

UNITED STATES DISTRICT & BANKRUPTCY COURTS
DISTRICT OF IDAHO

ELIZABETH A. SMITH
CLERK OF COURT
208.334.1976



JOHN E. TRIPLETT
CHIEF DEPUTY OF ADMINISTRATION
208.334.9205

KIRSTEN S. WILKINSON
CHIEF DEPUTY OF OPERATIONS
208.334.9464

March 30, 2016

**NOTICE REGARDING THE
IMPLEMENTATION OF “COURTSPEAK” IN
BANKRUPTCY COURT PROCEEDINGS**

**IMPORTANT INFORMATION FOR COUNSEL AND PARTIES REGARDING
BANKRUPTCY COURT DIGITAL AUDIO RECORDINGS**

The United States Bankruptcy Court for the District of Idaho has implemented the CourtSpeak program in certain of its hearings and trials. This Notice outlines the same, and clarifies some important points.

The Bankruptcy Court has for an extended period of time used digital audio recording for its in-court proceedings, and does not use court reporters. From such audio recordings, official transcripts are prepared when requested by counsel or, less commonly, when so instructed by the Court. In addition to paying the necessary fees and obtaining an official transcript, counsel have also had the ability to request duplicates of such audio recordings on CD-ROM for their personal use, though the same do not constitute official court records. These alternatives have not changed. But a new alternative is now available.

Through the implementation of CourtSpeak, the digital audio recordings can now be placed directly on the Court docket and thus available on PACER. When CourtSpeak is used, the digital audio recording will appear on the docket as a PDF document with an attached MP3 file. This file will generally be available on the docket within 24 to 48 hours after the conclusion of a hearing conducted in the courtroom. Accessing the recordings are subject to section (3) of the [Electronic Public Access Fee Schedule](#), and CM/ECF participants to a case may access the audio file one time for free, just as they do with other electronically filed documents

Not all hearings will be subject to CourtSpeak. In general, CourtSpeak will not be available for hearings conducted by video conference, Chapter 13 confirmation hearings, and certain other heavily set calendars. Further, pretrial conferences are generally not held in the courtroom and

therefore not recorded. (Certain pretrial and/or status conferences such as in Chief Judge Myers' cases with pro se litigants, are conducted in the courtroom and recorded.) Whether a given proceeding, hearing or trial will be subject to CourtSpeak is a matter within the prerogative of the presiding Judge. Attorneys may inquire of the Court's courtroom deputies as to whether CourtSpeak is anticipated to be used for a given hearing. They may also request, through the courtroom deputies, that the Court consider making the audio recording available through CourtSpeak, though the ultimate decision rests with the Court.

It is important to note that the digital recording available through CourtSpeak is not an official record. The official record of any hearing or trial remains the Court's internal audio recording and the written transcript prepared thereafter.

Recall that the disclosure of certain personal identifying information (Social Security numbers, taxpayer identification, financial account numbers except for the last four digits, names of minor children, etc.) is prohibited in filings with the Court. *See* Fed. R. Bankr. P. 9037. Disclosure of such information should also be avoided in questioning and testimony in open court. It is important to remember that, if such information is elicited during court proceedings, it will become available to the public via PACER when the audio record is made available through CourtSpeak. The Court does not have the ability to redact a portion of an audio file placed on the docket through CourtSpeak.

Moreover, be aware that the digital recording equipment used by the Court is very sensitive. Matters discussed by counsel and clients at counsel table, or between counsel in the well of the Court, may be picked up by the equipment. If so, it will also be on the audio record through CourtSpeak and, as above, it cannot be redacted or eliminated. The microphones at counsel table have mute buttons which must be pressed and remained pressed in order to avoid recording. The mute buttons should be used for "off the record" conversations. Additionally, counsel would be advised to conduct such conferences in the attorney/client/witness rooms or in the hallway outside the courtroom, away from the recording equipment, where possible. The Court will prepare signage for counsel tables in each of its courtrooms to remind parties of this issue.

If you have questions about CourtSpeak, please contact Chief Deputy Clerk Kirsten Wilkinson or a [courtroom deputy](#).