

SIXTH CIRCUIT COURT OF APPEALS

GUIDE TO TRANSCRIPT ORDERING AND PRODUCTION

Effective July 18, 2016, attorneys are required to place transcript orders via the Court's "Virtual Transcript" process in ECF. Court reporters will make all necessary acknowledgements and file notice of transcript completion in ECF as well. Pro se litigants will continue to place orders by using the paper form provided on the court's website. All transcript related activity will be recorded on the docket and managed in CM/ECF. Training materials for using the correct ECF events are available on the court's website. This Guide outlines the process of ordering and producing transcripts, based on the Court's Transcript Policy and relevant Federal Rules of Appellate Procedure and Local Rules. As always, if you have questions about how to proceed call the clerk's office for assistance.

ORDERING THE TRANSCRIPT

1. Ordering Party's Responsibility.

Appellants: Within 14 days of the docketing of the appeal, or as otherwise directed by the court, appellants must

- order transcripts, or
- indicate that a transcript is unnecessary, or
- indicate transcripts are already on file in the district court,

Appellees who order transcripts must do so within the time frames of FRAP 10(b)(3), and must follow the same ordering procedures set out below.

Separate and Complete Orders to Each Court Reporter: Separate orders must be made to each court reporter from whom transcripts are being ordered.

Each order to an individual court reporter should reflect *all transcripts* being ordered from that reporter.


Financial arrangements: should be completed by the time the transcript is ordered from the court reporter. FRAP 10(b)(4). The virtual transcript order entry requires the attorney indicate what financial arrangements have been made:

- Private Funds, or
- CJA, or
- Federal Defender



Unless the transcript is paid for under the CJA or through the Federal Defender's Office, the "Private Funds" option should be selected. This

applies even when another governmental entity is paying for the transcript.

CJA cases:  The ordering party also must comply with all applicable district court requirements for completion of the CJA 24 authorization and payment process via eVoucher and/or submission of a paper CJA 24. *This process must be initiated prior to placing the transcript order with the Sixth Circuit.*

Necessary Information: The ordering party will be required to enter specific information about the transcripts being ordered, including:

- Choosing the reporter with whom the order is being placed
- Indicating the specific dates for which transcripts are requested
- Indicating the nature of the hearing for which transcripts are requested
- Indicating the presiding judges for each hearing

Pro Se litigants must complete the paper form available on the court's website and mail the form to the clerk's office.



Pro se litigants must serve the transcript order directly on the court reporter, and must make appropriate financial arrangements.



Failure to make satisfactory arrangements for the production of the transcript will result in the setting of briefing schedule without transcripts, and may result in further action by the court.

2. Court Reporter's Responsibilities.

Registering in ECF: Court reporters must register with PACER and obtain a CM/ECF login and password from the clerk of the court of appeals, and all transcript order acknowledgments, requests for extensions, requests for waivers of fee reductions, and notifications of the filings of transcripts and such other documents as may be required by the court, must be submitted electronically via CM/ECF.

Acknowledging Receipt of Transcript Order. Within 14 days of receiving electronic notice of the transcript being ordered, the court reporter must acknowledge the order in ECF. The ECF entry requires that you indicate one of the following:

- That financial arrangements have been made, *or*
- That financial arrangements have not been made, *or*
- That there are deficiencies in the order, such as incorrect dates appearing in the order.



If the court reporter does not timely enter an acknowledgment, the transcript

due deadline will be set for 30 days from the date the order was placed. Extensions will be highly disfavored if the acknowledgment has not been timely filed.

Information about the transcript: For transcripts in which financial arrangements have been made, the system will prompt the court reporter to provide specific information:

- The date the transcript order was received;
- The estimated number of pages;
- When financial arrangements were made;
- Estimated completion date.

PRODUCTION OF THE TRANSCRIPT

Deadlines: The transcript shall be filed within thirty (30) days of the date the transcript is ordered, or the date on which financial arrangements are made, whichever is later. FRAP 11 (b)(1)(B). The transcript must be filed in the district court, and notice provided electronically to the court of appeals by filing on the court of appeals docket that the transcript order is complete. FRAP 11(b)(1)(C).

Prioritization: Transcripts in criminal appeals have priority over all matters other than in-court obligations. The court of appeals may direct the preparation of transcripts out of the order otherwise prescribed. 6 Cir. R. 11(b)(1).

Court Reporter Requests for Extensions: Requests for extensions must be sought from the clerk of the court of appeals by an entry in ECF. Notice of all requests for extensions will be sent to counsel. The court reporter will be prompted to provide the following information:

- The date of the notice of appeal;
- The reasons for the extension;
- The date the transcript was ordered;
- The estimated number of total transcript pages;
- The date the ordering party made satisfactory financial arrangements;
- The number of transcript pages completed to date;
- The estimated completion date;
- In appeals of a criminal case, the dates of conviction and sentencing;
- In criminal appeals, the date the defendant was remitted to custody;

Clerk's actions on extension requests: Extensions will be granted for good cause. The clerk of the court of appeals will act on requests for extensions promptly, and court reporters and counsel will be notified electronically. Extensions are generally disfavored as late filed transcripts delay the disposition of cases on appeal.




If a transcript is not completed more than 60 days from the date ordered,

the circuit clerk must notify the district judge. FRAP 11(b)(1)(D).

Severely Overdue Transcripts: The court of appeals may direct further action, including that the court reporter discontinue courtroom duties until the transcript is completed and filed in the district court. 6 Cir. R. 11 (b)(3)(B). The court reporter may be responsible for hiring a substitute to attend to his or her courtroom duties until the transcript is completed.

REDUCTION OF FEES FOR LATE FILED TRANSCRIPTS

Mandatory reductions apply,  even if extensions of time in which to file the transcript have been granted.

- If the transcript is filed more than 45 days after it was ordered, the court reporter must reduce the fee by 10%. 6 Cir. R. 11 (b)(3)(A)
- If the transcript is filed more than 60 days after it was ordered, the court reporter must reduce the fee by 20%. 6 Cir. R. 11 (b)(3)(B).

Disgorgement of Fees: In the event the fee has already been received, the court reporter must disgorge the amount of the mandatory reduction.

Waiver of Reduction of Fee. The circuit clerk may waive the fee reduction for good cause. 6 Cir. R. 11 (b)(3)(C).

Request for Waiver: A court reporter seeking a waiver of the fee reduction must file such request with the court of appeals, via an entry in ECF.

- The request must contain detailed information regarding any other transcript work done intervening the order and filing of the transcript;
- the reporter's actual hours in court as documented in the reporter's AO 40 A report;
- any special circumstances affecting the specific transcript, i.e. length of trial, length of voir dire, number of participants, equipment or software failures; and
- any personal circumstances causing delay, i.e. the reporter's illness or injury, and;
- any other relevant information to assist the clerk in making a determination.

Take note 

When completed, the entry will be noticed to the parties, the district clerk, and the district judge.

Response/Comments of Parties: The parties affected by the delayed filing of the transcript may file a written response either in support of or opposition to the court reporter's request for waiver of fee reduction. Any response should be filed within 14 days of the filing of the request for waiver.

Clerk's Action: The Clerk will promptly review the request and response, and enter her decision on the docket and notify all interested parties as well as the district judge and district clerk. Consideration will be given to the factors noted above, and to the reporter's compliance with this Court's Transcript Policy and Rules.