

Notice Regarding Access to Transcripts Filed in the Tenth Circuit Court of Appeal

In September 2007, the Judicial Conference of the United States (“JCUS”) approved a policy whereby access to a transcript produced by a court reporter or transcriber is restricted for a period of 90 days after the transcript is delivered¹ to the Clerk of Court. [JCUS-SEP 07, p. 12](#). During that 90-day period, access to the transcript in CM/ECF is restricted to four types of users:

- Court staff;
- Public terminal users (for inspection only);
- Attorneys of record or parties who have purchased the transcript from the court reporter/transcriber; and
- Other persons as directed by the court (e.g., appellate attorneys).²

In appeals in which a record on appeal (“ROA”) is prepared by the court,³ the ROA often includes transcripts that have been purchased only by the appellant, and which remain subject to the 90-day access restrictions. Until the 90-day period ends, the ROA volumes containing those transcripts are docketed under seal in the Tenth Circuit. However, the other parties to the appeal require access to the ROA, and the transcripts contained therein, in order to properly cite to the consecutively-paginated record volumes during the appellate briefing process.

Accordingly, when a party to an appeal requires access to sealed volumes of a district-court-provided ROA containing transcripts that remain subject to the 90-day restrictions, the Tenth Circuit Clerk’s Office will provide such access upon receipt of documentation that clearly establishes that the requesting party has purchased the transcript from the court reporter. Parties may request access by contacting the Clerk’s Office at 10th_Circuit_Clerk@ca10.uscourts.gov. Such requests **must** include documentation that clearly establishes that the requesting party has purchased the transcript(s) at issue from the court reporter.

This procedure does not apply to:

- Transcripts for which the 90-day access restrictions have expired;
- Transcripts purchased by a party that are included in that party’s publicly-filed appendix;⁴ or
- Transcripts purchased using Criminal Justice Act funds in multi-defendant criminal cases, when access to such transcripts is requested by a co-defendant who is represented by CJA counsel.⁵

Questions or concerns should be directed to Jane Castro, Chief Deputy Clerk, at Jane_Castro@ca10.uscourts.gov or (303) 335-3077.

¹ A certified transcript copy must be delivered by the court reporter to the clerk or the clerk’s designee (court reporting supervisor) concurrent with, but not later than three working days after, delivery to the requesting party. Upon receipt, the transcript copy must be docketed in the case file by the clerk’s office staff. [Guide to Judiciary Policy, Vol. 6, Ch. 5, §510.25](#).

² [Guide to Judiciary Policy, Vol. 6, Ch. 5, § 510.25.10\(b\)](#).

³ In pro se appeals, appeals in which an appellant is represented by appointed counsel, and appeals in which the appellant is represented by pro bono counsel who has obtained a waiver of the appendix requirement, the court prepares a record on appeal in lieu of an appendix. See Tenth Circuit Rules 11.2(A) and (B) and 30.3(C).

⁴ See [Guide to Judiciary Policy, Vol. 6, Ch. 5, § 560\(a\)](#) (“Transcripts are in the public domain, and they may be used, reproduced, and sold by attorneys, parties, and the general public without additional compensation to the court reporter, contractor, or transcriber.”).

⁵ See [Guide to Judiciary Policy, Vol. 6, Ch. 5, §550.40.30\(a\)](#) (“In multi-defendant cases involving CJA defendants, no more than one certified transcript should be purchased from the court reporter on behalf of CJA defendants.”).