

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF WEST VIRGINIA**

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FREQUENTLY ASKED QUESTIONS ABOUT DIGITAL AUDIO RECORDINGS

1. Is the digital audio recording uploaded to PACER considered the original?

No. The original digital audio recording remains on the court's server under the control of the Clerk and that recording is the official record. A copy of the digital audio recording is uploaded to PACER for the convenience of the public.

2. Is a transcript made from a digital audio file- on PACER considered the official record?

No. Under 28 U.S.C. § 753(b), "[n]o transcripts of the proceedings of the court shall be considered as official except those made from the records certified by the reporter or other individual designated to produce the record." Official records are prepared by transcriptionists, and daily transcripts are possible. Attorneys who do not need an official transcript may download a copy of the audio file and have staff members transcribe the proceeding.

3. What about privacy issues? Can the audio files be redacted?

When a judge has concerns about privacy in a particular hearing, the audio for that hearing can be withheld from CM/ECF. Redacting audio files, while technically possible, is time consuming and is not the practice of the court. Most courts follow an "all or nothing" policy: If an audio file contains sensitive information, none of it is uploaded to CM/ECF. Audio files can be uploaded as a restricted or sealed entry on the docket sheet. The best practice is for attorneys to avoid introducing restricted audio information into the record in the first place, unless absolutely necessary to prove an element of the case.

4. How is voir dire handled?

The judge decides whether to include voir dire in the audio file. If desired, voir dire can be recorded in a separate file and excluded from the upload.

5. Are there concerns about the size of files?

The limitations that apply to standard CM/ECF filings do not apply to audio files uploaded to CM/ECF by court staff.

6. How long do audio files remain on the docket sheet?

Digital audio files will remain on the docket sheet indefinitely.

7. What about side-bars between counsel or with the judge?

Anything said near a microphone during court will be recorded and may be posted to the internet.