

UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF MICHIGAN

NOTICE THAT RECORDED AUDIO FILES OF COURT PROCEEDINGS WILL SOON BE AVAILABLE ON THE COURT'S CM/ECF SYSTEM

In March 2010, the Judicial Conference of the United States endorsed a proposal from the Committee on Court Administration and Case Management to allow district, bankruptcy and magistrate judges who use digital audio recordings as the official means of taking the record to provide at their discretion access to digital audio recordings of court proceedings via PACER. As previously announced, the Bankruptcy Court for the Eastern District of Michigan has been considering whether to load digital audio recordings of court hearings in CM/ECF case files and to make those recordings available via PACER. On October 29, 2010, we requested comments from the bar, to be submitted by November 22, 2010. The Judges of the Court have reviewed the comments received, and have decided to move forward with this project. In April 2011, the United States Bankruptcy Court for the Eastern District of Michigan will begin to make digital audio files of court proceedings available to the public over the internet through the PACER system. Counsel of record who receive a notice of electronic filing will have one free review, just as they do with other electronically filed documents. The PACER fee to access the digital audio is \$2.40 per session. Page two of this notice contains instructions for accessing digital audio.

The implementation schedule, which is subject to change if unforeseen technical issues arise, is as follows:

- **beginning April 11, 2011:** audio files from all matters held before Judge Thomas Tucker will be uploaded to court dockets in CM/ECF, within 24 hours of the proceeding.
- **beginning April 18, 2011:** audio files from all matters held before Chief Judge Phillip Shefferly and Judge Steven Rhodes will be uploaded to court dockets in CM/ECF, within 24 hours of the proceeding.
- **beginning April 25, 2011:** audio files from all matters held before Judge Marci McIvor and Judge Walter Shapero will be uploaded to court dockets in CM/ECF, within 24 hours of the proceeding.
- **beginning May 2, 2011:** audio files from all matters held before Judge Daniel Opperman will be uploaded to court dockets in CM/ECF, within 24 hours of the proceeding.

All audio files regardless of content will be uploaded to the Court's CM/ECF dockets, unless otherwise directed in individual cases at the discretion of the presiding judge. Rule 9037 of the Federal Rules of Bankruptcy Procedure and the Court's ECF Administrative Procedure 15 restricts the publication of certain personal data in documents filed with the Court. If information subject to Rule 9037 or ECF Administrative Procedure 15 is inadvertently stated on the record, it may become available in the audio files posted to the internet. The best practice for counsel is to avoid introducing personal data and other sensitive information into the record, unless necessary to prove an element of the case. The Clerk's Office staff and chambers' staff cannot redact personal identifiers from audio files before they are placed in CM/ECF. An

attorney may move, orally during a hearing or later in writing, for the Court to seal, restrict, or otherwise prohibit placement of the digital audio file on the internet through the PACER system, if private information is mentioned during a proceeding. Additionally, counsel are asked to make sure that private communications with co-counsel or clients take place away from the microphone so the exchange is not inadvertently recorded and thereby made public.

INSTRUCTIONS FOR ACCESSING DIGITAL AUDIO

- Step 1: Audio files are designated on the docket with a small speaker icon next to the entry.
Click on the docket number entry to open the hyperlink associated with the docket entry.
- Step 2: Click on the paper clip located at the lower left of the page to access the digital audio file.
- Step 3: Double-click on the audio file to open and listen to the proceeding. Media Player software must be installed in order to listen to the audio. The audio is in MP3 format.

Dated: March 21, 2011

Katherine B. Gullo
Clerk of Court