

First Circuit Judicial Council

ORDER

Entered: December 15, 2005

Fed. R. App. P. 11(b) and the Guide to Judiciary Policies & Procedures, Court Reporters' Manual, Parts 20.12.1.c(1) and 21.3 (1998), require transcripts for cases on appeal to be filed within 30 days from the date ordered unless the circuit clerk grants an extension of time. To promote the prompt production of appellate transcripts, the Judicial Council of the First Circuit adopts the following policy for mandatory fee reductions.

1. Mandatory Fee Reductions

For transcripts in cases on appeal, the court reporter may charge the full price only for transcripts filed within 60 days of the date ordered. If a transcript is not delivered within 60 days, the reporter may charge only 90 % of the prescribed fee. If a transcript is not delivered within 90 days, the reporter may charge only 80 % of the prescribed fee. It is the court reporter's duty to take a fee reduction if one is applicable.

2. Calculation of Time

For purposes of applying the fee reduction, the time period shall begin to run from the date the court of appeals docketed a compliant transcript report/order form and sets an initial deadline. If a docketed transcript report/order form is incomplete or inaccurate, or if financial arrangements subsequently fail, the reporter must give prompt written notice and, if appropriate, the court of appeals will suspend the start date until the deficiency is cured.

3. Financial Arrangements

A transcript report/order form is not compliant unless satisfactory financial arrangements have been made with the court reporter or payment has been authorized under the Criminal Justice Act. If financial arrangements subsequently fail, the burden is on the reporter promptly to notify the court of appeals in writing and by copies of letters requesting payment that the litigant has failed to abide by arrangements for payment. The court of appeals will enforce reporters' legitimate requests for payment by threat of dismissal for failure to prosecute.

4. Extensions of Time

A request for an extension of time pursuant to Fed. R. App. P. 11(b) shall be made in writing, preferably on the form provided by the court of appeals, and filed with the court of appeals. An extension of time does not waive the mandatory fee reductions. To obtain a waiver, a separate request alleging appropriate circumstances must be made.

5. Waiver of Mandatory Fee Reduction

A request for a waiver of the mandatory fee reduction shall be made in writing, preferably on the form provided by the court of appeals, and filed with the court of appeals. The circuit clerk may waive the fee reduction in true hardship cases, but shall grant such waivers sparingly. Appropriate circumstances include, for example, illness or incapacity of the court reporter, planned vacation, and lengthy or complex litigation. Transcript backlog is not grounds for a waiver. Court reporters are expected to hire note readers or substitutes when transcripts cannot be timely completed.

6. Suspension of Production

Occasionally, counsel may request that a court reporter suspend production of an appellate transcript. Unless an appeal has been dismissed, transcript production may be stopped only by order of the court of appeals. It is the responsibility of the party who ordered the transcripts to move for suspension of production.

7. Other Penalties/Remedies

Nothing contained herein shall be construed to supersede the authority of the circuit council or courts to impose other penalties, or to take such action as may be appropriate, to address transcript delay, including involuntary removal of the court reporter from the courtroom.

8. Effective Date

This policy shall take effect on June 1, 2006. For transcript orders pending as of the effective date, the start date for mandatory fee reductions is the effective date of this policy. However, this should not be construed as an implicit grant of an extension of time or to preclude other penalties or action by the court of appeals to address backlog.