

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

NOTICE OF PROPOSED AMENDMENTS TO THE GUIDELINES FOR PREPARATION OF APPELLATE TRANSCRIPTS IN THE FOURTH CIRCUIT

PLEASE TAKE NOTICE that the Fourth Circuit Judicial Council intends to amend its Guidelines for Preparation of Appellate Transcripts in the Fourth Circuit to conform to changes in the Federal Rules of Appellate Procedure that take effect December 1, 2009, and to changes in practice resulting from implementation of electronic filing in the district and appellate courts. Amendments to the guidelines are summarized below and highlighted in the attached document:

- Section II.A--Obsolete language referencing the district court's provision of forms is removed. In addition, since the court of appeals receives notice through CM/ECF when appellate transcript is filed in the district court, the requirement that the court reporter certify to the court of appeals that the transcript has been filed is now limited to cases in which the transcript was untimely filed, requiring that the court reporter certify that the applicable fee reduction sanction was taken.
- Section II.B--Time for ordering of transcript by appellant is expanded from 10 to 14 days to conform to the December 1, 2009, amendments to Fed. R. App. P. 10(b)(1), and to offset the inclusion of weekends and holidays in the time period. Obsolete language regarding mailing copies of the transcript order is removed. Language is added regarding appellant's obligation to submit transcript redactions in accordance with the Judicial Conference Policy on Privacy and Public Access to Electronic Case Files.
- Section II.C--Time periods for designating and ordering additional transcript needed by appellee are expanded from 10 to 14 days to conform to the December 1, 2009, amendments to Fed. R. App. P. 10(b)(3), and to offset the inclusion of weekends and holidays in these time periods. Language is added regarding appellee's obligation to submit transcript redactions in accordance with the Judicial Conference Policy on Privacy and Public Access to Electronic Case Files.
- Section II.D--Section is updated to reflect that the court of appeals transcript order acknowledgment will include a copy of the transcript order form and any CJA 24 form (seeking approval of Criminal Justice Act funds) and will add 7 days to the established time period for filing the transcript to allow for confirmation of financial arrangements, including approval of the CJA 24 application by the district court. The section is further updated to provide the court reporter with 14 days from issuance of the transcript order acknowledgment to file a transcript order deficiency notice if financial arrangements or order terms are not confirmed within 7 days of issuance of the transcript order acknowledgment. The additional 7 days provide an opportunity for the district court to act on the CJA 24 application and for other issues to be resolved without re-setting the

transcript deadlines. Section is updated to reflect that requirement that the court reporter certify to the court of appeals that the transcript has been filed is now limited to cases in which the transcript was untimely filed, requiring that the court reporter certify that the applicable fee reduction sanction was taken. Section is updated to incorporate appellate requirements for full-sized, rather than condensed, transcript and identification of testifying witness and type of testimony at the top of each page of testimony.

- Section II.E--Time for ordering of transcript by appellant is expanded from 10 to 14 days to conform to the December 1, 2009, amendments to Fed. R. App. P. 10(b)(1), and to offset the inclusion of weekends and holidays in the time period.
- Section IV.A--Outdated reference to mailing of motions removed.
- Section VI--Outdated reference to copy of certification removed.
- Section VII.A--Section is updated to reflect that 7 days are added to established time period for filing transcript to provide time for district court to approve CJA 24 application and thereby avoid unnecessary re-setting of transcript deadlines.
- Section VII.F--Outdated references to terms and conditions of AO 355 are replaced with reference to current standard terms in court reporter contracts.

The proposed amendments will take effect on December 1, 2009. Interested parties may submit comments on or before November 30, 2009, to:

Patricia S. Connor, Clerk
U.S. Court of Appeals for the Fourth Circuit
1100 E. Main Street, Suite 501
Richmond, Virginia 23219

10/13/2009
Date

/s/ Patricia S. Connor
Clerk

GUIDELINES FOR PREPARATION OF APPELLATE TRANSCRIPTS IN THE FOURTH CIRCUIT

I. INTRODUCTION

A. PURPOSE

These guidelines set forth in detail the following:

1. Duties of the district court clerk's office, appellant and appellee in ordering the transcript;
2. Responsibilities of the court reporter for preparing and timely filing the transcript;
3. Duties of the court of appeals for acknowledging transcript orders and monitoring the timeliness of the filing of transcripts;
4. Procedures for court reporters to follow in requesting extensions of time and waivers of fee sanctions;
5. Criteria to be used by the court of appeals in acting on requests for extensions and waivers;
6. Common problems that have been encountered by court reporters and the court of appeals in the ordering, preparation and filing of transcripts; and
7. Provisions for supplementation of these guidelines by local procedures adopted by a district court.

B. RELATION TO FEDERAL RULES OF APPELLATE PROCEDURE

Although Rule 11(b), Federal Rules of Appellate Procedure, requires transcripts to be filed within ~~thirty~~ 30 days of the purchase order date, the court of appeals will use the time limits set forth in the district court reporter management plans governing the application of fee sanctions as the time periods within which transcripts will be due. All of the plans establish a 60-day period for preparation of transcripts without financial penalty. Exceptions are:

1. Special provisions adopted by the Fourth Circuit Judicial Council for appeals by incarcerated criminal defendants;
2. Special circumstances, such as
 - (a) bail appeals,
 - (b) death penalty cases,
 - (c) expedited sentencing appeals,
 - (d) recalcitrant witness appeals, or
 - (e) other expedited procedures.

The Table on the next page sets forth the time requirements in detail.

TABLE OF TRANSCRIPT DUE DATES AND APPLICABLE SANCTIONS

NATURE OF CASE	LENGTH OF TRANSCRIPT	TRANSCRIPT DUE	10% FEE SANCTION	20% FEE SANCTION
Direct criminal appeals, appellant incarcerated	1000 pages or less	within 30 days of transcript order or judgment and commitment order, whichever is later	if filed after 30th day	if filed after 60th day
	more than 1000 pages	as ordered by clerk after consultation with reporter and parties	if due date missed	if due date missed by more than 30 days
All other cases, in other than exceptional circumstances	any length	within 60 days of transcript order or judgment and commitment order, whichever is later	if filed after 60th day	if filed after 90th day
Exceptional circumstances (e.g., bail appeals, death penalty cases, expedited sentencing appeals, etc.)	any length	as ordered by clerk after consultation with reporter and parties	*	*

* Twenty percent fee sanction automatically imposed if due date missed. Letter to chief district judge, after consultation with chief circuit judge requiring immediate preparation of the transcript.

C. EFFECTIVE DATE

These guidelines will take effect on June 1, 1986, and will apply to all Fourth Circuit cases subject to F.R.A.P. 11(b) in which the transcript is ordered after that date.

D. DEFINITIONS

For purposes of these guidelines, references to appellant-appellee will refer to counsel for appellant-appellee unless appellant-appellee is proceeding pro se, in which case all duties and responsibilities are those of appellant-appellee individually.

II. ORDERING AND ACKNOWLEDGING TRANSCRIPTS

A. DUTIES OF DISTRICT COURT CLERK'S OFFICE

1. When a notice of appeal is filed, the district court clerk's office will ~~furnish appellant with a copy of the Transcript Order form~~ notify appellant of the availability of appellate forms from the court of appeals, www.ca4.uscourts.gov.
2. Upon entry of an order authorizing preparation of a transcript at government expense pursuant to the Criminal Justice Act or 28 U.S.C. § 753(f), the district court reporter coordinator or appeals deputy will notify the court of appeals of the date on which the order was entered.
3. When substitute reporters or contract reporters are used, the district court reporter coordinator or district court appeals deputy will furnish them with copies of these guidelines and explain the procedures to be followed in preparing appellate transcripts.
4. When the transcript is filed, the district court clerk's office will ~~see that the court reporter or the court reporter coordinator mails a copy of the reporter's certification to the court of appeals~~ transmit notice of the filing to the court of appeals through CM/ECF.

B. DUTIES OF APPELLANT

1. Within ~~ten~~ 14 days after filing the notice of appeal, the appellant is required by F.R.A.P. 10(b)(1) to order from the court reporter such transcript of the proceedings as the appellant deems necessary. The notice of docketing issued by the court of appeals shall inform the appellant that the docketing statement and transcript order must be filed in the court of appeals within 14 days of the docketing notice.
2. By service of a copy of the docketing statement, appellant will notify appellee(s) that (a) a transcript is not needed for the appeal, (b) a transcript is already on file in the district court, or (c) less than the complete transcript will be ordered. The statement of issues in the docketing statement will satisfy the requirement of F.R.A.P. 10(b)(3).
3. Before a transcript can be ordered, the appellant must obtain from the court reporter an estimate of the length of the transcript and make appropriate financial arrangements with the reporter ~~(1) by immediate payment in full or by another payment arrangement acceptable to the reporter, (2) payment~~ such as filing a CJA 24 form with the district court for authorization of

transcript in a criminal case pursuant to the Criminal Justice Act, ~~or (3) for payment at government expense pursuant to 28 U.S.C. § 753(f).~~ [Local Rule 10(c)(1)]. Payment or acknowledgment of other financial arrangements satisfactory to the reporter must accompany the court reporter's copy of the transcript order. [F.R.A.P. 10(b)(4)].

4. In criminal cases, counsel may seek authorization from the district court to order transcript after entry of verdict but prior to sentencing. The district court may authorize the early ordering of transcript if it determines that defense counsel has informed the defendant of the right to appeal and the defendant has instructed counsel to appeal regardless of the nature or length of the sentence imposed. The time requirements for the preparation of transcripts that are ordered before sentencing shall not begin to run until after entry of the judgment and commitment order.

5. To order a transcript, the appellant completes the transcript order form (and CJA 24 form as needed) furnished by the district court clerk's office and distributes copies as follows: to the court reporter, the district court, the court of appeals (attached to docketing statement), and opposing counsel (attached to docketing statement).

~~court reporter — mail original to court reporter within 10 days of filing notice of appeal~~
~~district court — file copy in district court clerk's office within 10 days of filing notice of appeal~~

~~court of appeals — attach copies to both copies of Docketing Statement filed in court of appeals clerk's office within 14 days of filing notice of appeal~~

~~opposing counsel — attach copy to Docketing Statement served on opposing counsel within 14 days of filing notice of appeal~~

A separate transcript order (and CJA 24 form) must be prepared for each court reporter from whom a transcript is requested.

6. Failure by the appellant to timely order a transcript, failure to make satisfactory financial arrangements with the court reporter, or failure to specify in adequate detail those proceedings to be transcribed will subject the appeal to dismissal by the clerk of the court of appeals for want of prosecution pursuant to Local Rule 45.

7. When supplemental transcripts are requested, appellant must complete another transcript order form, make satisfactory financial arrangements with the reporter, and distribute copies to the same persons to whom the original transcript order was sent.

8. If payment is waived by the reporter at the time of ordering the transcript, the appellant must make full payment upon receipt of the reporter's invoice. If payment is not made within a reasonable period of time, the appeal will be subject to dismissal by the clerk of the court of appeals pursuant to Local Rule 45.

9. Transcripts ordered under the Criminal Justice Act do not include opening and closing statements, voir dire, or jury instructions unless prior special authorization has been received by appellant. CJA ~~Form~~ 24 forms should be obtained from the district court or from www.ca4.uscourts.gov and submitted to the district court judge for approval. In multi-defendant cases involving CJA defendants, only original transcripts should be ~~purchased~~ ordered from the court reporter(s). Requests for copies will be arranged by the district court ~~using commercial printers~~ or appointed counsel at commercially competitive rates. Contact the district court reporter coordinator or district court clerk's office for further instructions.

10. When an appellant has ordered a transcript, he or she is obligated to pay the reporter for it. If the appeal is dismissed voluntarily, the appellant is nonetheless responsible to the reporter for the cost of transcript prepared prior to the reporter's receipt of notification from the appellant of the appeal's dismissal.

11. Appellant is required to review the transcript upon filing in the district court and provide the court reporter with a statement of the personal data identifiers, including the page number, line number, and text to be redacted, in accordance with the Judicial Conference Policy on Privacy and Public Access to Electronic Case Files.

C. DUTIES OF APPELLEE

1. If the appellee deems a transcript of other parts of the proceedings to be necessary, he or she is required by F.R.A.P. 10(b)(3), within ~~ten~~ 14 days after service of the docketing statement by the appellant, to file and serve on the appellant a designation of additional parts to be included. Unless within ~~ten~~ 14 days after service of such designation the appellant has ordered such parts, and has so notified the appellee, the appellee may within the following ~~ten~~ 14 days either order the parts or move the district court for an order requiring the appellant to do so.

2. If the appellee wishes to obtain a copy of the transcript which has been ordered by the appellant, he or she may do so by ordering the copy directly from the court reporter. Satisfactory financial arrangements must be completed with the reporter before obtaining the copy. It is not appellant's responsibility to order and pay for a copy of the transcript for appellee.

3. Appellee is required to review the transcript upon filing in the district court and provide the court reporter with a statement of the personal data identifiers, including the page number, line number, and text to be redacted, in accordance with the Judicial Conference Policy on Privacy and Public Access to Electronic Case Files.

D. DUTIES OF THE COURT REPORTER

1. Upon receipt of the transcript order form and completion of satisfactory financial arrangements, the reporter must prepare the required transcript within the time set forth in the applicable district court reporter management plan.

2. The appellant attaches copies of the transcript order (and any CJA 24 form) to the ~~two copies of the~~ docketing statement filed with the court of appeals. Upon receiving the transcript order, the court of appeals will complete and send to the reporter, and to the court reporter coordinator and the district court, a transcript order acknowledgment form to verify the transcript order. ~~A copy of the Acknowledgment form will be sent to the reporter along with a photocopy of the Transcript Order.~~ The acknowledgment will ~~contain the order date and~~ include a copy of the transcript order and any CJA 24 form and will show the date by which the transcript must be filed to avoid sanctions. ~~The order date set out in the transcript order acknowledgment form will be the date the transcript order form was received by the court of appeals.~~ The due date is computed from ~~this date by the court of appeals~~ issuance of the transcript order acknowledgment in accordance with the time specified in the district court reporter management plans. Seven days are added to the applicable time period to permit confirmation of financial arrangements.

including approval by the district court of the CJA 24 form. If the transcript order form is complete and accurate and ~~satisfactory~~ financial arrangements are satisfactory ~~have been completed~~, no response is required from the court reporter to the transcript order form or the transcript acknowledgment form.

3. If there is a problem ~~with the order date (e.g., the court reporter had not received the transcript order by the date it was received in the court of appeals)~~, with financial arrangements with the appellant (e.g., the CJA 24 form is not approved within 7 days of issuance of the transcript order acknowledgment), with identification of the transcript ordered, with proper designation of the court reporters involved in the case, or with any other aspect of the transcript order, the court reporter must complete and ~~mail a copy of the Acknowledgment form to~~ file a transcript order deficiency notice with the court of appeals within ~~seven days of receipt by the reporter~~ 14 days of issuance of the transcript order acknowledgment (time may be extended for vacation, serious illness or other unusual circumstances). ~~A copy should also be sent to the court reporter coordinator.~~ The deficiency notice is served on the parties and the district court reporter coordinator through CM/ECF. The court reporter need not inform the court of appeals if he or she in fact received the transcript order ~~before the order date shown on the acknowledgment~~ early. The court reporter may use any additional time so created for preparation of the transcript without fear of incurring a sanction for late filing. The court of appeals' acknowledgment constitutes an implied fee sanction waiver to the due date set forth on the form.

4. The ~~time~~ deadline for completion of the transcript will ~~stop running automatically upon the reporter's mailing of the Acknowledgment form~~ be rescinded or extended upon filing of the transcript order deficiency notice, indicating a problem with the terms of the order, for whatever reasonable period of time is required for the reporter or district court reporter coordinator to resolve the problem with the appellant. The court of appeals transcript coordinator will be in touch with the reporter or district court reporter coordinator upon receipt of the ~~Acknowledgment form~~ transcript order deficiency notice to offer assistance, such as notification to the appellant that the appeal will be dismissed if the problem is not remedied promptly.

5. ~~When the problem has been remedied, the~~ The court of appeals will send a revised transcript order acknowledgment or transcript extension order setting forth a new transcript filing date reflecting the delay caused by the problem with the original transcript order.

6. Unless the court of appeals is notified of a problem with the transcript order, or of some other reason why the information on the transcript order acknowledgment form prepared by the court of appeals is incorrect, the reporter will be held to the schedule set forth therein absent the granting of an extension of time. It is the court reporter's responsibility to notify the court of appeals of any problem.

7. If the transcript is estimated to be more than 1000 pages and is ordered in a criminal appeal in which the appellant is incarcerated, the reporter will receive an acknowledgment form with ~~the order date and~~ a due date which will be established by the court of appeals.

8. Transcript provided to counsel for use on appeal shall comply with appellate requirements for full-sized, rather than condensed, transcript and for identification of the testifying witness and type of testimony (e.g., direct, cross, deposition) at the top of each page of in-court and deposition testimony.

§ 9. When the transcript has been completed and the court copy filed in the district court, notice of the filing must be sent to the court of appeals through CM/ECF. a copy of the reporter's certification setting forth the date the transcript was filed in the district court must be sent to the court of appeals by the court reporter, or by the court reporter coordinator, to notify the court of appeals that the transcript has been filed and to provide a means for the court of appeals to verify that the proper fee reduction was taken by the reporter if the transcript was not timely filed. the district court sends notice of the filing to the court of appeals. If the transcript was filed late, the court reporter must file a transcript certification form in the court of appeals showing that the proper fee reduction sanction was taken. A copy of the certification is served on the parties and the district court reporter coordinator through CM/ECF.

10. The court reporter must make any requested redactions to the transcript and file a redacted version of the transcript in the district court in accordance with the Judicial Conference Policy on Privacy and Public Access to Electronic Case Files. Notice of filing of the redacted version of the transcript must be sent to the court of appeals through CM/ECF.

911. Unless a written motion is filed by the appellant with the court of appeals, and an extension granted by the clerk of the court of appeals, requests by an appellant that a reporter suspend or delay preparation of a transcript that has been ordered will have no effect on the date the transcript is due, or on the appellant's obligation to pay for it when it is prepared. The only exception is when a motion for voluntary dismissal of the appeal has been granted; in that instance the appellant is responsible for paying only for that portion of the transcript completed prior to the reporter's receipt of notification from the appellant of the appeal's dismissal.

E. DUTIES OF COURT OF APPEALS

1. F.R.A.P. 10(b)(1) requires the appellant to order the transcript within ~~ten~~ 14 days after filing the notice of appeal. If the completed form is not received by the court of appeals within ~~that time, making reasonable allowance for delivery by mail,~~ 14 days of the court's notice of docketing of the appeal, the court of appeals will notify the appellant that no order has been received and that failure to comply with F.R.A.P. 10(b)(1) will subject the appeal to dismissal by the clerk for want of prosecution pursuant to Local Rule 45.

2. When the court of appeals receives the transcript order form, it will be reviewed for any obvious defects (e.g., multiple reporters on one form, or incompleteness as far as nature of proceedings requested or certification of satisfaction of financial requirements). If it appears to be in order, the court of appeals will prepare for the reporter a transcript order acknowledgment which will include the transcript order and any CJA 24 form and will show ~~showing the date the transcript order was received in the court of appeals and~~ the due date, computed in accordance with the time limits set forth in the applicable district court reporter management plan. The court of appeals clerk's office will work together with reporters and parties to remedy any deficiencies in the transcript order that are brought to its attention by the reporter. (See Sections D.3 - 8 for full description of procedures.)

III. REPORTS

Reports on outstanding transcripts will be generated monthly and will be distributed to the court reporters involved, as well as to the district court clerks or their court reporter coordinators. If the report shows a transcript outstanding when it has actually been filed, the reporter or district court reporter coordinator should call the court of appeals and report the date of filing. If everything in the report is correct and none of the transcripts are overdue, no response is required from the reporter.

IV. TIME LIMITS FOR FILING TRANSCRIPTS--FEE REDUCTION SANCTIONS

A. Requests for Extensions of Time

As set forth in the district court reporter management plans, all requests for extensions of time for the filing of appellate transcripts (F.R.A.P. 11(b) transcripts) are submitted to the clerk of the court of appeals. They should be in writing, on the designated form. [They are served on counsel through CM/ECF.](#) A request for an extension of time will automatically constitute a corresponding request for a waiver of any applicable fee reduction sanction. Requests for extensions must be ~~mailed ten~~ [filed 10](#) days in advance of the deadline from which relief is sought, unless unforeseen circumstances make later requests necessary, in which case the reasons will be set out by the reporter in the request.

When requesting an extension, the information furnished should be very specific. Failure to submit complete information will delay action on the request and lead to additional paperwork for the reporter. After reviewing the request for extension, the court of appeals will issue an order granting, granting in part, or denying the request, which will set forth the resulting time frames for purposes of fee sanction imposition. Counsel, the district court reporter coordinator, and the district court clerk will also receive copies of this order.

B. GROUNDS FOR EXTENSIONS OF TIME

1. Excessive burden of transcript, considering length and complexity of the proceedings ordered within a short period of time. District court reporter coordinators are expected to make court reporter assignments within a district so as to anticipate and to avoid to the extent possible the imposition of excessive transcript loads on individual reporters. When these efforts are unsuccessful, reporters may apply for relief from applicable fee sanctions and have the court of appeals assign the relative priority to be given to competing appellate transcript orders. The fact that a reporter has accumulated orders for more than 3000 pages within three months will be presumed to establish the existence of an "excessive burden." The existence of outstanding overdue transcripts may or may not be grounds for extending the time for subsequently ordered transcripts. In computing the amount of transcript for purposes of demonstrating excessive burden, the reporter can include all transcripts ordered within ninety days of the request for extension. The reporter may include transcript obligations for the district court as well as those ordered for appellate purposes. However, the orders must be "firm orders". A "firm order" for an appellate transcript is one for which the court of appeals has received a transcript order from

the appellant. For a district court transcript it is an order communicated by a judge or a party; it cannot be a reporter's speculation that an order will be forthcoming.

2. Vacation. A reporter can plan to take reasonable vacations, as authorized by the district court, and obtain extensions of deadlines that would fall within those periods or become impossible to meet in light of them.

3. Unavoidable, excessive time required for attendance in court. It is the responsibility of the district court reporter coordinator to adjust reporter assignments to ensure that the needs of the trial and appellate courts can be met. Occasions may arise, nonetheless, when a court reporter's courtroom obligations, including official travel required to reach the courtroom, prevent his or her meeting transcript obligations. Reasonable extensions of time will be given in such instances.

4. Incapacitation or serious illness. A reporter may certify to the clerk of the court of appeals that he or she has become temporarily incapacitated or seriously ill, and obtain reasonable relief from pending deadlines. This ground does not include common colds or other ailments that would not prevent attendance in court.

5. Unforeseen emergencies. Reporters may seek extensions for any other good cause which makes the completion of a transcript within the allotted time impossible.

V. SANCTIONS

A. FEE REDUCTION SANCTIONS

An official court reporter will be required to deduct from his or her charges for a completed transcript not timely filed with the district court the amount of any fee reduction sanction applicable by the terms of a district court reporter management plan.

B. REMOVAL FROM COURTROOM AND REQUEST FOR SUBSTITUTE REPORTER

The chief judge of the court of appeals, following consultation with the chief judge of the district court, may order a reporter to remain out of the courtroom, and pay the costs of a satisfactory substitute reporter, if a transcript is ninety days overdue.

VI. MONITORING OF TRANSCRIPT FILING

The clerk of the court of appeals will monitor the filing of all appellate transcripts and the fees charged by reporters when a transcript is filed untimely. The fee sanction mechanism exists by virtue of the district court reporter management plans which require reporters to take fee reductions if a transcript is not filed on time. Therefore, the court of appeals will not issue a sanction order. It is the reporter's duty to abide by the provisions of his or her district court reporter management plan and to take a fee reduction if one is applicable.

The court of appeals will take no action if the transcript is filed on time or, if not filed on time, the appropriate fee reduction has been taken as shown by the ~~copy of the~~ [transcript certification form](#)

that the reporter submitted to the court of appeals when the transcript was filed. If a fee reduction was applicable and was not taken by the reporter, the court of appeals will send a letter [notice](#) to the reporter setting forth the fee reduction that should have been taken. Copies of this letter [notice](#) will be sent to counsel, the district court reporter coordinator (if any) and the judge to whom the reporter reports or the chief district judge. If the certification is not submitted within a reasonable period after the filing of the transcript, the reporter will be requested to submit a copy of his or her invoice.

The court of appeals will also send a letter to the chief district judge when a transcript is sixty days overdue. The letter will identify the particular transcript involved and the date of the order. Copies of the letter will be sent to the judge (if any) to whom the reporter reports, the district court reporter coordinator, the district court clerk, and the reporter. The letter will alert the chief judge of the district court to the possibility that the reporter may be required to remain out of the courtroom, paying for a substitute reporter, until the transcript is completed, if the transcript becomes ninety days overdue.

VII. COMMON PROBLEMS

A. TRANSCRIPTS PREPARED AT GOVERNMENT EXPENSE

1. Criminal Justice Act [18 U.S.C. § 3006A(6)]. When the reporter receives the approved CJA form, preparation of the transcript should begin immediately. ~~The date of receipt of the approved CJA form will begin the running of the time for delivery of the transcript and the imposition of sanctions, except when the transcript is ordered before sentencing as set forth in II.B.4 above.~~ [To allow time for the district court to act on the CJA 24 application, the court of appeals adds 7 days to the transcript deadline set upon receipt of its copy of the transcript order and CJA 24 forms. If the district court does not approve the CJA 24 form within 7 days, the court reporter may request rescission or extension of the deadline using the transcript order deficiency notice.](#)

Pursuant to the ~~provisions of the September 1987 amendment to the~~ Guidelines for the Administration of the Criminal Justice Act, in multi-defendant cases involving CJA defendants, no more than one original transcript should be purchased from the court reporter on behalf of CJA defendants. One of the appointed counsel or the district court should arrange for the duplication, at commercially competitive rates, of enough copies of the transcript(s) for each of the CJA defendants for whom a transcript has been approved.

2. In Forma Pauperis Litigants [28 U.S.C. § 753(f)]. When an order is entered directing preparation of a transcript at government expense pursuant to 28 U.S.C. § 753(f), the transcript order date is the date the reporter receives the court's order authorizing preparation of the transcript. ~~The order date is not postponed until receipt of a completed AO Form 19, since the government is under an obligation to pay for the transcript once it is ordered by the court.~~

B. SUPPLEMENTAL TRANSCRIPTS

Supplemental transcripts are usually ordered after the original transcript has been filed and a briefing schedule established by the court of appeals. Therefore, these transcripts should be

expedited. Counsel is under an obligation to notify the court of appeals that a supplemental transcript has been ordered. The court of appeals will then send the transcript order acknowledgment form to the reporter with the request that the reporter prepare these transcripts as quickly as possible.

C. EXPEDITED PROCEEDINGS

When a transcript is requested for an expedited proceeding, the due date for filing the transcript is established by the court of appeals. If an expedited transcript is requested and prepared within ~~seven~~ 7 days after receipt or notification of the order, the court reporter may charge the higher rates for expedited transcripts.

Transcripts for appeals arising from a criminal sentence imposed under 18 U.S.C. § 3742 will only be expedited if a motion for expedited review of criminal sentence is granted by the court of appeals. Only those portions of the transcript pertinent to the appeal must be prepared on an expedited basis. The court reporter will be notified by the court of appeals when a motion to expedite has been granted.

In bail appeals, only the portion of the transcript dealing with the bail issue should be ordered on a rush basis. Even though there may be other portions of the transcript that the appellant has ordered, the portion dealing with the bail issue should be prepared first.

In expedited proceedings, a twenty percent fee sanction from the regular transcript rate will be imposed if the due date is missed. At the same time, a letter will be sent to the chief judge of the district court, advising of the delinquency and warning that the chief judge of the court of appeals may order the reporter to remain out of the courtroom, and pay the costs of a satisfactory substitute reporter, if the transcript is not filed immediately. **IF THE COURT REPORTER ANTICIPATES A PROBLEM WITH PROMPT PREPARATION OF AN EXPEDITED TRANSCRIPT, THE DISTRICT COURT REPORTER COORDINATOR AND THE COURT OF APPEALS SHOULD BE NOTIFIED IMMEDIATELY.**

D. PAYMENT FOR TRANSCRIPT

The court of appeals approves of reporters' demanding a substantial deposit or full payment in advance for preparation of a transcript. In those instances where a reporter does not demand full payment in advance, and upon transcript completion has not been paid fully by the appellant, the following procedures should be followed:

1. Timely file the court copy of the transcript with the district court clerk's office.
2. Contact the court of appeals immediately and a letter will be sent to the appellant stating that if full payment is not made to the court reporter within fifteen days of the date of the letter, the appeal will be dismissed for failure to prosecute.

Fee reduction sanctions will be applicable if the court copy of the transcript is not timely filed. Problems with payment for the transcript after its completion will have no effect on the established due date.

E. SUBSTITUTE REPORTERS

When an official court reporter hires a substitute, the official reporter still retains responsibility for the timely filing of the transcript. All provisions applicable to an official court reporter will be applicable to the substitute. If there is a problem with the filing of a transcript, the official court reporter will be notified as well as the substitute reporter. All correspondence and orders by the court of appeals will be sent to both reporters. The substitute can request extensions of time and waivers of applicable fee sanctions from the court of appeals. However, all guidelines applicable to the official reporter will be applicable to the substitute reporter and the proper procedures for requesting extensions must be followed.

F. CONTRACT REPORTERS

Contractual reporting services in district courts are provided as supplements to the services of official staff. Contractual services are used after the district court reporter coordinator has determined that no official court reporter is available. Contract reporters must follow the procedures set out below.

1. All contractors are subject to the ~~provisions of the Terms and Conditions of AO Form 355, Contracts for Court Reporting Services, governing time of filing (30 days from date of order) and fee sanctions for late delivery of transcripts (2% for each day or fraction of a day the transcript is late, but not less than 10% and not more than 50% of the price of the transcript)~~ [terms and conditions of their contracts with the district courts. Standard contract terms for delinquent transcript provide that the contract reporter may charge only 90% of the prescribed fee for transcript not delivered within 30 days of the date ordered \(with payment arrangements made\) and may charge only 80% of the prescribed fee for transcript not delivered within 60 days of the date ordered \(with payment arrangements made\).](#)
2. All contractors ~~— whether or not the written standard contract is signed — must meet the Terms and Conditions of AO Form 355 as set forth above.~~
3. Extensions of time for filing transcripts for F.R.A.P. 11(b) cases may be requested in writing following the procedures set forth in these guidelines. However, the court of appeals cannot waive the fee sanctions ~~set out in AO Form 355~~ [for contract reporters](#). A waiver of applicable fee reduction sanctions may be requested, in writing, from the contracting officer. A copy of the letter requesting a waiver of fee sanctions should be sent to the court of appeals.

G. FILING OF TRANSCRIPTS WITH THE DISTRICT COURT

When the proceedings that are transcribed have been taken in another division of the district court, the reporter may file the court copy of the transcript in the district in which his or her office is located. That division will file stamp the copy and forward it to the appropriate division for inclusion in the record to be transmitted to the court of appeals.

VIII. ADDITIONAL LOCAL PROCEDURES

Following prior consultation with the clerk of the court of appeals, a district court may institute supplemental local procedures designed to adapt these guidelines to the structure of court reporting services in place in that district.

REVISED: ~~12/4/96~~ [12/1/2009](#)

FOURTH CIRCUIT TRANSCRIPT ORDER FORM

Case Style _____
 Dist. Ct. No. _____ District _____
 Date Notice of Appeal filed _____ Court of Appeals No. _____
 Name of Court Reporter/Electronic Rec. (use separate form for each reporter) _____
 Address of Reporter _____

Appellant must order any necessary transcript, completing a separate transcript order form (and separate CJA 24 Form) for each reporter and submitting the order to the court reporter and the district court within 14 days of noting the appeal. The completed form must show that necessary financial arrangements have been made or that a CJA 24 Form has been submitted to the district judge for approval. Copies of the transcript order form must be attached to the docketing statement filed in the Court of Appeals and served on opposing counsel within 14 days of docketing of the appeal, or the appeal will be subject to dismissal pursuant to Local Rule 45. If appellee finds other parts of the proceedings necessary, appellee must designate the additional parts within 14 days after service of the transcript order. If appellant has not ordered the additional parts within 14 days, appellee may, within the following 14 days, order the additional parts or move in the district court for an order requiring appellant to do so. In sentencing appeals, a transcript of the sentencing hearing must be ordered. In Anders appeals, plea (or trial) and sentencing transcript must be ordered. If appellee wishes to obtain a copy of transcript ordered by appellant, appellee must order a copy from the court reporter. In multi-defendant cases involving CJA defendants, only one original trial transcript should be purchased from the court reporter on behalf of CJA defendants, and copies should thereafter be made at commercially competitive rates. Counsel must review transcript and notify the district court of any intention to direct redaction of personal data identifiers within 7 days of filing of the transcript, and thereafter submit a statement of redactions to the court reporter within 21 days of filing of the transcript, as required by the Judicial Conference Policy on Privacy and Public Access to Electronic Case Files. Counsel should verify that the witness name and type of examination appear in the top margin of each page of testimony, as required for inclusion in the appendix on appeal. Local Rule 30(b).

A. This constitutes an order of the transcript of the following proceedings. Check appropriate box(es), provide date of hearing, and indicate total number of estimated pages. Failure to specify in adequate detail the proceedings to be transcribed is grounds for dismissal. Specific authorization is required under the CJA for opening and closing statements, voir dire, or jury instructions.

PROCEEDING

HEARING DATE(S)

- | | |
|--|-------|
| <input type="checkbox"/> Voir Dire | _____ |
| <input type="checkbox"/> Opening Statement (Plaintiff) | _____ |
| <input type="checkbox"/> Opening Statement (Defendant) | _____ |
| <input type="checkbox"/> Closing Argument (Plaintiff) | _____ |
| <input type="checkbox"/> Closing Argument (Defendant) | _____ |
| <input type="checkbox"/> Opinion of Court | _____ |
| <input type="checkbox"/> Jury Instructions | _____ |
| <input type="checkbox"/> Sentencing | _____ |
| <input type="checkbox"/> Bail Hearing | _____ |
| <input type="checkbox"/> Pre-Trial Proceedings (specify) | _____ |
| _____ | _____ |
| <input type="checkbox"/> Testimony (specify) | _____ |
| _____ | _____ |
| <input type="checkbox"/> Other (specify) | _____ |
| _____ | _____ |

TOTAL ESTIMATED PAGES _____

- B. I certify that I have contacted the court reporter (or coordinator if electronic recording from the District of Maryland) and satisfactory financial arrangements for payment of the transcript have been made.
- Private funds. (Deposit of \$_____ enclosed with court reporter's copy. Check No. _____.)
 - Criminal Justice Act. A CJA 24 Form has been submitted to the district court and a copy is attached.
 - Government expense (civil case--IFP). Motion for transcript at government expense is pending with district judge.
 - Advance payment waived by court reporter. Payment in full is due upon receipt of transcript.
 - Federal Public Defender - no CJA 24 Form necessary.
 - United States appeal - copy of litigation expense form attached, if applicable.

Signature _____ Typed name _____
 Address _____
 Telephone No. _____ Date Sent to Reporter _____