and Adversary Menus** - Under both the Bankruptcy and Adversary menus, there is a menu option called Transcript as displayed in the print screen below. Within this menu option are the three events related to transcripts which can be used by external users. A print screen of the three events which the user can select from the Transcript menu option is included below.

[Transcript](#)

Request for Transcript Redaction
Response to Statement of Transcript Redactions
Statement of Transcript Redactions

3) **Request for Transcript Redaction Event** - Within 7 days of the *Transcript* event being filed, the parties to the hearing related to the transcript must file a *Request for Transcript Redaction* which expresses the filer’s intent to redact the transcript. This event is a virtual event for external users in that no PDF document is allowed to be attached to the event. For pro-se filers, the Court attaches a PDF document to the event but the PDF cannot be viewed by external users. A sample docket text of the *Request for Transcript Redaction* event is included in the print screen below.

Request for Transcript Redaction Filed by 3rd Pty Defendant Phyllis Veron. Barker Thomas (RE: related document(s) [13](#) Transcript). (atty3) (Entered: 07/31/2008)

4) **Statement of Transcript Redactions Event** - If a party to the hearing related to the transcript files a *Request for Transcript Redaction* within seven days, they must subsequently file a *Statement of Transcript Redactions* event within 21 days of the *Transcript* event being filed or seek an extension to time to do so. The *Statement of Transcript Redactions* event identifies the location of personal data identifiers sought to be redacted. The filer is to serve the document by regular mail upon all parties at the hearing and shall include a certificate of service listing the date and parties served. The PDF document attached to the event is restricted from the view of external users of CM/ECF. The event sets a 7 day deadline to file a response in opposition to the redactions. A sample docket text is included in the print screen below.

Statement of Transcript Redactions Filed by Debtor Milburn Drysdale (RE: related document(s) [219](#) Transcript). Responses due by 08/11/2008. (atty3) (Entered: 07/31/2008)

5) **Response to Statement of Transcript Redactions Event** - Any party may file a response in opposition to the Statement of Transcript Redactions within 7 days of the date the Statement was filed, using the event *Response to Statement of Transcript Redaction*. The PDF document attached to the event is restricted from view to external users of CM/ECF. The event automatically satisfies the 7-day deadline set by the Statement of Transcript Redactions event. The Court will rule on the matter if such a response is filed. If a hearing is needed, the Court will send notice of hearing. A sample docket text is included below.

Response Filed by Creditor Ford Motor Credit (RE: related document(s) [379](#) Statement of Transcript Redactions). (atty3) (Entered: 07/31/2008)

6) **Conclusion** - Once all of the redactions are made to the transcript, the Court will docket a *Transcript Redacted* event for the redacted transcript which will be restricted from viewing to external users of CM/ECF for a 90-day period from the date the original transcript is filed. Like regular transcripts, transcripts which are redacted are not subject the 30-page PACER billing limit. Any questions regarding the transcript process should be directed to Matt Parker, Director of Courtroom Services, at (314) 244-4801.

V. **General Issues**

- A. **Policy.** Nothing in this policy changes any rules or policies with respect to sealing or redaction of Court records for any other purpose. Note, however, that Fed. R. Bank. P. 9037 has provisions for redaction of information beyond that prescribed by

the Judiciary's privacy policy and for restriction of a non-party's electronic access. Under this policy, any party (or any other person or entity) may order production of a transcript on an expedited basis.

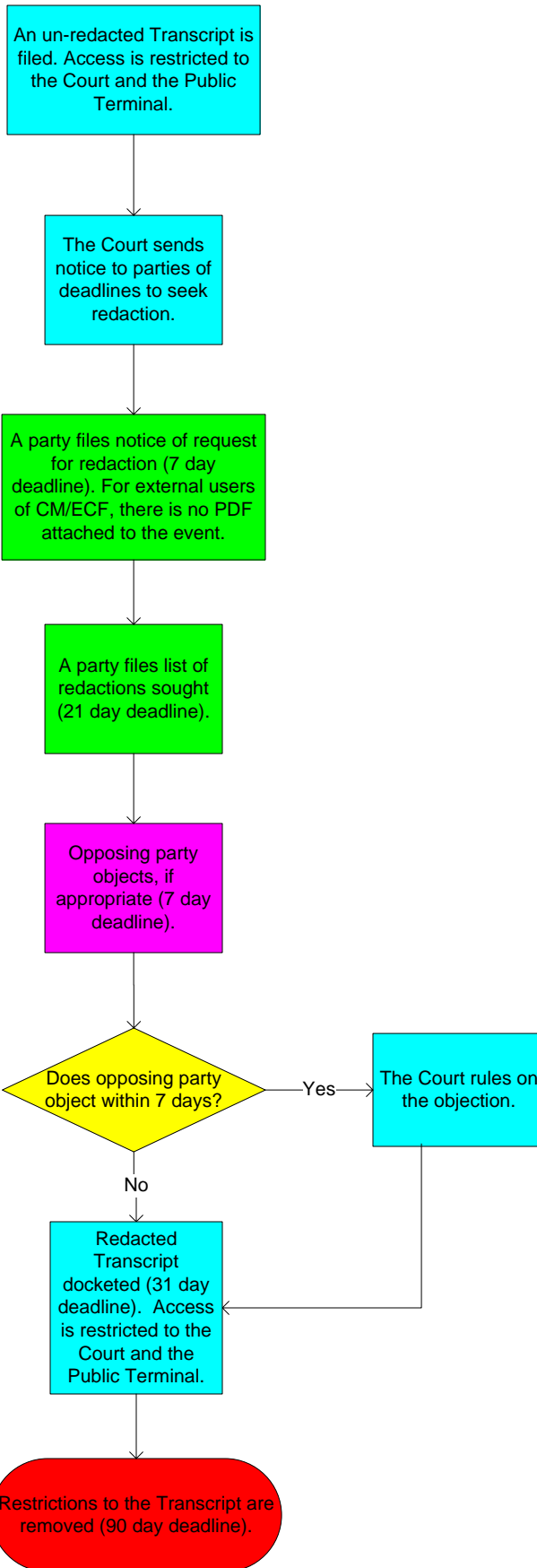
- B. **Remote Access and PACER Charges.** Charges for access through PACER apply during and after the 90-day restriction period. Charges are not capped at 30 pages. The user will incur PACER charges each time the transcript is accessed even though he or she may have purchased it from the transcriber and obtained remote access through CM/ECF. A free copy of the electronic transcript is not available via remote access. After purchasing the transcript from the transcriber, an attorney can receive the original and any redacted transcript in both paper and electronic format.

- C. **Access to Un-redacted and Redacted Transcripts After Purchase by Attorney.** During the 90-day restriction period, when an attorney purchases the un-redacted transcript, the Court staff will grant that attorney remote electronic access to the un-redacted transcript as well as any redacted version. If an attorney only purchases a redacted version of a transcript, the attorney will not be given remote electronic access to the un-redacted transcript in CM/ECF.

- D. **Access to Transcript After Purchase by Non-attorneys.** Members of the public, including the news media, who purchase a transcript from the transcriber are never granted remote electronic access to a restricted transcript.

Dated: December 1, 2009

United States Bankruptcy Court
Eastern District of Missouri
Transcript Redaction Process - Revised: December, 2009



UNITED STATES BANKRUPTCY COURT
Eastern District of Missouri
Thomas F Eagleton U.S. Courthouse
111 South Tenth Street, Fourth Floor
St. Louis, MO 63102

In Re: Jane A Eyre and Richard Eyre
Debtor

Case No.: 07-40001 – A399

Adv. Proc. No. 07-04001 – A659

Sir Heathcliff
Plaintiff
v.
Jane A Eyre
Defendant

Chapter 11

Notice of Filing of Transcript and of Deadlines Related to Restriction and Redaction

To: All Persons of Record at Hearing

A transcript of the proceeding held on July 31, 2008 was filed on August 7, 2008.

The following deadlines apply:

If you wish to have personal data identifiers redacted from the transcript, a *Request for Transcript Redaction* must be filed within 7 days of the date of this notice: August 14, 2008. Personal data identifiers include: **social security numbers, financial account numbers, names of minor children, and dates of birth**. If no such Request is filed within the allotted time, the Court will presume redaction of personal data identifiers is not necessary.

Any party seeking redaction shall file a *Statement of Transcript Redactions* identifying the location of the personal data identifiers sought to be redacted within 21 days of the date of this notice: August 28, 2008. The party filing the statement shall serve it by regular mail upon all parties at the hearing and shall include a Certificate of Service listing the date and parties served. The Statement of Transcript Redactions will be restricted from public view and cannot be served electronically through the CM/ECF system. If no Statement of Transcript Redactions is filed within the allotted time, the Court will presume redaction of personal identifiers is not necessary.

Any party may file a response in opposition to the Statement within 7 days of the date the Statement is filed using the *Response to Statement of Transcript Redactions* event. If a response in opposition to the Statement is filed, the Court will rule on the matter. If a hearing is needed, the Court will send notice of hearing.

If a request for redaction is filed, the redacted transcript is due within 31 days of the date of this notice: September 8, 2008.

The transcript may be made available for remote electronic access upon expiration of the restriction period, which is 90 days from the date of filing of the transcript: November 5, 2008, unless extended by court order. However, during this 90-day period the transcript is available for viewing only during normal business hours at the Clerk's office.

Any questions regarding the transcript process should be directed to Matt Parker, Director of Courtroom Services, at (314) 244-4801.

FOR THE COURT:

Dated: 11/24/09

/s/Dana C. McWay
Clerk of Court

Copies Mailed to:

Sir Heathcliff, Heathcliff Industries, 101 Heathcliff Parkway, Suite 100000, St. Louis, MO 63102;
Jane Eyre, 111 Rolling Stone Boulevard, Apt. 2847s, St. Louis, MO 63105-1234
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