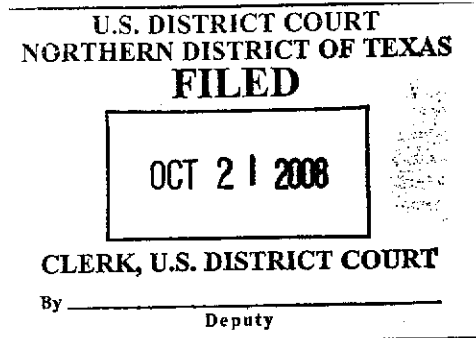


UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS



MISCELLANEOUS ORDER NO. 61

This order supersedes all previous orders designated as "Miscellaneous Order No. 61."

I. Public Access; Attorney Responsibility to Redact

The Judicial Conference of the United States has adopted a policy regarding the electronic availability of transcripts of court proceedings. *See* Attachment 1. Under the policy, transcripts are now available electronically to anyone holding a login and password to the judiciary's public access to electronic records system ("PACER") and to anyone using a public terminal in the clerk's office. Therefore, attorneys must take specific steps to keep personal data identifiers out of transcripts.

To implement the Judicial Conference policy, this court has adopted the following procedures that apply to all transcripts filed on or after May 28, 2008.

- A. Once a transcript has been ordered by an attorney and produced by a court reporter, the court reporter will electronically file the transcript with the clerk's office, and the clerk's office will notify all attorneys in the case of the filing.
- B. An electronically filed transcript will immediately be available for viewing at public terminals in the clerk's office. The transcript cannot be copied or reproduced in the clerk's office until 90 calendar days have elapsed from the date of filing.
- C. Each attorney in the case must review the electronically filed transcript and determine if any personal data identifier listed in the Judicial Conference policy is included in the transcript. An attorney is generally only responsible for reviewing and indicating redactions in the testimony of the witnesses called on behalf of the party represented

by the attorney and in the opening statement and closing argument made on behalf of the party; however, both the attorney for the government and attorney for the defendant must review the entire transcript of a sentencing proceeding.

- D. If an attorney determines that a transcript contains a Social Security number, taxpayer identification number, birth date, the name of an individual known to be a minor, financial account number, or (in a criminal case) a home address, the attorney must file a "Redaction Request" with the clerk's office on the approved form. *See* Attachment 2. This form must be filed within 21 calendar days of the date the transcript was filed. If the attorney wants information other than these personal identifiers to be redacted from a transcript, the attorney must file a motion seeking this relief from the court.
- E. A court reporter must redact each personal data identifier, as requested by an attorney, and must electronically file a redacted transcript within 31 calendar days after the filing of the transcript.
- F. Restrictions on an electronically filed transcript, or a redacted version of the transcript if a redaction request was filed, will be removed 90 calendar days after the filing of the transcript unless a redaction request is still pending or the presiding judge otherwise directs. The transcript will then be available remotely to view, download, or print from PACER or CM/ECF, or to obtain from the clerk's office.

II. Delegation of Authority to Clerk to Refund an Erroneous Electronically Paid Fee and to Forgo Collection of Fee for an Erroneous Filing

The court delegates to the clerk the authority to refund a fee paid by an ECF user who has used ECF to pay a fee and the fee was paid erroneously because the payment was:

- A. a duplicate fee payment related to the submission of a single document (including a single document erroneously submitted two or more times); or
- B. a fee payment when no fee was due (e.g., when no document was attached to a submission, or the submission did not require payment of a fee).

To obtain a refund, an ECF user must make a written request to the clerk.


If an ECF user continues (or ECF users from the same law firm continue) to make repeated mistakes when submitting fees electronically, the court may consider remedial action, such as issuing an order to show cause why further requests for refunds should be considered.

III. Administrative Procedures

The clerk is authorized to establish administrative procedures regarding access and use of the ECF system.

SO ORDERED.

October 21, 2008



SIDNEY A. FITZWATER
CHIEF JUDGE