IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO RULE 2.420, FLORIDA RULES OF JUDICIAL ADMINISTRATION

_________________________________________/ 

APPENDIX

TO THE MEDIA’S COMMENT TO PETITION TO AMEND FLORIDA RULE OF JUDICIAL ADMINISTRATION 2.420

Carol Jean LoCicero
Florida Bar No. 603030
Rachel E. Fugate
Florida Bar No. 144029
THOMAS & LOCICERO PL
601 S. Boulevard
Tampa, FL 33602
clocicero@tlolawfirm.com
rfugate@tlolawfirm.com
Telephone: (813) 984-3060
Facsimile: (813) 984-3070

and

Dana J. McElroy
Florida Bar No. 845906
THOMAS & LOCICERO PL
401 SE 12th Street, Ste. 300
Fort Lauderdale, FL 33316
dmcelroy@tlolawfirm.com
Telephone: (954) 703-3417
Facsimile: (954) 400-5415

Attorneys for The Media
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EXHIBIT A
Florida Counties Currently Providing Preferential Attorney Access

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EXHIBIT B
September 24, 2013

VIA ELECTRONIC & U.S. MAIL

The Honorable Lisa Taylor Munyon
Chair, Florida Courts Technology Commission
425 N Orange Avenue, Suite 1130
Orlando, Florida 32801-1515

Re: Lifting the Moratorium

Dear Judge Munyon:


The members of the Media span the State and include the print, broadcast and digital media. Daily, their journalists work to report on the Florida court system, and court records remain a core element in that reporting.
Our law firm regularly deals with a wide range of First Amendment issues, specifically including court records issues. For years, we worked with the Privacy Committee, the Access to Court Records Committee and the Florida Supreme Court. We have observed from afar the Florida Courts Technology Commission’s ("FCTC") work and eagerly anticipated the lifting of the moratorium prohibiting electronic access to court records. We hope that time has come now.

We recognize that, for a decade, the Florida Supreme Court, the FCTC and various court and legislative committees have studied electronic access, including a multi-year pilot program run by Chips B. Shore, the Manatee County Clerk of the Court. Throughout this study period, an oppressive moratorium on access has been imposed. We understand that the FCTC is considering recommending to the Florida Supreme Court that the decade-long moratorium be lifted and that such a recommendation may be presented to the Court soon. The Media urge the FCTC to make this recommendation to the Court now. It is important that the moratorium be lifted immediately.

The FCTC is aware of the many policy reasons for lifting the moratorium. Online access to court records will result in higher quality journalism and foster better public understanding of the court system. And such access should be provided in a timely manner, so that the media may report on new court filings contemporaneously, while they are still newsworthy. Foremost, the public and press should have access to non-confidential, electronic records in the same way they are filed: remotely, from the internet. The FCTC and the Court should move forward decisively, reassured by the work that has been done over the last decade to protect lawfully confidential records.

The oppressive nature of the moratorium is further evidenced by the many exceptions designed to ameliorate its effect. Most problematic, however, is that recently clerks began granting preferential electronic access to court records to lawyers generally under an exception sanctioned by the moratorium. While it may be appropriate for attorneys of record to receive heightened access to their own cases, it is inappropriate for attorneys as a group to have special access to court records exceeding the access granted to the public and press. Access to judicial records is, of course, a right protected by Florida’s Constitution. Providing preferential access to one group, while denying the same access to others, carries constitutional implications. Lifting the moratorium and eliminating the exception (and practice) sanctioning this preferential access would eliminate this constitutional infirmity.

We remain willing to work with both the FCTC and the Court to ensure the moratorium is lifted and electronic access is instituted by the Clerks of this State. We appreciate the work of the Court, the FCTC members and staff, the Manatee Clerk and his employees, and the various court committee members who have dedicated so many years to these issues.
Thank you for this opportunity to voice our thoughts on what we hope is the eve of the abolishment of the moratorium.

Very truly yours,

Thomas & LoCicero PL

Carol Jean LoCicero

cc: Ms. Chris Blakeslee
    Mark Bunting
    Bill Church
    Juan Cornejo
    Lenore Devore
    Mark Faris
    David Giles
    Amanda Glickman
    Avido Khahaifa
    Leila Knox
    Ken Koehn
    Rachel Matteo-Boehm
    Sam Morley
    Brad Moses
    Doug Ray
    Donna Reed
    Pat Rice
    Dean Ridings
    Howard Saltz
    Barbara Wall
April 10, 2014

VIA ELECTRONIC & U.S. MAIL
(adkinst@flcourts.org)

The Honorable Ricky Polston
Chief Justice
Supreme Court of Florida
500 South Duval Street
Tallahassee, Florida 32399-6556

Re: Remote Access to Court Records

Dear Chief Justice Polston:


We write today to thank the Court for lifting the moratorium on remote access to court records, as well as to express concerns about the lingering effects of the moratorium.
First, the Media are pleased that the decade-long moratorium on remote access to electronic court records has been lifted, hopefully paving the way for better, swifter access to court records. Many of the members of the Media have reported on the lifting of the moratorium, and the response of various clerks around the state. We recognize that the Court has repeatedly championed transparency in the judicial system and are grateful that the moratorium has come to an end.

As the Court has recognized, the moratorium was oppressive. In an effort to ameliorate its effect, a number of exceptions were put in place permitting remote access to records. Most problematic, however, is the attorney access preference sanctioned by the 2007 amended moratorium order. Admin. Order 07-49, ¶ 3(i). Recently, clerks began actually granting preferential remote access to court records to all lawyers. While it may be appropriate for attorneys of record to receive heightened access to their own cases, it is inappropriate for attorneys as a group to have special access to all non-confidential court records exceeding the access granted to the public. The disparity that attends any attorney preference is exacerbated by the attendant disparity in costs for access to public court records. With online access, attorneys can download and print documents for free. To see the same records, non-attorneys must pay $1.00 per page for copies of paper court records. Access to judicial records is, of course, a right protected by Florida’s Constitution. Providing preferential access to one group, while denying the same access to others, carries constitutional implications. Although the moratorium has been lifted, this constitutionally-suspect preferential access problem remains in place in more than twenty Florida counties. The recent order lifting the moratorium does not specifically address the attorney preference issue. The Media ask that the Court clarify for clerks the impropriety of continuing to provide all attorneys with preferential access.

Now that the moratorium has been lifted, if individual clerks were to provide broader public access consistent with the standards and matrix, equal access would be one way to eliminate the disparities of the attorney preference. But no clerk has even inquired about providing remote access from the Florida Courts Technology Commission contact. This fact does not bode well for eliminating the attorney preference by providing remote access generally. The existence of the attorney preference in about one-third of Florida’s counties does confirm that many clerks have been able to open records to the more than 98,000 members of the Florida Bar – while still protecting information required by court order or statute to be closed. The Manatee Clerk’s program and the programs clerks have adopted to permit attorney access should have at least facilitated a movement by clerks toward greater access upon the lifting of the moratorium. The Media, therefore, remain concerned about the constitutional issues presented by the attorney preference, as well as the seemingly wholesale lack of proactive response by Clerks of Court to the lifting of the moratorium. While the interests of many user groups seem to be at the forefront of this debate, the interests of the public appear to have been overshadowed.

Our law firm routinely deals with a wide range of First Amendment issues, specifically including court records issues. For years, we worked closely with the Privacy Committee, the Access

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1 Obtaining copies via email is not an equivalent free access option. In practice, clerks have not embraced this exception to the moratorium order. Even with clerks who are willing to email records, additional delays are also inevitable as non-attorneys wait for a manual transmission of court records. And emailing is simply not a viable option to satisfy daily reporting needs requiring the regular review of many court records.
to Court Records Committee and the Florida Supreme Court. We have observed the Florida Courts Technology Commission’s work and corresponded with the FCTC concerning the moratorium and the attorney preference. We remain willing to work with both the commission and the Court to ensure the preference is eliminated and remote, internet access is instituted by the clerks of this state. In the meantime, however, we believe some action related to the attorney preference is required.

We appreciate the work of the Court, the FCTC members and staff, the Manatee Clerk and his employees, and the various court committee members who have dedicated so many years to these issues.

Thank you for the opportunity to voice the Media’s concerns.

Very truly yours,

Thomas & LoCicero PL

cc: The Honorable Lisa Munyon
Ms. Chris Blakeslee
Ms. Susan Dawson
Mr. Bill Berra
Mr. Mark Bunting
Mr. Bill Church
Mr. Juan Cornejo
Ms. Lenore Devore
Mr. Mark Faris
Mr. David Giles
Ms. Amanda Glickman
Mr. Rick Hirsch
Mr. Avido Khahaifa
Ms. Leila Knox
Mr. Ken Koehn
Ms. Joan Krauter
Ms. Rachel Matteo-Boehm
Mr. Sam Morley
Mr. Brad Moses
Ms. Kay Murray
Mr. Doug Ray
Ms. Donna Reed
Mr. Pat Rice
Mr. Dean Ridings
Mr. Howard Saltz
Ms. Barbara Wall
May 19, 2014

VIA ELECTRONIC & U.S. MAIL

The Honorable Ricky Polston
Chief Justice
Supreme Court of Florida
500 South Duval Street
Tallahassee, Florida 32399-6556

Dear Chief Justice Polston:

We write in response to the April 21 and April 30, 2014, letters to the Court on behalf of the Florida Court Clerks & Comptrollers (“FCCC”). In its correspondence with the Court, the FCCC asks the Court to provide further clarification related to Administrative Order 14-19, and proposes a “timeline” for eliminating the current system of attorney preferential access that is a matter of grave concern to our clients, a coalition of media entities reporting on court records in Florida.

We only recently became aware of the April 30 letter responding to our April 10, 2014, correspondence to the Court. Had we been aware earlier, we would have replied in a more timely fashion.

In addition to expressing a “need for time,” the FCCC asserts, in its correspondence, that “[s]ignificant time, effort, and resources will be required to implement access.” Overall, the FCCC letter suggests that clerks are not going to be moving forward with any sense of urgency to eliminate the preference problem by providing general remote access like Manatee County—despite the existence of systems that protect properly confidential court records before providing them to lawyers.

Consequently, the most likely remedy for the preference problem appears to be eliminating the preference and turning off general Bar member access now. However, the FCCC
proposes the Court sanction a substantial delay for eliminating the preference. Under the FCCCC proposal, the timeline for transitioning from attorney-only to public remote access, which at a quick glance seems reasonable, would actually permit the attorney preference status quo to continue for almost a year: 60 days to apply + 120 days to begin a pilot + a 90-day pilot = 270 days. And even that extended timeframe would apply only if the Court were to adopt it today, and if one were to assume there would be no delays in approving applications for pilot programs.

The attorney preference has been in place too long already. Delays have existed for too long already. The transparency issues should be addressed swiftly. The public’s interest in open court records can no longer take a backseat to every other concern.

The Media’s concerns about the constitutionally-suspect attorney preference and the clerks’ slow response to the lifting of the moratorium will be more fully addressed in the Media’s comment to the Court in In Re: Amendments to Florida Rule of Judicial Administration 2.420, Case No. 15-569. In the meantime, we remain willing to work with the Court and the Florida Courts Technology Commission to ensure the preference is abolished and remote access to court records is instituted by the clerks of this state.

Respectfully yours,

THOMAS & LOCICERO PL

Carol Jean LoCicero

cc: Mr. Fred W. Baggett,
    Ms. Paula S. O’Neil, Ph.D.
    The Honorable Lisa Munyon
    Ms. Chris Blakeslee
    Ms. Susan Dawson
    Mr. Bill Berra
    Mr. Mark Bunting
    Mr. Bill Church
    Mr. Juan Cornejo
    Ms. Lenore Devore
    Mr. Mark Faris
    Mr. David Giles
    Ms. Amanda Glickman
    Mr. Rick Hirsch
    Mr. Avido Khahaifa
    Ms. Leila Knox
    Mr. Ken Koehn
Ms. Joan Krauter
Ms. Rachel Matteo-Boehm
Mr. David E. McCraw
Mr. Sam Morley
Mr. Brad Moses
Ms. Kay Murray
Mr. Matt Parcell
Mr. Doug Ray
Ms. Donna Reed
Mr. Pat Rice
Mr. Dean Ridings
Mr. Howard Saltz
Mr. Matt Sauer
Ms. Barbara Wall
Mr. Dave Wilson
April 30, 2014

The Honorable Ricky Polston  
Chief Justice  
Supreme Court of Florida  
500 South Duval Street  
Tallahassee, Florida 32399-6556

Re: AOSC 14-19

Dear Chief Justice Polston:

On behalf of the Florida Court Clerks & Comptrollers (Florida Clerks), this letter is submitted in response to the concerns expressed by Carol Jean LoCicero, relating to remote access to court records in her correspondence dated April 10, 2014. Ms. LoCicero’s primary objection appears to focus on some Florida Clerks providing attorneys remote access to non-confidential records, while not granting such access to the general public.

Over the past seven years, some Florida Clerks allowed attorneys access to non-confidential court records as specifically provided in paragraph 3.1. of AOSC 07-49, which states, attorneys may be provided general remote electronic access to non-confidential records in cases in which the entire court file is not confidential. Florida Clerks applaud the Court for its efforts in AOSC 14-19 to now provide a path for public access to court records.

Ms. LoCicero’s letter, dated only three weeks after the issuance of AOSC 14-19, alleges that, while AOSC 14-19 became effective immediately, “no clerk has ever inquired about providing remote access from the Florida Courts Technology Commission” (FCTC). As the Court is well aware, the Florida Clerks are members of and actively participate on the FCTC. Discussions of these issues have been ongoing both before and since the recommendation by the FCTC for the adoption of the new standards and matrix, which AOSC 14-19 now implements.

Ms. LoCicero further stated that “the Manatee Clerk’s program and the programs Clerks have adopted to permit attorney access should have at least facilitated a movement by Clerks toward greater access upon the lifting of the moratorium.” From these statements, it can be inferred that Ms. LoCicero believed that providing access under the new standards and matrix should occur quickly and with little effort. However, implementation of a publicly accessible online court records system cannot be immediate.

Florida Clerks appreciate the remarks of Barbara Petersen, President of the First Amendment Foundation, which represented the interest of Ms. LoCicero’s clients, when she publicly recognized that it would take time for Florida Clerks to provide online public access. In explaining part of the need for time, Ms. Petersen said, “right now we are trying to get our heads around the access security matrix and figure out
exactly what the press and the public can and cannot have online access to." Given the millions of pages of court records Florida Clerks maintain and our fundamental responsibility to protect those records that are made confidential by law, Florida Clerks join Ms. Petersen in this effort to accurately understand what is and is not allowed to be provided through public access.

While Florida Clerks are actively working to implement expanded public access, there are a number of questions regarding technical requirements of the new standards incorporated in AOSC 14-19 that need to be addressed before an application can even be made. In addition, the FCTC access committee has just recently met to discuss the process for considering applications to be submitted by Florida Clerks in accordance with the administrative order. Once further direction is received, work to program and test the viewer's access level to existing case maintenance systems will begin. Significant time, effort, and resources will be required to implement access, as outlined in AOSC 14-19.

By correspondence dated April 21, 2014, our General Counsel, Fred Baggett, inquired whether it was the intent of AOSC 14-19 to require Florida Clerks who currently provide online access to attorneys to immediately terminate that service. In Mr. Baggett's letter, he requested your consideration to amend AOSC 14-19, allowing Florida Clerks, who presently offer online access to attorneys, to continue that service until certification by the Court for public online access. We agree that continuation should not be indefinite and recommend the following timeline:

Clerks currently providing online Internet access to attorneys “other than attorneys of record,” pursuant to the authority of AOSC 07-49, may continue to provide that service so long as the Clerk applies to FCTC’s Access Governance Board for approval to provide online access within 60 days from the date of the amended administrative order or terminate the online Internet access currently provided to attorneys. Within 120 days from approval of the application, a ninety-day pilot program must begin and, at the end of such pilot, the Clerk shall be fully compliant with AOSC 14-19. No other electronic access may be provided other than pursuant to AOSC 14-19.

We believe that this is a reasonable period of time to facilitate an orderly transition from AOSC 07-49 to AOSC 14-19. The option of requiring termination of access that has been provided throughout the last seven years only to reestablish a similar system for public access in a manner of a few months would be disruptive, costly, and regressive.

Sincerely,

Paula S. O’Neil, Ph.D.
President
I am writing to you as the investigations editor for the Herald-Tribune, which covers Sarasota and surrounding counties. I am also a former cops/courts reporter and routinely rely on court records for my stories.

Perhaps the most significant obstacle to obtaining court records is the manner in which they are kept – which varies from one county to the next in such extreme ways that it often takes time to even learn how the individual clerks' sites work, much less find the correct person to pull, redact and produce the physical records.

In Leon County, for instance, there is no way to even search for cases online. In Hillsborough County, it is impossible to view the records electronically even by showing up to their offices – you must ask a custodian to pull the file days beforehand. In some counties, you need both a person's first and last names to begin a search; in others, you actually must know a case number. Elsewhere, clerks charge front-end fees to conduct searches.

The public's access to its court system is critically bad, like a quilt sewn together by 67 blind grandmothers who seem intent on confusing and beguiling the end-user. So, while Florida Statute 119 remains a model for access, the implementation by most clerks is so bad that it is nearly impossible to use. Journalists know how to deal with this frustration, but I imagine that members of the public must often throw up their hands and quit before obtaining what they seek.

Best regards,

Anthony Cormier
Investigations Editor
Sarasota Herald-Tribune
EXHIBIT F
May 29, 2014

To Whom It May Concern:

I am writing on behalf of the *South Florida Sun Sentinel*, the largest newspaper in South Florida.

We take our role as the purveyor of news and public discourse very seriously. We’ve reinvested in our investigative team over the last several years and have uncovered a number of troubling issues across the region and the state that have required many months of culling through public records. Last year, the paper won the Pulitzer Prize Gold Medal for Public Service for its investigation of off-duty police officers who recklessly speed and endanger the lives of citizens.

Perhaps the biggest issue we have encountered in obtaining court records is the lack of consistency across the region and the state. Agencies vary tremendously in how well and how fast they provide records and data, as well as how much they charge.

There are also unnecessary hurdles that make it challenging for reporters to get information quickly. As I write this, one of our court reporter is standing in line at the Broward County courthouse to get an electronically filed record that the court insists must be printed. Another reporter last month sent an email to the felony case division in Miami-Dade state court, asking to review three files. It took more than a week (and follow-up phone calls) to receive a response. It took several other weeks before the court made the files available for review. When the reporter finally made the 40-minute trip to the courthouse, she found the files that she was given were missing all of the key documents she had requested. Rather than search for the documents at that time, the court representative asked the reporter to leave and promised a follow-up call. Our reporter has yet to hear from the court.

The state of Florida is in need of change in how it allows the public to access information. Posting records online, and in a uniform fashion across the state, would be in the public interest.

Thank you for your time and consideration.

Sincerely,

Anne Vasquez
Associate Editor
*South Florida Sun Sentinel*
Statement of Lenore Devore, Editor, Ledger Media Group
Case No. SC14-569.

To Whom It May Concern:

I'm writing to you as editor of The Ledger, which covers Polk County in Central Florida.

In Polk County, which is bigger than the state of Rhode Island, it takes about a half hour to get from The Ledger's main office in Lakeland to the county courthouse in Bartow—sometimes longer in rush-hour traffic. That means that if a court-related story lands in our lap at 4:30 p.m., and you factor in driving time, time to park, time to get through security— the courthouse most likely is closed by the time we get there and we are left without a breaking news story.

That's our world. And we know it doesn't have to be that way. If a lawyer got that same “story,” he could log on in his pajamas at home at 11 p.m. and get what he needs. Because we're reporters, we don't have the same access to PUBLIC RECORDS. That's just not right.

Without changes, The Ledger must go to the courthouse to get records from clerks, at a cost of $1 per page. Clerks generally are unwilling to even email us the records.

With electronic access, as lawyers and their secretaries as well as some others, have, we are at a disadvantage. And we are the ones informing the public using the state’s public records laws.

Changes need to be made as quickly as possible to level the playing field.

Sincerely,

Lenore Devore
EXHIBIT H
June 2, 2014

Regarding: Statement by Bill Girdner, Editor, Courthouse News Service in Support of Media Comment in Case No. 14-569

Courthouse News Service is a national news service focusing on the court record, all the way from the initial pleading through judgment and appeal. Our subscribers include most big law firms, in Florida and throughout the nation, as well as a host of law schools and media outlets. We have a greater number of correspondents covering courthouses than any other media outlet in the nation. The homepage of our website is updated daily and features news reports and commentary about civil litigation and the court system (www.courthousenews.com).

Courthouse News Service is concerned about three issues: (1) delays in access to newly filed court records; (2) the attorney preference which gives members of the Bar unfettered access online to court records while blocking the press and public from similar access; and (3) the proposed matrix. As discussed below, the only other state to adopt such a matrix to date has been Minnesota, after which timely and efficient access to court filings significantly declined.

The Backward Slide of Public Access in Florida

When Courthouse News Service began covering the courts in Florida more than a decade ago, press access to the public record was excellent. Members of the press reviewed the new civil complaints, a consistent source of news, on the day they were filed in Miami, Palm Beach, Orlando and Tampa. That review was a standard stop at the end of the day on the reporter’s courthouse beat.

The access to the court record in Florida was similar to that provided by big courts throughout the nation, including those in Dallas, Houston, Los Angeles, San Francisco, Chicago, New York and others where journalists also check the new filings, not unlike a fisherman checking the nets. In Florida, the only exception was Broward County, which consistently provided sub-par, delayed media access.

Over the last few years, however, the Florida courts have gone in the direction of Broward. They have pushed media access to the public record steadily backwards. Palm Beach was early on the trend, taking away same-day access to new civil actions, and thus killing timely review by most of the press. But Miami, Orlando and Tampa have since followed suit.
The result is that Florida now ranks in a lower tier among state courts for press access, while courts in other states have preserved or improved on the level of access provided to paper records as those courts moved over to electronic records.

The big courts in Texas in particular have retained the transparency that they historically provided to court records as they moved to e-filing. Those big Texas courts stand in sharp contrast to courts of Florida.

The Texas commitment to transparency was reinforced by a federal court order mandating a return to same-day press access in Houston’s state court, where once-timely access had been replaced by access delays as the clerk initiated scanning and online access. Houston Clerk Loren Jackson had espoused the slogan, “Get on line, not in line.” He argued that a delay of one to three days in access to case-initiating documents was a reasonable time, place and manner restriction that survived scrutiny under the First Amendment.

The federal district court, however, viewed timely access much differently: “The Court disagrees with defendants’ contention and finds that the 24 to 72 hour delay in access is effectively an access denial and is, therefore, unconstitutional,” wrote Judge Melinda Harmon. See copy of Judge Harmon’s order, which is attached as Exhibit A to this Statement.

Those delays in Houston, of one to three days, are very much the range of delay now being imposed by Florida courts on press access to newly-filed complaints.

**Reasons for Florida’s Access Decline**

There are three ways the First Amendment has been roughed up in Florida. First, clerks are inspecting and redacting each new e-filing before making the filing available, thus delaying press access for one, two or more days. Second, a good number of clerks have granted unequal access to the public record, by giving lawyers preferential, online access to the pleadings at no cost, while blocking the same access by the press and public. Third, Florida’s courts are contemplating the imposition of a public access matrix to decide what should and should not be public.

With respect to redaction, many courts, including all of the federal courts, require that personal identifiers such as social security numbers be kept out of court filings. That responsibility normally falls on the filing party, as it should. In that way, press and public access are not diminished. Florida courts, on the other hand, have taken it upon themselves to redact identifiers, resulting in delays which degrade press access, while also imposing a greater burden on court employees.

With respect to unequal access, the dual system that favors the state’s lawyers over the press and public -- by giving attorneys remote online access to court records while
Statement by Bill Girdner, Editor, Courthouse
News Service in Support of Media Comment in Case No. 14-569
June 2, 2014
Page 3 of 5

denying it to everybody else -- has been attempted by a number of individual courts in other states, including Pennsylvania, Ohio and Missouri. But such preferential systems of access have been quickly reversed or ameliorated when they have been challenged by the press.

Finally, with respect to the Florida matrix, I know of only one other state that has adopted a matrix to filter the public court record. That other state is Minnesota, and the Minnesota matrix has had a clear, damaging effect on press and public access, delaying access to newly filed documents, censoring some without any clear guidelines and removing others entirely from public access without any stated reason. A state court system that was, like Florida's, in the top tier of transparency in the nation has dropped down into the minor leagues of public access.

Florida's Current Sub-Par Access

The advent of the Internet and the transition to electronic records have provided courts with the opportunity to improve public access or the excuse to degrade it.

In Texas, for example, the courts have moved forward on transparency and public access as they switched to e-filing. The result is that they provide complete and timely access to the court record.

In contrast, the Florida court system is becoming one of the worst examples of public access in the nation. Florida’s clerks have used technological progress as a pretext for going backwards on transparency.

The resulting loss to the public is indeed great because the cases filed in Florida's courts are often highly newsworthy. But access to those matters of public interest is now delayed for one day to three weeks, substantially reducing news value and reader interest. News is best consumed fresh, like bread. Day old bread is stale and three-day old bread is good only for soup. And so it is with news.

Examples of newsworthy court filings in Florida courts range from major financial actions involving billions of dollars to smaller cases of human interest:

✔ In a suit filed in Broward County on March 31, Bank of America was accused of helping in a Ponzi scheme that defrauded a wealthy family of $85 million. In that court -- where access is regularly delayed by two weeks to one month -- access to the new filing was not provided until May 2, more than one month after it was filed.

✔ In another action alleging financial malfeasance filed in Palm Beach County, PNC Bank sued politically influential South Florida developer Anthony Pugliese alleging that he shuffled millions of dollars to relatives and his
affiliated companies to duck more than $21 million in judgments. But the press was not permitted to see that complaint until five days after it was filed.

✓ In an action filed in Miami-Dade, the Taylor, Bean & Whitaker Plan Trust sued PriceWaterhouseCoopers for $1 billion, claiming the accounting firm negligently gave Colonial BancGroup clean audits for five years, allowing insiders at Colonial Bank and at Taylor Bean & Whitaker Mortgage Group to "loot" Taylor Bean's account of "tens of millions of dollars per day." Access to that important action was delayed by one day.

✓ In a new action tied to a national story that received enormous coverage, a Florida gun show filed a demand in the Orange County court for the return of more than $20,000 paid for a venue that canceled its event when it found out that George Zimmerman would be one of the vendors. Reporters were not permitted to look at that newsworthy new complaint for two days after it was filed.

✓ In two defamation actions in Miami-Dade's courts, access to a complaint by the founder of Dade Medical College against the Miami Herald was delayed for a full day. In another action involving a Herald story, the mayor of South Miami sued a police detective for defamation, with press access also delayed by one day.

✓ In a story that bore more on the human condition than high finance or great offense, a photographer sued the Sigma Chi fraternity after its members fired an on-field cannon at him to celebrate a Hurricanes touchdown. Access to that Miami-Dade complaint was delayed for three days.

✓ And the Palm Beach court delayed by a day media access to a complaint by a British man who said a Florida woman was holding his parrot hostage to "extortionate demands."

Apart from the Broward County litigation, all those cases were filed in courts where the press could in the past regularly see the new cases on the day they were filed, before the Florida clerks began hand inspecting and redacting documents, thus damaging the news interest in the stories. Identifying confidential information should be a filer responsibility.

To monitor access across the country, Courthouse News maintains and continually updates a survey of big courts around the country that provide same-day access. The current version of that survey is attached as Exhibit B to this Statement. Back when they provided timely access, Florida courts had a prominent place in this survey. Now they are conspicuously absent.
I would urge the Florida Supreme Court to throw off the mantle of obscurity in which many clerks have cloaked the public record and return to the sunshine-filled places they once were, by putting the obligation to redact entirely on the filing party and eliminating the delay-creating step of manual inspection by court clerks, by eliminating the matrix, and by giving the press and public the same access to the public court record that the state’s attorneys have been enjoying for some time.

Thank you for the opportunity to address the Court on issues of importance to me, to Courthouse News and to the State of Florida. I recognize and appreciate the Court’s efforts to ensure a transparent court system.

Bill Girdner
Editor
Courthouse News Service
(626) 577-3870
bgirdner@courthousenews.com

cc: Court Executive Officer Brian Taylor
Rachel Matteo-Boehm, Bryan Cave LLP


For Loren Jackson, Wes McCoy, Defendants: Mary E Baker, LEAD ATTORNEY, Office of Harris County Attorney, Houston, TX.

JUDGES: MELINDA HARMON, UNITED STATES DISTRICT JUDGE.

OPINION BY: MELINDA HARMON

OPINION

I. Background and Relevant Facts

On June 12, 2009, Plaintiff CNS initiated suit against Defendants Loren Jackson, in his official capacity as Harris County District Clerk, (Jackson) and Wes McCoy, in his official capacity as Chief Deputy -- Services for the Harris County District Clerk's Office, (McCoy) (collectively, Defendants) for violations of the First Amendment to the United States Constitution, federal common law, the Texas Constitution, Texas common law, and Rule 76a of the Texas Rules of Civil Procedure. (Pl.'s Compl., Doc. 1).

Plaintiff is a 19-year-old nationwide legal news service for lawyers and the news media, and it has over 2,500 subscribers nationwide. (Girdner Decl., Doc. 5 Ex. 1 at P 3). Plaintiff's list of subscribers includes lawyers, law firms, and media entities, including The Dallas Morning News. (Id. at P 9). Plaintiff offers various services to its subscribers including daily new litigation reports, news alerts via email, and four different print publications. (Id. at PP 5-7). The service allegedly affected by Defendants' actions in this case is the "Houston State Report," a daily new litigation report that includes a list of the significant civil complaints filed in Harris County District Court on that date. (Id. at P 7).

Plaintiff claims that there is a longstanding tradition for state and federal courts around the country to provide reporters who make daily visits to these courts with access to newly filed complaints or petitions at the end of the business day on which these documents are filed. (Id. at PP 11-14; see also Girdner Decl., Doc. 5 Ex. 1-C).

[*3] Specifically, Plaintiff asserts that, since it began...
visiting the Harris County District Court in 1999, reporters were permitted to review most new civil petitions in their original paper form on the same day that they were filed regardless of whether they had been fully processed, scanned, or posted online. (Id. at P 15).

Until October 2008, Cameron Langford (Langford), CNS's reporter assigned to the Harris County District Court, would follow the procedure below. (Langford Decl., Doc. 5 Ex. 3 at P 4). Prior to each visit, Langford would examine docket information on the new petitions using the Clerk's Office online JIMS system to determine which petitions were likely to be newsworthy. (Id.). He would then collect newly-filed petitions from the cashier and review them in an empty cubicle behind the intake counter. (Id.). If any petitions had been transferred to intake clerks for processing before Langford was able to review them, the cashiers would help him locate them. (Id.). While in the Clerk's Office, Langford would either take notes about or, if necessary, make photocopies of the newly-filed petitions. (Id.).

In October 2008, Jackson's predecessor as Harris County District Clerk [*4] began to review the protocol that permitted Langford or any non-deputized person access to secure areas behind the service counters of the Harris County District Clerk's Office. (Jackson Aff., Doc., 14 Ex. A at P 3). In accordance with the Harris County Auditor's cash handling guidelines and recommendations, the Clerk's Office began to prevent access behind service counters for all non-deputized persons. (Id.). As a result, Langford was no longer granted behind-the-counter access. (Id.).

In November 2008, the Harris County District Clerk's Office began implementing new procedures that would provide the press and public with greater access to view and print case filings using its online service and that would encourage the use of electronically filed documents. (Id. at P 4). In doing so, Harris County District Clerk Jackson hopes to provide equal access to all regardless of status. (Id. at P 5). His goal is to make available online all electronically and paper filed petitions in civil matters except those exempted by law, local rule, or Court order, within the guidelines found in the Texas Rules of Judicial Administration. (Id.). In practice, most filings are available within 24 to 72 [*5] business hours of filing. (Id. at P 6). Electronic filings are usually available within 24 business hours, while paper filings are typically available within 72 business hours. (Id.). Both electronic and paper filings are verified for correct cause number, proper court, accurate title of document, and proper category before they are made available to the public. (Id.). While electronically filed documents are posted online after the indexing and verification process, the paper filed documents are sent to Central Data Proccessing for digitizing into electronic form before they are posted online. (Id.).

1 At the preliminary injunction hearing, Farrah Martinez (Martinez), Director of Legal Affairs for the Harris County Clerk's Office, stated, "...our motto has been, since Mr. Jackson has come into office is, 'Get on line and not in line.' So, we are trying to go green. We're trying to make things more cost effective and more efficient." (Inj. Tr., Doc. 24 at 17:9-12). The Court finds it ironic that, in an effort to become more effective and efficient, it now takes the Harris County Clerk's Office 24 to 72 business hours to make 73% of its newly filed civil petitions available to the [*6] public. (Id. at 31:20-21, 51:8-12). The Court notes that 24 to 72 business hours is approximately three to five working days.

Although the parties have attempted to resolve these issues, they have not been successful. Accordingly, Plaintiff has filed the instant motion requesting that Defendants be enjoined from denying Plaintiff timely access to new civil petitions filed in the Harris County Civil District Courts. Specifically, Plaintiff requests that it be given access on the same day the petitions are filed except where the filing party is seeking a temporary restraining order or other immediate relief or has properly filed the pleading under seal. While Defendants admit that Plaintiff has a right of access to newly-filed petitions, they maintain that the new method by which the Clerk's Office is processing case initiating documents is a reasonable time, place, or manner restriction and, as such, survives First Amendment scrutiny.

2 Plaintiff proposes two alternatives if Defendants do not revert to their pre-October 2008 procedure. First, Plaintiff suggests that it be permitted to review the new petitions themselves for 45 minutes at the end of the day on which they are filed regardless [*7] of whether they have been verified or scanned. Second, Plaintiff proposes that Defendants scan case-initiating documents immediately on intake and allow the press to immediately access either the paper copy of the complaint or a scanned version of it on a local computer in the Clerk's Office.

II. Legal Standard on Preliminary Injunction

A party seeking a preliminary injunction must establish the following elements by a preponderance of the evidence: (1) there is a substantial likelihood the party will prevail on the merits; (2) a substantial threat exists that irreparable harm will result if the injunction is not granted; (3) the threatened injury outweighs the threat-
III. Discussion

3 Plaintiff initiated suit for violations of the First Amendment to the United States Constitution, federal common law, the Texas Constitution, Texas common law, and Rule 76a of the Texas Rules of Civil Procedure. However, the Court notes that, because Plaintiff has demonstrated a likelihood of success on the merits of its First Amendment claim, it need not address the merits of the remaining four claims.

The First Amendment to the United States Constitution prohibits any law "abridging the freedom of . . . the press." It requires a presumption of openness of both the courtroom and court files. United States v. Valencia, No. CRIM H-C-04-514 SS, 2006 U.S. Dist. LEXIS 60502, 2006 WL 3707867, *5 (S.D. Tex. Aug. 25, 2006) (citing SEC v. Van Waeyenberghe, 990 F.2d 845, 849-50 (5th Cir. 1993)); In re Gannett News Serv., Inc., 772 F.2d 113, 115-116 (5th Cir. 1985)). Courts have found that the public has a strong common law right to access judicial records and proceedings, although this right is not absolute. 2006 U.S. Dist. LEXIS 60502, [WL] at *5 (citing Nixon v. Warner Commc'ns, Inc., 435 U.S. 589, 597, 98 S. Ct. 1306, 55 L. Ed. 2d 570 (1978); Van Waeyenberghe, 990 F.2d at 848). [*9] Public access serves important interests, such as "to promote trustworthiness of the judicial process, to curb judicial abuses, and to provide the public with a more complete understanding of the judicial system, including a better perception of its fairness." Id. (citing Van Waeyenberghe, 990 F.2d at 849 (quoting Littlejohn v. BIC Corp., 851 F.2d 673, 682 (3d Cir. 1988))). Thus, there is a presumption in favor of public access to judicial records. See Van Waeyenberghe, 990 F.2d at 848.

In Press-Enterprise Co. v. Superior Court, 478 U.S. 1, 106 S. Ct. 2735, 92 L. Ed. 2d 1 (1986) (Press II), the Supreme Court reiterated the two complementary considerations for a case dealing with a First Amendment right of access claim in a criminal proceeding. First, because a "tradition of accessibility implies the favorable judgment of experiences, [the Court] has considered whether the place and process have historically been open to the press and general public." Id. at 8 (internal citations and quotations omitted). Second, the Court has considered whether public access plays a "significant positive role in the functioning of the particular process in question." Id. (citation omitted). Once the right to access attaches, the presumption [*10] of openness can only be overcome by an "overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest." United States v. Edwards, 823 F.2d 111, 115 (5th Cir. 1987) (citing Press II, 478 U.S. at 14-15). It is the defendant's burden to overcome this presumption. Press II, 478 U.S. at 14.

Although "its original inception was in the realm of criminal proceedings, the right of access has since been extended to civil proceedings because the contribution of publicity is just as important there." Grove Fresh Distr., Inc. v. Everfresh Juice Co., 24 F.3d 893, 897 (7th Cir. 1994) (citing Smith v. United States Dist. Court, 956 F.2d 647, 650 (7th Cir. 1992)). See also United States v. $ 9,041,598.68, 976 F. Supp. 654 (S.D. Tex. 1997) ("Many courts have held that the public enjoys a First Amendment right to attend civil as well as criminal proceedings, and therefore have applied similar factors to civil proceedings.").

While the parties in the instant case agree that there is a right of access to newly-filed petitions in civil cases, they disagree on whether the delay in the availability of these documents is the "functional [*11] equivalent" of an access denial and is, thus, unconstitutional. Defendant argue that the "slight delay" in availability is a reasonable time, place, or manner restriction. For the reasons set forth below, the Court disagrees with Defendants' contention and instead finds that the 24 to 72 hour delay in access is effectively an access denial and is, therefore, unconstitutional.

As the Seventh Circuit has stated,

[i]n light of the values which the presumption of access endeavors to promote, a necessary corollary to the presumption is that once found to be appropriate, access should be immediate and contemporaneous . . . [t]he newsworthiness of a particular story is often fleeting. To delay or postpone disclosure undermines the benefit of public scrutiny and may have the same result as complete suppression . . . . [E]ach passing day may constitute a separate and cognizable infringement of the First Amendment.
Defendants attempt to analogize the 24 to 72 hour delay in access in this case to the district court's refusal to release transcripts of closed proceedings prior to the jury verdict in Edwards. In Edwards, the Fifth Circuit held that the district court did not err in its decision because it reasonably restricted access given the paramount interest in maintaining an impartial jury. Edwards, 823 F.2d at 119. The Fifth Circuit went on to state that the trial court should avoid unnecessary delay in releasing the record of the closed proceedings following the trial. Id. The Court is unpersuaded by Defendants' argument and finds that the delay in access to the newly-filed petitions in this case is not a reasonable limitation on access. Defendants' administrative goal of getting online and not in line fails to rise to the level of significance that a trial court's interest in maintaining an impartial jury does. Assuming, arguendo, that Defendants have an overriding interest, the Court finds that they have failed to demonstrate that the 24 to 72 hour delay in access [*13] is narrowly tailored to serve such an interest and that no less restrictive means of achieving that interest exists. Accordingly, the Court finds that Plaintiff has established there is a substantial likelihood it will prevail on the merits.


4 The Court notes that Plaintiff also argues that prolonged delays in access will diminish the value of its reports to its subscribers, leading to a loss of goodwill which is widely recognized as an injury incapable of ascertaining in monetary terms. The Court need not address this contention or Defendants' objections to it as the Court concludes that Plaintiff has suffered an irreparable injury in the form of a First Amendment violation.

The threatened injury to Plaintiff outweighs any damage the injunction could cause Defendants. [*14] Plaintiff will be denied its First Amendment right of access to new case-initiating documents unless the Court issues this preliminary injunction, while Defendants have alterative, constitutional ways to achieve their goals and address their administrative concerns. 5

5 See, e.g., the alternatives described in n. 2 of this Opinion and Order.

It is clearly in the public interest to enjoin Defendants' conduct. There is an important First Amendment interest in providing timely access to new case-initiating documents. Defendants attempt to argue that providing Plaintiff with same-day access interferes with their important objective of "getting online and not in line." The Court acknowledges that Defendants' goal is also in the public interest. However, as Plaintiff argues, same-day access and online access are not mutually exclusive. Defendants may provide Plaintiff with same-day access to newly-filed petitions while working in furtherance of their goal to make documents available online.

IV. Conclusion

Accordingly, it is hereby ORDERED that Plaintiff CNS's motion for injunctive relief is GRANTED. It is further ORDERED that Plaintiff CNS's employee assigned to the Harris County District Court [*15] be given access on the same day the petitions are filed except where the filing party is seeking a temporary restraining order or other immediate relief or has properly filed the pleading under seal.

It is further ORDERED that, pursuant to Fed. R. Civ. P. 65(c), Plaintiff CNS shall file with the Clerk of the Court a nominal bond of $ 1,000.00 as security.

It is further ORDERED that the case be referred to Magistrate Judge, the Honorable, Frances H. Stacy to be scheduled for trial.

SIGNED at Houston, Texas, this 20th day of July, 2009.

/s/ Melinda Harmon

MELINDA HARMON

UNITED STATES DISTRICT JUDGE

Grove Fresh, 24 F.3d at 897 (internal citations and quotations omitted). See also In re Charlotte Observer, 882 F.2d 850, 856 (4th Cir. 1989) (finding that magistrate's closure order "unduly minimizes, if it does not entirely overlook, the value of 'openness' itself, a value which is [*12] threatened whenever immediate access to ongoing proceedings is denied, whatever provision is made for later public disclosure.")
Courthouse News Service

PRESS ACCESS TO COURTS AROUND THE NATION

NATIONWIDE SURVEY

Courts around the country have developed a variety of procedures to provide members of the press with access to new civil case-initiating documents (complaints or petitions, depending on the jurisdiction) on the same day they are filed. In many courts, members of the press see new complaints either as soon as they cross the intake counter (or, in e-filing courts, its electronic equivalent) or shortly after initial intake tasks but prior to full processing. Likewise, many courts make new complaints available to members of the press at the courthouse in a bin or via a press queue on a public access computer at the courthouse itself regardless of whether the complaint or petition has been made available for remote electronic viewing. Courthouse News Service has prepared the following summary of some of these same-day access procedures adopted in state and federal courts throughout the nation. Procedures at state and local courts are described in the first half of this survey, and procedures at federal courts are described in the second half of this survey.

STATE AND LOCAL COURTS

Albuquerque, NM
Second District Court (Bernalillo County)

- **Mandatory E-Filing**
  The vast majority of new complaints are available for press viewing on the same day they are filed through public access terminals located at the courthouse. The terminals can also be used to print and pay for copies of complaints. In addition, complaints filed in all other district courts statewide are available for review on the Albuquerque courthouse’s public access terminals on the

June 2014

* In general in this survey, “Mandatory E-Filing” indicates that this method of filing is mandatory for attorneys only. Many, if not most, courts permit pro se litigants to file their pleadings by hand at the clerk’s office.
same day they are filed. These procedures have resulted in same-day press access to the vast majority of new civil complaints filed in New Mexico’s district courts.

Atlanta, GA
Fulton County Superior Court
- **Paper-Filing Only**
  New complaints are scanned by court staff at intake and made available for viewing at computer terminals at the courthouse, most within minutes of filing. As a result of these procedures, members of the press have same-day access to virtually all newly filed civil complaints.

Fulton County State Court
- **Mandatory E-Filing for Certain Case Types**
  Paper-filed complaints are placed in baskets shortly after they have been filed, and before they have been assigned case numbers, and can be accessed and reviewed by members of the press on a same-day basis. E-filed complaints are emailed to reporters on a daily basis for immediate review and then subsequently made available for viewing at the courthouse through public access terminals. These procedures provide members of the press with access to the vast majority of newly filed civil complaints on the same day they are filed.

Austin, TX
Travis County District Court
- **Mandatory E-Filing**
  Members of the press are able to access newly filed civil petitions on a public computer terminal located at the courthouse. Reporters first review the day’s petitions on the public terminals, and then check with the court’s staff to see if there are any other filings that were not yet posted to the terminals. Court staff provide reporters with paper copies of anything not yet posted to the public terminals. These procedures have resulted in same-day press access to nearly all petitions filed during the court’s business hours.

Bakersfield, CA
Kern County Superior Court
- **Paper-Filing Only**
  When members of the press ran into delays in access to newly filed civil complaints of days and sometimes weeks at the Kern Superior Court, the deterioration in press access was brought to the attention
of the presiding judge. The clerk’s office then re-opened the “media room” behind the counter to members of the press. At around 3:00 p.m. each day, a staff member delivers a stack of all new civil unlimited jurisdiction complaints that have been filed so far that day to members of the press. If a staff member is not available, reporters can retrieve the new complaints from the desk where they are collected during the day. After reviewing that set of new cases, reporters return the initial stack to the clerk’s desk, and are then given another stack of complaints that have been filed and placed on the clerk’s desk in the meantime, regardless of whether the new cases have been processed. The second stack includes complaints that were deposited into the court’s drop box over the course of the day. Reporters return the second stack of complaints to the clerk’s desk before the clerk’s staff leaves. Although the clerk’s office closes to the public at 4:00 p.m., reporters can work in the media room until the staff leaves at 5:00 p.m. As a result of these procedures, the press can review around 90% of new complaints on the same day they are filed.

Beaumont, TX
Jefferson County District Court

- **Optional E-Filing**
  
  As the Jefferson County District Court transitions to mandatory e-filing, which becomes effective July 1, 2014, the court’s strong tradition of providing same-day access to newly filed petitions continues. Currently, members of the press are allowed behind the counter to access the stack of new petitions filed by hand on the same day they are filed, after the case number has been assigned but before any further processing of the cases takes place. Petitions filed electronically may be viewed on public access terminals at the courthouse, and are also available for review on a same-day basis. At the end of the day, reporters can check with the court’s staff to see if there were any petitions that were electronically filed but were not posted to the public access terminals. Copies of these petitions are provided to reporters before the court closes for the day. These procedures have resulted in same-day access to the vast majority of new civil petitions filed with this court.

Boise, ID
Ada County District Court

- **Paper-Filing Only**

  Thanks to the efforts and cooperation of the new Ada County clerk to turn around access, reporters in Boise now can see virtually
every single new civil complaint on the same day the complaint is filed. At around 4:00 p.m. each day, the deputy clerk provides news reporters who visit the court with a printout of the day’s new complaints, which they can review in a secure viewing room at the courthouse. For each complaint of interest, news reporters can fill out a request form, which is given to the clerk’s staff so they can pull the paper complaint for review by the reporter. In the meantime, the deputy clerk delivers to reporters those cases located in the “bucket,” which consists of all complaints that came in that day through the mail, but have yet to be entered into the system. At 4:30 p.m., a second list is provided to reporters that includes those complaints filed since 4:00 p.m. Reporters again identify those cases of interest by filling out a request form, and the clerk retrieves those cases. These procedures have resulted in same-day access to more than 90% of new civil complaints filed at the Ada County District Court.

Brooklyn, NY
Kings Supreme Court

- **Mandatory E-Filing for Commercial Cases**
  New paper-filed complaints are immediately placed into a wire basket at the intake counter upon filing, where they await scanning. When reporters arrive at the courthouse, they ask to see the stack of newly filed complaints that have been placed in the basket, and take them to a table behind the counter for same-day review. The reporter can return to the intake counter and request additional cases as many times as necessary in order to see all new complaints filed that day. New e-filings are also available on the same day of filing through the court’s website. Through these procedures, reporters are able to review 95% or more of new civil complaints on the same day of filing.

Bronx, NY
Bronx Supreme Court

- **Optional E-Filing**
  In the Bronx Supreme Court, new civil complaints can be filed electronically or in paper over the counter. Paper-filed complaints are immediately scanned into electronic form, and both e-filed and scanned documents are posted to the court’s website on the same day they are filed. There is no charge to search for case information or view the full text of new civil complaints online. Computer terminals are also set up at the courthouse for free same-day viewing via the same public website. These procedures have
resulted in same-day press access to virtually all new civil complaints filed with the court.

Chicago, IL
Cook County Circuit Court

- **Optional E-Filing**
  For decades, the Cook County Circuit Court has provided same-day press access to newly filed complaints. Historically, news reporters were allowed to review new cases at the end of the day in both the Law and Chancery departments. In recent years through the present, news reporters review the stacks of newly filed complaints in the court’s press room nearby. The large majority of new complaints continue to be filed in paper form in Cook County, although voluntary e-filing is occasionally used by attorneys. When a new complaint is filed electronically, it is immediately assigned a case number and printed out, prior to any further processing, and placed in a press review stack. Paper-filed complaints are also immediately assigned case numbers and, prior to any further processing, placed in the press review stack. The stack is brought to the press room by a news reporter, and reporters can stay as late as necessary in order to review the new complaints. Through these procedures, members of the press are able to see the vast majority of new complaints on the same day they are filed in Cook County.

Cleveland, OH
Cuyahoga County Court of Common Pleas

- **Optional E-Filing**
  The Cuyahoga County Court of Common Pleas continues its strong tradition of same-day access to new civil complaints even as the court transitions to e-filing, which becomes mandatory in early June 2014. Members of the press who visit the court on a daily basis have behind-the-counter access to new complaints filed by hand on the same day they are filed. Court officials provide reporters with desk space where they may set up a laptop and review new complaints, which have been assigned a case number but have not been processed. E-filed complaints, which now make up approximately two-thirds of newly filed complaints, can be viewed on the same day of filing either on public access terminals at the courthouse or remotely via the court’s website. The court’s procedures with respect to both paper-filed and e-filed complaints have resulted in same-day access to 95% of new civil complaints filed with the court.
Dallas, TX
Dallas County District Court
- **Mandatory E-Filing**
  Prior to the court's shift to mandatory e-filing on January 1, 2014, the court provided same-day access to all paper-filed petitions by providing members of the press with work space behind the counter, where they reviewed the day’s new petitions whether they had been processed or not. As the court transitioned to e-filing, electronically filed petitions could be viewed on public access terminals at the clerk’s office, although initially not all e-filed petitions were posted online on a same-day basis. In that case, the clerk’s staff provided news reporters with paper printouts of those e-filed petitions on the same day of filing. Now that e-filing is mandatory in the Dallas County District Court, reporters can review 90% or more of the new petitions on a same-day basis using the court's public access terminals.

Detroit, MI
Wayne County Circuit Court
- **E-Filing Required for Most Case Types**
  When cases were filed in paper form, news reporters reviewed the new civil complaints at an empty desk behind the counter of the second-floor intake area, before docketing was completed. At the end of the day when reporters arrived at the courthouse, most new paper filings had been placed into a drawer behind the counter, while the rest remained on individual intake clerks’ desks. Reporters were free to take the new filings from the drawer or ask the individual clerks for cases on their desk and review them at the desk. New complaints that were filed just before closing or otherwise unavailable on the day of filing were rubber-banded and stacked on a desk or placed in boxes for reporters to review the next day. Now that e-filing is mandatory, new actions are accepted immediately and virtually all e-filed complaints are made available for press review on the same day they are filed via public access terminals located in the basement of the courthouse. These procedures have resulted in continued same-day access to more than 95% of all new civil complaints, whether filed in paper or electronically.

Fairfield, CA
Solano County Superior Court
- **Paper-Filing Only**
  Civil unlimited complaints filed over the counter at Solano County Superior Court in Fairfield are provided to the media on the same
day they are filed. Members of the news media can see those new complaints until 2:00 p.m., when the court closes to the public. New complaints deposited in the court’s after-hours drop-box are provided to the media by court staff the following morning. This solution was devised by the clerk after the issue of delays was brought to the presiding judge’s attention. The clerk assured the news media in writing that the “Solano Civil Division will provide all media same day access to unlimited civil actions.” The result has been that the news media can access and review virtually all unlimited civil complaints filed during the court’s public operating hours on the day of filing.

Fort Worth, TX
Tarrant County District Court

- **Mandatory E-Filing**
  
  The Tarrant County District Court clerk has demonstrated a commitment to same-day press access to newly filed civil petitions both in the electronic and paper environments. In 2007 when Courthouse News began covering the court, members of the press were given behind-the-counter access to new paper filings. This procedure allowed the media to report on nearly all the new civil complaints on the day they were filed. Later that year, the court put in place a new case management system that included scanning paper petitions and posting them online, and additional procedure that delayed media access. When the delays were brought to the clerk’s attention, he changed the court’s procedures to ensure that the great majority of new complaints were posted online on the same day of filing. With the implementation of mandatory e-filing in 2014, the clerk improved media and public access further. By the time the last member of the clerk’s staff leaves for the day, all “civil initial” filings that were e-filed before 5:00 p.m., which include new petitions, are posted online. The clerk’s commitment to press and public access has resulted in same-day access to nearly 100% of the civil petitions filed while the court is open.

Fresno, CA
Fresno County Superior Court

- **Paper-Filing Only**

  Roughly a decade ago, news reporters were able to review new cases behind the counter of two and three days at the Fresno Superior Court. A change in personnel and a remodel resulted in changed procedures that introduced delays in press access to new cases. After the matter was brought to the attention of the presiding judge in early 2012, the clerk’s office began a pilot
program, set out in writing, saying that newly filed unlimited jurisdiction actions would be provided to the press for review on the same day they are filed. As a result, reporters review new civil complaints that are placed in a press box toward the end of the day on which they are filed. Members of the press work in a secure viewing room located in the clerk’s office, adjacent to the intake counter. Although the clerk’s office closes to the public at 3:00 p.m., reporters can stay until 3:45 p.m. to finish their work. On the vast majority of court days, these procedures result in same-day press access to around 90% of new civil unlimited jurisdiction complaints filed in Fresno Superior Court.

Houston, TX
Harris County Civil District Courts

- **E-Filing Required for Certain Case Types**
  The Harris County court provided same-day press access for many years by permitting reporters to go behind the intake counter and review newly filed petitions. In 2008, the clerk began requiring reporters to wait until new petitions had been processed and posted on the clerk’s website before they could be reviewed, which delayed their availability by a day or more. After repeated attempts by Courthouse News to negotiate a solution with the clerk’s office, Courthouse News reluctantly filed suit. In July 2009, the U.S. District Court for the Southern District of Texas issued a preliminary injunction ordering the clerk to provide same-day access to civil petitions, finding that “the 24 to 72 hour delay in access is effectively a denial of access and is, therefore, unconstitutional.” *Courthouse News Service v. Jackson*, 2009 U.S. Dist. LEXIS 62300, *11 (S.D. Tex. 2009). In accordance with that injunction order, the clerk’s office began scanning new petitions and posting them to the clerk’s website on the same day they are filed. Pursuant to a stipulated permanent injunction entered by the court in February 2010, 2010 U.S. Dist. LEXIS 74571, *6-7 (S.D. Tex. 2010), the clerk’s office was required not only to continue to provide same-day access to new civil petitions, but to pay more than $250,000 to Courthouse News to compensate it for the attorney’s fees it incurred in litigating the case. The stipulated permanent injunction did not specify the particular manner in which same-day access must be provided, and the clerk’s office has chosen to comply with the order by continuing its practice of posting new petitions on the clerk’s website. Those petitions can be viewed, and printouts can be made, free of charge by the press and other interested parties. These procedures have resulted in same-day access to 95% or more of newly filed civil petitions.
Details about this program can be found on the Harris County District Clerk’s website, at http://www.hcdistrictclerk.com/Edocs/Public/search.aspx.

**Las Vegas, NV**

Eighth Judicial District Court

- **Mandatory E-Filing**

Prior to the court’s transition in February 2010 to mandatory e-filing, which uses Tyler Technology’s Odyssey software, reporters saw paper copies of the majority of new civil complaints on a same-day basis. Following that switch, however, the court no longer provided paper copies of complaints, and instead required members of the press to review new complaints at a computer terminal in the clerk’s office. However, this system resulted in complaints not being available for viewing until the day after they were filed, primarily because the court required new complaints to be “accepted” by the clerk’s office before they appeared on the computer terminals, and only after the terminals had been updated to reflect the new filings. After these delays were brought to the attention of the court, the court adopted a new system: an electronic in-box, through which complaints can be viewed on a computer terminal as soon as they cross the electronic version of the intake counter at the clerk’s office, even if they have not yet been processed. Through this system, which is similar to the electronic in-box access procedures in place at numerous federal district courts (many of which are described in this survey), members of the press are now seeing virtually all newly e-filed complaints on a same-day basis.

**Little Rock, AR**

Pulaski County District Court

- **Optional E-Filing**

Both paper and e-filed complaints are made available for electronic review through the court’s case management system, which is accessible for free both at public access terminals at the courthouse or remotely through the web. New complaints are posted to the court’s computer system shortly after they are filed, thereby providing same-day access to virtually all complaints filed with the court.
Los Angeles, CA
Los Angeles Superior Court - Downtown Branch
(Stanley Mosk Courthouse)

- Paper-Filing Only
  In the biggest court in the nation, the press has for decades had
  same-day access to the new civil actions filed in the main
  courthouse downtown. Three decades ago, that review was done
  behind the intake counter. Roughly two decades ago, the review
  moved to the records room where a wooden cart was checked out
  by the press with the day’s new complaints. A final staff run from
  the intake counter to the nearby records room was made at 4:30
  p.m., when the intake counter closed, and reporters from a host of
  publications stayed until 5:00 p.m. to make a final review of new
  cases even though the public was excluded from the records room
  at 4:30. Reporters checking those new filings have over time
  included those from the Los Angeles Times, the Herald Examiner,
  the Daily News, City News Service, the Daily Journal, Reuters and
  the Associated Press. With the advent of scanning in the last
  decade, court staff began to upload the full text of newly filed
  complaints to the court’s computer system after scanning and
  assigning a case number, but before the complaints were docketed.
  Reporters now review the vast majority of new actions filed in
  the main courthouse through terminals located in the records room
  and in a designated press room. The press room remains open to
  the press corps during the early evening, and even the day’s latest-filed
  complaints can be reviewed on press room terminals by about 7:00
  p.m. More than 100 new civil unlimited jurisdiction cases are filed
  over the counter each day in the downtown courthouse, and the
  press is able to review nearly 100% of those new actions on the
  day they are filed, at the end of the day. The small minority of
  cases that are placed in a drop box are made available to the media
  the following morning. This latest iteration of press access
  procedures has been maintained by the staff through repeated
  intercession of the court’s presiding judge.

Los Angeles Superior Court – Santa Monica Branch
- Paper-Filing Only
  After the matter of substantial delays in press access to new civil
  complaints was brought to the attention of the presiding judge, a
  system for review of the day’s new actions filed in the Santa
  Monica division of Los Angeles Superior Court was put in place
  by the clerk’s office. Under this system, the clerk made the face
  pages of each day’s newly filed civil complaints available to news
  reporters for review, providing full copies of complaints upon
request. This system has evolved, and the clerk now makes full copies of newly filed complaints available for press review. These access procedures have resulted in same-day access to roughly 80% of all new civil complaints filed in the Santa Monica courthouse.

**Manhattan, NY**
New York County Supreme Court

- **Mandatory E-Filing for Most Case Types**
  When complaints were filed only in paper form, reporters from the AP, Bloomberg, *New York Post* and *New York Daily News* checked a tall stack of new law complaints and a separate, much smaller stack of new commercial actions at the end of the day behind the intake counter. The journalists picked up the new complaints from a small, glassed-in office where the filing fees were taken off the complaints, and reviewed the new complaints at an empty desk in the work area behind the counter. They had access to the area up until the last supervisor left, generally a half-hour after the office closed to the public. The stack was complete up to the very last filing of the day. During an interim period, journalists reviewed the new actions in a wire cage in the adjacent records area. In recent years, the Court moved to e-filing first for commercial complaints and then for most law filings. Complaints filed electronically during the court’s business hours, as well those hand-filed at the court itself, continue to be made available to reporters on a same-day basis. The e-filed complaints are posted to a public court website by the end of the day, while those that are filed after the court closes are available the next day. The handful of complaints filed in paper form are indexed and scanned shortly after being filed, and made available electronically both online and via an internal computer system on terminals set up throughout the courthouse. Through these procedures, members of the press have had and now have same-day access to virtually all new civil complaints filed during the court’s business hours.

**Martinez, CA**
Contra Costa County Superior Court

- **Paper-Filing for Case-Initiating Documents**
  More than a decade ago, reporters reviewed the day’s new actions by going behind the counter in the clerk’s office toward the end of the day. That access was later cut off and reporters were sent to the records room across the street. When the ongoing delays in access were brought to the attention of the presiding judge, the clerk implemented a new set of procedures for same-day press
access to new civil unlimited actions. The court closes its doors to
the public at 1:00 p.m. each day. However, the clerk’s staff
continue their work at the court until at least 5:00 p.m. The clerk’s
staff lets reporters into the clerk’s office at around 3:30 p.m. each
day, and hands them a stack of the day’s new complaints, which
have not been fully processed. Reporters can remain in the office
until 4:45 p.m. to review the new complaints. The result of these
procedures is that the press has access to the vast majority of newly
filed unlimited jurisdiction complaints at the end of the day on
which they are filed.

**Milwaukee, WI**
**Milwaukee County Court**
- **Optional E-Filing**
  Members of the press have access to nearly 100% of new
complaints on the same day of filing. Reporters are permitted to
go behind the counter to request the stack of new paper-filed
complaints before they are docketed, and review them at a cubicle
also located behind the counter. In order to ensure same-day
access to new e-filings as well, the clerks place a one-page docket
sheet from each of the day’s new e-filed complaints into the stack
of paper complaints. If a reporter needs to review a full e-filed
complaint, or in the event that a new e-filing is not present in the
stack of new cases, those complaints are available upon request.

**Modesto, CA**
**Stanislaus County Superior Court**
- **Paper-Filing Only**
  Per the presiding judge’s 2012 standing order, “all civil litigants
filing case initiating pleadings in unlimited civil matters, including
complaints, cross-complaints, petitions and applications, shall
provide one additional complete paper copy of the pleading to the
filing clerk at the time of filing.” News reporters request from
court staff the contents of a press bin kept behind the counter. As a
result, reporters review a large majority of new complaints on the
day of filing, and can also request copies of new complaints that
have not yet been placed in the bin from the intake clerks toward
the end of the day.

**Nashville, TN**
**Davidson County Chancery Court**
- **Paper-Filing Only**
  News reporters may review an intake log of the day’s new
complaints on a public computer terminal at the courthouse from
which they can compile a list of complaints they would like to review. The court staff will then retrieve the requested complaints, which have been assigned case numbers but have not been processed. Reporters may also request to see any new complaints that have not yet been added to the intake log by asking an intake clerk for any such complaints. As a result, nearly 100% of newly filed complaints are available for review at the courthouse by members of the press on the same day of filing. In addition to this free, same-day access at the courthouse itself, news organizations may pay a nominal quarterly fee for the convenience of remote online access, where approximately 90% of new civil complaints are posted each day.

**Davidson County Circuit Court**

- **Paper-Filing Only**
  New civil complaints are scanned throughout the day and are made available for review for free at the courthouse on public computer terminals, or for a nominal monthly fee through a government website. As a result of these procedures, 90% of new complaints are available for review on the same day they are filed.

**Oakland, CA**

**Alameda County Superior Court – Downtown Oakland Branch**

- **Paper-Filing Only**
  More than a decade ago, reporters visiting the René C. Davidson Courthouse in downtown Oakland reviewed the day’s new actions by simply going to a research area adjacent to the intake counters and checking out a box in which the new actions were placed during the day. That system fell into abeyance and a host of substitute methods were adopted by the court that were more cumbersome and less effective. When substantial deterioration in press access was brought to the attention of the presiding judge roughly four years ago, the procedure was reformed by the clerk’s staff. Now, members of the press who visit the court each day are permitted to use a workstation behind the counter to review new complaints that are also posted online. If the day’s docket shows any new complaints that have not yet been scanned and posted, but which the reporter would like to review, the clerk’s staff will post those new actions promptly upon request. The system has resulted in near-perfect press and public access to the day’s newly filed actions by the end of the day they are filed.
Oklahoma City, OK
Oklahoma County Court

- **Paper-Filing Only**
  Intake clerks place all of the day’s new petitions into a central basket by 3:15 p.m. Petitions placed in the basket have been date stamped and indexed, but have not been fully processed. A member of the clerk’s staff then provides the petitions to members of the press upon request. Reporters are instructed to sign the back of each petition to indicate that they have seen them all. After reviewing this first stack of complaints, reporters may request to see those complaints that have been date stamped, indexed and placed in the basket after 3:15 p.m. Through these procedures, members of the press are able to see the vast majority of newly filed complaints on the same day they are filed.

Omaha, NE
Douglas County District Court

- **Optional E-Filing**
  New complaints, which may be filed electronically or in paper form, are immediately indexed and docket information is added to a statewide computer database that is updated hourly. Members of the press may review docket information for relevant cases on courthouse computer terminals and download images of new civil complaints as they become available. Complaints filed electronically before 4:00 p.m., as well as all paper documents filed up to the time the court closes at 4:30 p.m., are available on the same day they are filed. Members of the press may access docket information and the full text of new complaints for free at the courthouse or remotely online via the statewide Justice website for a fee. These procedures have resulted in same-day access to the vast majority of new civil complaints filed at the Douglas County District Court.

Philadelphia, PA
Philadelphia County Court of Common Pleas

- **Optional E-Filing**
  Civil complaints filed during the court’s business hours are made available for review by members of the public and press on the court’s website, which may be accessed through public access terminals located at the courthouse. This system has resulted in same-day access to more than 80% of new civil complaints filed in the Philadelphia County Court.
Phoenix, AZ
Maricopa County Superior Court

- **Paper-Filing Only**
  Members of the press previously experienced delays at this court, but after bringing these delays to the court’s attention, the clerk implemented procedures to ensure same-day access to civil complaints filed at its downtown location. Under those procedures, court staff scan and upload for electronic viewing all complaints filed up to 5:00 p.m., which are then made available on a designated press computer located in the Customer Service Center for news reporters to review. The press computer is available for use by members of the press until 5:30 p.m., a half-hour after the Customer Service Center closes to the public. Complaints are typically made available to reporters prior to full processing. These procedures have resulted in near-perfect same-day access to newly filed civil complaints.

Pittsburgh, PA
Allegheny County Court of Common Pleas

- **Optional E-Filing**
  More than 90% of the day’s new civil complaints – whether e-filed or hand-filed – may be viewed by members of the press for no charge via the court’s website, which may be accessed remotely by using a username and password provided to reporters by court staff.

Sacramento, CA
Sacramento County Superior Court

- **Paper-Filing Only**
  After a decade of meetings, a pilot project, the implementation of the Court Case Management System, and court rules and amendments, access remained delayed at the Sacramento Superior Court. The court’s processing time, acknowledged on its website, would extend out to two months or more, then be reeled back in to a couple weeks and then extended back out again. A court rule requiring the filers to include a public access copy in case-initiating documents was not enforced and only about half of the public access copies were placed in the bin where new complaints are reviewed by the media. Further complicating access, an unusual court rule required that nearly all filings be placed in a drop box. As a result, roughly half of the new complaints were seen within a couple days and the other half were not seen until weeks or months later. In March 2014, the court’s presiding judge promised to resolve the access delays and largely has. Journalists
now see about 100% of the new complaints in the media bin, and a great majority are seen on the day of filing.

**San Francisco, CA**

San Francisco County Superior Court

- **Paper-Filing For All Except Asbestos Cases**
  For decades, reporters have reviewed the day’s newly filed actions behind the counter in San Francisco, where they are permitted into the stacks to review new complaints after providing a driver’s license and filling out a temporary name tag. The number of new complaints reviewed per day varies, but often exceeds 50. Per its written policy, the clerk’s office holds all new complaints in a press box on the same day of filing, and makes those complaints available for review by members of the press “whether or not the cases have been entered into the computer,” i.e., processed. The press box is available each day between 3:00 and 4:00 p.m., or can be requested at any point during the day by any member of the press. Complaints that are filed after 3:00 p.m. and have not been added to the press box are retrieved by the clerk’s staff upon request. The result is that 90% or more of the day’s new unlimited complaints can be reviewed by the press by the end of the day they are filed.

**Salt Lake City, UT**

Salt Lake County District Court

- **Mandatory E-Filing**
  When new civil complaints were filed in paper form in Salt Lake County’s 3rd Judicial District Court, they were placed in a press bin on the same day they were filed. Journalists asked for the contents and reviewed the new actions at a desk a few feet away. Following the introduction of mandatory e-filing in April 2013, the tradition of same-day access in the 3rd Judicial District continues, with complaints available on the same day of filing through public access terminals located at the courthouse. E-filed documents flow onto the court’s public access system shortly after they are filed and after only minimal processing. Reporters who wish to review newly filed complaints may use courthouse computer terminals for free to access docket information and full electronic text of civil complaints via Courts Information System, or CORIS, an internal file-viewing system.
San Mateo, CA
San Mateo County Superior Court

- **Paper-Filing Only**
  
  Traditionally, members of the press reviewed new complaints behind the counter in the clerk’s office. They reviewed the new cases, located in a review box, at a table in an area that was limited to use by news reporters who covered the court. The table holding the review box was separated by a four-foot-high divider from the docketing clerks who filled it. With the court’s adoption of scanning technology, news reporters were only permitted to review cases after they had been posted online, an intermittent process that took days and sometimes weeks. After the delays were brought to the attention of the presiding judge, the court clerk devised a solution for same-day access that was implemented by the clerk in December 2012. Under these procedures, all unlimited jurisdiction complaints that are filed before 3:30 p.m. each day are scanned and posted to the court’s website by 6:00 p.m. that same day. The complaints may be accessed, reviewed and downloaded by any member of the public for free through the court’s website. The court has designated a contact person to ensure that paper-filed complaints are being posted online on a same-day basis. The result has been near-perfect press access to new unlimited civil complaints by 6:00 p.m. the day they are filed. The remarkable turnaround in San Mateo Superior demonstrates what a court with goodwill and a commitment to press access can achieve.

Seattle, WA
King County Superior Court

- **Mandatory E-Filing**
  
  Roughly a decade ago, an appeal to the presiding judge resulted in a system for press access where reporters would review new cases at a desk behind the intake counter twice a day, in the late morning and the late afternoon, before they were taken one floor down to be processed. Copies of newsworthy cases were available in the court’s press room, which was staffed by Courthouse News, the *Seattle Post Intelligencer*, the *Seattle Times* and a local television station. After the court moved to mandatory e-filing in 2009, the system for press access followed a similar pattern. Reporters are provided with intake logs, which contain limited case information, two times per day so they may preliminarily review the day’s new filings and then access the complaints themselves through the electronic equivalent of an in-box that is available at the clerk’s office. The first intake log is provided at 11:00 a.m., and an updated log is provided at 3:00 p.m. The morning list includes all
cases that have been filed from 3:00 p.m. on the previous day through 11:00 a.m. on the current day, while the afternoon list includes new cases that have been filed from 11:00 a.m. to 3:00 p.m. that day. Reporters review each list to find newsworthy cases, then search for and view new complaints on a computer terminal at the courthouse, well before processing has been completed. This system has resulted in same-day access to the substantial majority of newly filed complaints by members of the press.
While e-filing is often seen as both uniform and omnipresent in federal courts, it is anything but that. Many courts require new complaints to be filed electronically, while a large number of federal courts have no e-filing at all for case-initiating documents, requiring that they be filed in paper. Some courts require paper plus a diskette for the initial pleadings and others allow either e-filing or paper-filing for the initiating document. Furthermore, within these myriad e-filing environments, there are a host of local variations from court to court. Some courts have set up a master case number system where lawyers file docket information and a PDF of the complaint itself into a common shell case number. Many of those master shell case number systems work as an electronic press queue because reporters are granted access to review the new filings as they are filed under the master case number. In another variation, the court assigns a temporary case number to new actions, which are accessible to the press upon filing. Yet another set of federal courts provide an automatic, permanent case number upon filing, and most of those courts send the newly filed cases immediately into public access terminals where they can be reviewed by the press, without processing or review by a court clerk. In a variation of this method, some courts make judicial assignments automatically at the same time the case number is assigned, while others assign a judge only after an intake clerk has reviewed the filing. One federal court assigns a case number automatically but only posts e-filed complaints online after the judge’s clerk has approved the filing; however, the same court also provides immediate press access to these complaints at the courthouse. Some courts ask lawyers to first email the docket information to the clerk’s office in the form of a civil cover sheet, then wait for a clerk to create the docket entry and only then allow attorneys to e-file a PDF of the complaint into the case opened by the clerk’s office, which is sometimes done promptly, sometimes not. Additionally, a handful of courts describing themselves as “e-filing courts” only accept complaints by email and docket them in the traditional manner.

E-filing has evolved on the federal side in a manner, and with rules, that fit the individual courts, not unlike local rules for paper filings. Within that evolution, there is an evident continuation of the tradition of same-day access to new matters for the press corps.

Albany, NY
(Northern District of New York)

• **Mandatory E-Filing**
  Members of the press review newly filed complaints as they are received in the clerk’s office, prior to the assignment of case numbers and prior to any form of processing by a court clerk. That review is accomplished through the use of a master shell case number system accessible by the press, which allows reporters to

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*“Mandatory E-Filing” indicates that this method of filing is mandatory for attorneys only. Many, if not most, federal courts permit pro se litigants to file their pleadings by hand at the clerk’s office.*
see an electronic press queue of new filings, including the documents themselves, on public computer terminals at the courthouse. As with all federal courts, there is no charge to use the terminals at the courthouse. Except for prisoner and pauper petitions, these procedures result in near-perfect same-day access to newly filed civil complaints.

Atlanta, GA
(Northern District of Georgia)

- **Optional E-Filing**
  Before e-filing, the intake clerk put copies of new complaints into a wooden box for review by the press corps, before those cases were docketed. The system resulted in excellent, same-day press access. With the move to optional e-filing, the court now scans new paper-filed actions, still prior to docketing, and uploads them into a computerized press box, which is reviewed by the press corps on a computer terminal in the clerk’s office. E-filed complaints are all filed into a master shell case number and are reviewed by reporters, prior to a clerk’s intervention, in an electronic press queue of new filings, accessible through a query search of the master case number. Through its press access procedures, past and present, the Northern District of Georgia has continued a strong tradition of providing reporters the ability to review roughly 95% of the new actions on the same day that they are filed.

Austin, TX
(Western District of Texas)

- **Mandatory E-Filing**
  When cases were filed in paper, members of the press corps were given access to newly filed complaints by first reviewing the complaints that had already been scanned and docketed, and then asking a clerk at the intake counter for complaints that were not yet docketed, which represented the majority of the day’s cases. Copies of the undocketed complaints were often placed on the intake counter in anticipation of the late afternoon check by journalists. Subsequent to mandatory e-filing, new civil complaints are automatically assigned a case number and flow directly onto a public computer terminal in the clerk’s office that is ahead of and separate from PACER. Apart from prisoner and pauper petitions, the press has 100% same-day access to the new complaints on the great portion of court days. (As a reporter put it, a lawyer-filed case is not seen on the day of filing only “once in a blue moon.”)
Beaumont, TX  
(Eastern District of Texas)  
- **Mandatory E-Filing**  
  In the days of paper, two intake clerks logged newly filed actions into a red log book. At the end of the day, journalists would review those complaints that had been already docketed and scanned on free public access terminals nearby and then check the red log book for any cases that had not yet been docketed. The clerks would hand the original undocketed complaints over the counter for review at a table in the middle of the room, a few steps from the intake counter. With the move to e-filing, the red log book is still kept for non-attorney filings, and journalists continue to check the book and request undocketed paper-filed complaints before going to the free terminals in the clerk’s office, where e-filed complaints appear as soon as they are filed, without processing of any kind by a court clerk. The result is same-day access to 95-100% of the newly filed actions.

Billings, MT  
(District of Montana)  
- **Optional E-Filing**  
  News reporters are able to review newly e-filed complaints in exactly the same format as they are received by the clerk’s office, prior to the assignment of case numbers or processing, by using a shell case number code to access an electronic press queue of new filings, which is available via public access terminals at the courthouse for free or online for a fee. Complaints filed in paper form are promptly scanned and also made available for review on either the public access terminals or online. Through these procedures, members of the press have access to the vast majority of new civil complaints on a same-day basis.

Birmingham, AL  
(Northern District of Alabama)  
- **Optional E-Filing**  
  The Northern District of Alabama has also kept its tradition of excellent press access as the court has transitioned to optional e-filing. The intake clerk puts copies of paper-filed complaints and print-outs of e-filed complaints into an old wooden box, referred to by the staff as the “media box,” which is placed just outside the glass windows of the intake counter. A worn label is affixed to the box that says: “NEW COMPLAINTS REVIEWING ONLY.” The copies and printouts are provided to the media very shortly after the new actions come into the court and well before processing has
been completed. In one of the myriad local variations on the federal public access system, the e-filed cases do not go online until they have been assigned a judge and that judge’s clerk has looked over the filing. Through the continued practice of placing paper copies of new complaints into a media box, the Northern District of Alabama has kept in place its longstanding tradition of giving the press same-day access to new actions.

Boston, MA
(District of Massachusetts)

- Mandatory E-Filing
Prior to mandatory e-filing, new complaints could only be filed in paper at the courthouse and were reviewed on the same day of filing by a press corps that included the Boston Globe and the Boston Herald. Throughout the day, as new complaints were filed, the clerks would docket the new cases and place them in a stack behind the window at the intake counter. At 4:15 p.m. each day, news reporters would request the stack of new complaints and take them to a separate viewing room in the clerk’s office. Reporters took turns reviewing the documents and the last person to view them returned them to the clerks at the intake counter. This procedure resulted in same-day access to nearly 100% of new complaints. Now that e-filing for case-initiating documents is mandatory, complaints filed during business hours flow directly onto public computer terminals at the courthouse and those filed after hours or on the weekends are available online immediately upon filing by the attorney. As a result, the District of Massachusetts has continued its tradition of prompt press review for nearly all new civil complaints.

Charleston, SC
(District of South Carolina)

- Mandatory E-Filing
New civil complaints can be reviewed by the press corps as they are received – prior to the assignment of a case number – via free terminals at the courthouse. Reporters search a shell case number to see an electronic press queue of new filings. As a result, the court provides same-day access to nearly all new civil complaints.

Chicago, IL
(Northern District of Illinois)

- Mandatory E-Filing
Before e-filing, members of the press reviewed newly filed paper complaints by going behind the counter and retrieving them from
wire baskets, where they were placed immediately after they crossed the counter. The location of the review was later changed to the records section, behind a gate next to the records clerk, but the cases were still placed in a wire basket and were still reviewed on the day of filing by a host of press entities, including the Associated Press, City News Service, the Chicago Sun and the Chicago Tribune. As the court moved to e-filing, the clerk established a press queue that accomplished the same purpose as the wire baskets – same-day access to the newly filed actions. The current evolution in the e-filing system allows newly filed complaints to flow directly into public view without stopping for a clerk’s approval. Members of the press may review new complaints without charge on free computer terminals at the courthouse, as well as through the court’s own independent website, which posts many complaints for review free of charge. The Northern District of Illinois has continued a very strong tradition of press access on the day of filing from the past through the present, and the result is same-day access to 95% or more of the newly filed actions.

Cleveland, OH
(Northern District of Ohio)

- **Mandatory E-Filing**
  When cases were filed only in paper, clerks put newly filed complaints in a wooden press box on the counter near the intake clerks for reporters to review. With the shift to mandatory e-filing, electronically filed documents are available immediately upon filing, without a clerk’s review, and can be accessed via public computer terminals located at the courthouse on the same day they are filed, or online if the complaint is filed after hours or on the weekend. In another local variation on federal e-filing, the court does not put certain new actions, such as ERISA complaints, online but does print out copies at the courthouse. Through these procedures, past and present, the Northern District of Ohio has provided the press with same-day access to 90-95% of the new civil actions.

Dallas, TX
(Northern District of Texas)

- **Optional E-Filing**
  Roughly half of the new cases continue to be filed in paper form in the Northern District of Texas. Both before e-filing and after, the court has followed a tradition of excellent same-day access for the press, as members of the press corps review the day’s new
complaints regardless of whether they have been docketed or not. Reporters review new actions that have been scanned and uploaded into the court’s case management system through free terminals at the courthouse. They also review new complaints that have been scanned but not docketed through a bar code and case number system, also on the terminals. Finally, complaints that have neither been scanned nor docketed are reviewed in paper form in their case folders. E-filed complaints flow directly onto the court’s computer terminals without stopping for a clerk’s review. The result of these procedures is same-day access to roughly 100% of the new civil complaints filed in the Northern District of Texas.

Denver, CO
(District of Colorado)

- **Mandatory E-Filing**
  New e-filed cases are automatically assigned permanent case numbers during the attorney’s online filing process, and those complaints flow into public view immediately, without processing or checking by a court clerk and before a judge is assigned. Members of the press can review new complaints filed during business hours on public terminals at the courthouse, and can access after-hours and weekend filings online. As a result, the press has nearly perfect same-day access to new civil complaints filed in the District of Colorado.

Detroit, MI
(Eastern District of Michigan)

- **Mandatory E-Filing**
  When complaints were filed in paper form, members of the press had same-day access to the day’s new actions through a wooden media box located on the main counter in the filing room. Reporters would sign out the box and review the new cases at a table a few steps away. With the introduction of e-filing, new complaints are automatically assigned a case number and the complaints flow directly onto the court’s public computer terminals and online, weekends and after hours, without a clerk’s OK. Through these procedures, the Eastern District of Michigan has fostered a tradition of excellent same-day access, resulting in same-day access to 90-95% of the newly filed actions.
Ft. Wayne, IN  
(Northern District of Indiana)

- **Mandatory E-Filing**

Prior to the introduction of mandatory e-filing, court staff provided same-day access to new complaints by placing cover sheets for all new cases into a metal organizer on the intake counter. News reporters would review the current day’s cover sheets and the clerk’s staff would provide full complaints upon request. The clerk’s staff removed the metal organizer from the intake counter over the 2012 holidays and directed reporters to the Internet. But a request to the chief judge and the clerk of the court resulted in prompt reinstatement of both the organizer and access to the paper files on the day of filing. Nearly identical procedures were used at the Northern District’s South Bend division. With the move to mandatory e-filing, new complaints flow automatically to the court’s electronic public access system upon filing, and reporters can review the new filings at public access terminals at both the Fort Wayne and South Bend courthouses. The result has been same-day access to nearly 100% of all new civil complaints filed on a particular day.

Hartford, CT  
(District of Connecticut)

- **Mandatory E-Filing**

When new complaints were only filed in paper, court staff kept a hand-written intake log in a notebook that was placed on the counter for members of the press to review at their leisure. If a reporter wanted to review a new complaint listed in the intake log, the clerk’s staff would search individual clerks’ desks and retrieve the document, which the reporter could review either at the counter or at kiosks a few feet away, even if docketing had not yet been completed. Under the current mandatory e-filing system, newly filed cases are automatically assigned a permanent case number and immediately made available at courthouse computer terminals and online, even if the complaint is filed on the weekend or after hours, while judge assignments are made manually by the clerk’s staff during normal business hours. The District of Connecticut has continued its longstanding tradition of efficient, same-day media access to new complaints, even through the transition from paper to electronic filing, by adapting its access procedures to the changing environment.
Honolulu, HI  
(District of Hawaii)

- **Paper-Filing for Case-Initiating Documents**
  Prior to e-filing becoming mandatory in January 2014, new civil complaints were required to be accompanied by a press copy, which was file stamped and then placed on a table on the far side of the clerk’s office. Members of the press, including the Honolulu Star-Advertiser and the Pacific Business News, would check the press table regularly and were free to review the press copies at their leisure at another, larger table in the middle of the clerk’s office. Press copies would then remain publicly available in the clerk’s office for one month after filing. The court has continued its strong tradition of same-day access through its transition to e-filing by making newly e-filed complaints available as soon as they are filed electronically, regardless of whether a clerk has reviewed them. Reporters now access new complaints on public terminals at the courthouse during business hours, or remotely for after-hours and weekend filings. As a result of these policies, reporters are able to review 95% or more of new civil complaints on the same day of filing, even if the new complaints have not yet been docketed.

Houston, TX  
(Southern District of Texas)

- **Mandatory E-Filing**
  Prior to e-filing, members of the press walked to the end of a long intake counter and asked for the press bin, a plastic box similar to those used by the U.S. Postal Service to hold bulk mail, which contained the new filings from that day. With the advent of e-filing, new cases are automatically given a case number and the complaints flow directly onto the public computer terminals at the courthouse and online, without a clerk’s intervention. Through these changing procedures, the Southern District of Texas has consistently maintained a strong tradition of press access resulting in same-day review by the press corps of nearly all new civil complaints.

Kansas City, MO  
(Western District of Missouri)

- **Mandatory E-Filing**
  Complaints filed in the Western District of Missouri flow directly online without intervention by the court clerk, and may be accessed and reviewed without charge through public access terminals at the courthouse. Through these procedures, 95-100%
of newly filed complaints may be reviewed by members of the press on the same day those complaints are filed.

Los Angeles, CA  
(Central District of California – Los Angeles Division)

- **Paper-Filing for Case-Initiating Documents**
  Up until roughly 15 years ago, reporters asked for newly filed cases from the intake clerk, who retrieved them from the financial department at the end of the day. A host of news reporters, from the *Los Angeles Times, Herald Examiner*, Associated Press and UPI, descended from the court’s press room into the intake and docketing area to review the new actions behind the counter at the end of the day. With a new clerk and a remodel of the clerk’s office, reporters were given a key to a media room that was separated by a glass partition and pass-through shelves from the docketing area. A new system for press review was set up that continues into the present. Between 4:30 and 5:00 p.m., after the intake windows have closed, the day’s new complaints are brought by a court staffer from the intake area and placed in a pass-through box to the media room. Courthouse staff give credentialed news reporters who cover the court on a daily basis a key to the room, which is otherwise locked. Reporters stay as long as necessary to look over the new cases, putting the complaints back in the pass-through boxes when their work is done. The cases in the boxes include new complaints that will be transferred to the Central District’s other divisions. Through these procedures, 90-95% of the newly filed complaints are available for review by members of the press on the same day they are filed.

Louisville, KY  
(Western District of Kentucky)

- **Mandatory E-Filing**
  News reporters are able to review newly filed complaints on the day of filing as they come into the clerk’s office, prior to the assignment of case numbers or any other docketing. Reporters use a shell case number query to access an electronic press queue of new filings, which is available for free at public computer terminals at the courthouse. These procedures have resulted in same-day access to the vast majority of new civil complaints filed with the court.
Manhattan, NY
(Southern District of New York)

- **Paper-Filing for Case-Initiating Documents**
  New civil complaints are held at the filing window in a steel pass-through lock box. Members of the press can review the contents of the steel box at specific times during the day. The staff keeps a check-out book that members of the press are required to sign in order to review the actions. Through this system, which has been in place for decades, the Southern District has long maintained a strong tradition of press access, resulting in same-day review of virtually every new civil complaint filed in the Manhattan Division.

Milwaukee, WI
(Eastern District of Wisconsin)

- **Optional E-Filing**
  The court provides the press with a handwritten intake log on a clipboard. Upon arriving at the clerk’s office, journalists pick up the intake log and ask for paper-filed cases of interest held in folders next to the intake clerk, which are then passed to journalists for review at one of two round tables in the intake area, a couple of steps from the counter. If a case is filed late in the day, the intake clerk will pass it to the journalist for review without a folder. E-filed cases flow directly, without stopping for a clerk’s review, onto two free computer terminals in the clerk’s office. The Eastern District of Wisconsin thus has kept a tradition of excellent press access that results in same-day access to about 95% of the day’s newly filed actions.

Minneapolis, MN
(District of Minnesota)

- **Optional E-Filing**
  When all cases were filed in paper form, reporters first reviewed an intake log in the clerk’s office and then reviewed scanned complaints on computer terminals. For those complaints that had not yet been scanned, reporters asked a clerk at the end of the intake counter for the most recent cases, which the clerk would photocopy and provide to reporters. The result was complete same-day access to new civil complaints. Since e-filing has become optional for case-initiating documents, and now widely used, the court has continued to provide same-day access to new filings. Attorneys who e-file a new complaint first create a “shell” case by entering basic docket information into the e-filing system, after which a case number is automatically assigned. The attorney
then immediately goes on to attach the complaint to the “shell” case and submits the filing. During this process, the basic case information and the documents are posted directly online without any clerk review, at any time of the day or week, including weekends and after court hours. Clerks check the filing and assign a judge after the new complaint is filed and made public. Complaints filed in paper follow a slightly different path where the new complaint is scanned, court staff then docket the case and upload the complaint, and the whole case is made public promptly after submission. The result of these procedures is that the press is able to review virtually all new civil complaints filed in the District of Minnesota on the same day that they are filed.

Newark, NJ  
(District of New Jersey)  
- **Mandatory E-Filing**  
  When cases were filed in paper, reporters covering the court asked for new complaints at the intake counter and reviewed them in a small, open room immediately adjacent to the intake counter. At that point, the new cases had not been given a case number, because instead of assigning case numbers at intake, the clerks followed an unusual procedure of waiting to assign numbers until a new case was docketed, after which another clerk double-checked that docketing against the contents of the case-initiating pleadings. Following the switch to e-filing, the court set up an electronic press queue, through which members of the press are able to review the flow of newly filed civil complaints as they are received by the clerk’s office, prior to being assigned a permanent case number. With both paper and electronic filing, the District of New Jersey has followed a tradition of same-day press access that has resulted in press review of all newly filed actions on the day of filing.

New Orleans, LA  
(Eastern District of Louisiana)  
- **Mandatory E-Filing**  
  When cases were filed in paper form, members of the press would go down the line of division heads – docketing clerks for each courtroom – who worked in large cubicles set up in a row that opened towards the entrance to the docketing area. The individual clerks either left the new complaints on their cubicle’s individual counter for the reporters to take or handed them to reporters upon request. In addition, reporters would ask the intake clerk in an adjacent room for any new cases that had not yet been sent over to the docketing area, and would be provided with those new actions
upon request. With the move to e-filing, the court automatically assigns a case number and posts the new actions to public computer terminals at the courthouse at the time of filing. There is no processing or checking by court clerks before posting to the terminals, and as is common in many other local iterations of federal e-filing, the judge assignments occur after the complaints are made publicly available, at the time a clerk reviews the filing. In the past, with paper filing, and in the present, with e-filing, the Eastern District of Louisiana has preserved a tradition of press access that results in same day review by the press corps of roughly 95% of the new actions.

Philadelphia, PA
(Eastern District of Pennsylvania)

- **Paper-Filing for Case-Initiating Documents**
  The Eastern District has traditionally provided excellent and extremely timely public access to all new filings. For decades, new complaints have been placed in a wooden box by the intake clerk after being assigned a case number, a practice that continues today, and the press corps reviews the new cases from that box. Docketing clerks periodically take the new complaints from the wooden intake box, docket them promptly and place them in folders on the intake counter near the same intake box. As a result, the press corps has near-perfect same-day access, seeing more than 90% of the new cases on the day they are filed. Complaints filed in the court’s Allentown division are scanned, printed and also placed in folders on the counter in the Philadelphia courthouse. Similarly, all subsequent civil filings, including motions and rulings, are placed in wooden boxes that are available to the press for review prior to docketing.

Pittsburgh, PA
(Western District of Pennsylvania)

- **Mandatory E-Filing**
  All new civil cases are filed into an “MC” master shell case number, which is provided to news reporters and allows them to view the new complaints in an electronic queue on the day they are filed, as they are waiting to be okayed and assigned a permanent case number and judge by an intake clerk. The press corps can review the new civil complaints in the queue free of charge using public terminals at the courthouse. This system has resulted in same-day access to the vast majority of new civil complaints.
Portland, OR
(District of Oregon)

- **Mandatory E-Filing**
  The District of Oregon is another federal court that has a strong tradition of press access. When cases were filed in paper form, the clerks would hand newly filed actions to journalists for review at a desk within eyeshot of the clerks. This system gave the press access to 90% or more of the court’s new complaints on the day of filing. During optional e-filing, the court established an electronic in-box at the courthouse where PDF files of the new cases were posted before docketing. With mandatory e-filing, complaints are given a case number automatically and flow immediately onto free public access terminals at the courthouse. As a result, through procedures past and present, the District of Oregon has consistently provided the press with same-day access to nearly all of the day’s new complaints.

Sacramento, CA
(Eastern District of California)

- **Mandatory E-Filing**
  Prior to e-filing, the clerk allowed reporters to review the new complaints at a desk behind the counter, a system that resulted in complete same-day access. Subsequent to e-filing, complaints are given a temporary case number when they are filed, allowing the press to review them as they come into the court. Those temporary numbers are replaced with permanent case numbers once the docketing is completed by a clerk. The result is that both historically and today the press has been given same-day access to 90-95% of the new actions filed in both the Sacramento and Fresno divisions of the Eastern District of California.

St. Louis, MO
(Eastern District of Missouri)

- **Mandatory E-Filing**
  Before the Eastern District of Missouri switched to e-filing, the clerk’s staff placed new complaints in a wooden box on the intake counter, which the press could review on a same-day basis. Subsequent to e-filing, the clerk set up a computer terminal marked with a sign that said “Media Terminal,” used regularly by the local press, including the *St. Louis Post-Dispatch*, for example, that gave access to the e-filing intake queue used by the clerk’s staff. In the current iteration of federal e-filing, the designated media terminal is not necessary because the e-filed cases are automatically assigned a case number upon filing and flow immediately onto...
public computer terminals at the courthouse. Over time, the court has through various means – first the wooden box, then the media terminal, and now the automatic posting – followed a strong tradition of open access for members of the press corps, resulting in same-day review of near 100% of the new actions.

Salt Lake City, UT
(District of Utah)

*Optional E-Filing*

New complaints filed in paper at the courthouse must be accompanied by a disc containing the complaint in PDF format. The new case is then docketed and the electronic version of the complaint is posted to public computer terminals at the courthouse for same-day review. In order to e-file a new complaint, attorneys must first email PDF versions of the civil cover sheet and the complaint to the clerk’s office, wait for the clerks to “open” the case and create the docket entry, and then e-file the complaint through the court’s website by the end of the business day. The complaint that is initially e-mailed to the clerk’s office is not considered e-filed. Emailed cases are opened and processed by the clerk’s office until 4:00 p.m. Mondays through Thursdays and until 3:30 p.m. on Fridays, and any cases received by email after those hours will be considered filed on the following day. Once the attorney receives notification that the new case has been created and e-files the complaint through the CM/ECF website, the document is immediately available on public computer terminals at the courthouse or online after hours. These procedures have resulted in same-day access to the vast majority of newly filed civil complaints.

San Diego, CA
(Southern District of California)

*Mandatory E-Filing*

When cases were filed in paper form, reporters accessed and reviewed that day’s newly filed complaints from a wooden tray provided by a records clerk, before the complaints were docketed. With e-filing, reporters see virtually all newly filed complaints at the courthouse without charge by the end of the day of filing, in either printout or electronic form. The result is that both then and now, the Southern District of California provides same-day access to nearly 100% of the day’s new complaints on the day of filing.
San Francisco  
(Northern District of California)  
- **Mandatory E-Filing**  
  Until early 2014, members of the press reviewed new paper-filed complaints behind the counter before they were docketed. Intake clerks assigned case numbers and entered new cases into an intake log as they crossed the counter, and reporters reviewed the new cases immediately afterwards. In February 2014, the court implemented mandatory e-filing, but preserved traditional same-day access for the press. The electronic copies of new complaints filed in San Francisco, Oakland, San Jose and Eureka can be reviewed on terminals at the courthouse immediately upon filing and before processing takes place. Reporters continue to have behind-the-counter access to the minority of cases that continue to be filed in paper form, also before they are processed. The clerk’s office closes at 4:00 p.m., but reporters can stay until 4:30 p.m. to review paper-filed complaints. The tradition of same-day press access has been followed for decades in the Northern District and has resulted in virtually 100% same-day access to new civil complaints filed with the court.

Scranton, PA  
(Middle District of Pennsylvania)  
- **Optional E-Filing**  
  Members of the press are permitted to review new civil complaints on the same day they are filed by querying the court’s “MC” shell case number and accessing an electronic press queue, which provides direct access to new complaints as they are filed on public computer terminals at the courthouse. Newly filed civil complaints appear in the press queue before they have been assigned a case number or have been looked over by a clerk. These procedures have resulted in same-day access to the vast majority of newly filed civil complaints filed in the Middle District.

Seattle, WA  
(Western District of Washington)  
- **Mandatory E-Filing**  
  Prior to e-filing, members of the press went directly to the intake window and asked for the day’s newly filed complaints, which were handed across the counter by the intake clerk, and reporters reviewed them at a counter in the same room. Subsequent to e-filing, members of the press review newly e-filed cases using free terminals at the courthouse where the cases show up as soon as they are filed, without delay caused by a clerk’s review. Then and
now, the Western District of Washington has followed a tradition of press access, resulting in daily review of 95% or more of the new cases on the day of filing.

Washington, D.C.
(District of Columbia)
- **Mandatory E-Filing**
  Prior to e-filing, the intake clerks kept a wooden box on a small table within reach just behind the counter, where copies of newly filed complaints were placed. Members of the press corps would review the cases and take notes from public chairs in the clerk’s office, within view of the intake staff. The result was same-day access to roughly 95% of the day’s new filings. Subsequent to mandatory e-filing, which was undertaken after discussions with members of the media, newly e-filed complaints are immediately posted to an internal computer system and made available on public access terminals at the courthouse upon submission of the complaint by the filing attorney, and before any processing has taken place. The federal court in the nation’s capital has followed a tradition of press access, before and after e-filing, resulting in same-day access to nearly all new actions.

Wilmingon, DE
(District of Delaware)
- **Optional E-Filing**
  Prior to e-filing, reporters reviewed new complaints by asking for them at the intake counter in the clerk’s office and sitting down at a table in the intake area. The result was excellent, same-day access. Under optional e-filing, the same procedures are followed for paper-filed cases. If an additional new case is filed in paper form while a reporter is reviewing the new cases, a clerk will hand that new complaint to the reporter. E-filed complaints are reviewed on public computer terminals at the courthouse, through an electronic queue that is accessed by searching a shell case number. Both before and after transitioning to optional e-filing, the District of Delaware has provided the press with roughly 100% same-day access to newly filed actions.
EXHIBIT I
Re: Statement of Kate Caldwell, WFLA

Case No. SC14-569

I am writing to you as a photographer for WFLA, which covers the Tampa Bay area. I primarily cover courts and routinely request court records for my stories. I have three primary concerns about the clerk’s electronic filing system as we move forward. I’m not concerned with expected transitional glitches but what I see as long-term design flaws.

First and most importantly, I have significant concerns about delays in inspecting a court file. The public has no ability to see electronically filed documents online or at the clerk’s office. Usually, I have to pay for a document to be printed before I can inspect it. (Sometimes, depending on the individual clerk and the size of the document, I get to look at it and then decide if I want to pay for it.) This is most difficult in cases that existed before the scanning of all documents began. To inspect without paying for a pre-view or view all docs in a case that was created before 2012, you have to wait two to three days to have the hard copy shipped over from the warehouse. This includes inspecting motions that were filed last week in active cases. This is impractical on deadline. Having a case designated as a “major case” is the only way around this.

However, the delays in “major cases” are still significant. For example, recently, the criminal case of Julie Schenecker (who was convicted of murdering her children) was designated a case of public significance, which authorized the clerk to place the court filings online. I experienced significant delays in obtaining records. At the critical juncture right before trial, more than a week would lapse from the filing of motions or other court documents to them being placed online. At times, motions were being decided before the public even had access to the motion. We were told that the delay resulted from a new computer system in the clerk’s office and a two-tiered manual review of each document before it was placed online. Any document would first be reviewed by a person in the clerk’s office, it would then be reviewed by the clerk’s attorney. This level of review resulted in significant delays in public access to the court records in a very important case.

Second, I have concerns about access to the online docket. Currently, web access to case information in Hillsborough County can be found at hillsclerk.com/online services/ online searches/search court records/. Case information has been reorganized, access reduced and the information that is there is often incomplete and inaccurate. Clerk’s notes, previously listed as “minutes,” are no longer accessible online. This is where sentencing and probation special conditions, scheduling requirements, parties present at hearings, filing deadlines and Judge’s special requirements were listed. I’m told those notes are still compiled, they’re just no longer available online. They’ve disappeared to the public. Searching has become more difficult and is often inaccurate. The function to search for a case by the attorney or party often results in nothing. In the case of defendant Julie Schenecker, if you don’t know how to spell Schenecker you’ll never find the case. It doesn’t come up under her attorney. In fact, a search for that attorney shows no cases since 2009.
Finally, I have concerns about access to calendars of each courtroom. This information was formerly accessible on the FTP site ftp://hillsclerk.com. Now, there is no public access to the list of what’s on the docket in each courtroom. Not digitally nor a hard copy. There’s no way to check what’s scheduled to happen in each courtroom each day. No attorney’s names, no charges, no accurate spellings, no co-defendants and no future court dates. This is a problem if you’re in court and see a case of interest. You have to interrupt an attorney to get the particulars. Sometimes they don’t know or won’t talk to the press. This used to be extremely valuable. Members of the press checked these daily to make sure a plea deal wasn’t scheduled, an unusual motion filed or sometimes discover a new case. That’s gone completely.

The main purpose in providing access to court records is transparency and I hope this is not overlooked in the transition to the electronic filing systems.

Thank you for your consideration,

Kate Caldwell
EXHIBIT J
Although the Florida Supreme Court lifted the moratorium on electronic access to court records in March, it might be awhile before people can view Alachua County court records on their personal computers at home.

The Alachua County Clerk of Court's Office is currently sorting through the rules about who gets access to what online records and requirements for the electronic records access system, said Marynelle Hardee, assistant court director for the civil department at the clerk's office.

The Supreme Court sent Florida clerks a complex spreadsheet of rules detailing what level of access each person or entity gets. Judges and court personnel have the greatest access and are able to see everything that has not been expunged or sealed, she said.

People involved in a case, attorneys and law enforcement officials will be given less access than judges but more than an anonymous member of the public. For confidential records, such as those involving sexual crimes, the public still will have to submit requests to the clerk's office so the office can redact personal information from the documents under Florida restrictions, she said.

The clerk's office does have redaction software that blacks out birth dates and Social Security numbers but doesn't have software that can redact a victim's name. Redactions like this will probably be done by hand, Hardee said.

Hardee said she can't predict how long the entire process will take because the office is in the process of applying for Supreme Court approval of the electronic records access system.

"We have to ensure records are protected, and to do that we have to demonstrate that our technology is sufficient to provide different levels of security," Hardee said. "It's a painstaking process, as well it should be, because although we do want to make information public, we don't want to make information available that's not allowed to be released."

Although the process is tedious for clerks, Hardee said Alachua County is better prepared because it is a mid-sized county. Large counties have a huge number of records to put online, while small counties face such issues as lack of funding and fewer personnel.
"Alachua County is very fortunate, and we hope this process will go smoothly, but it will depend on funding as far as how fast it happens," Hardee said. "Everybody here is working together to make this happen."

Barbara Petersen, president of the First Amendment Foundation, said it will take all Florida clerks some time to get all the documents online and available. Several clerks told her that the lifting of the decade-long moratorium took them by surprise, she said.

Petersen added that she is questioning some of the access rules, such as those that don't allow online access by the public to divorce records.

"I'm glad the court finally lifted the moratorium after it was in place 10 years," she said. "Right now we're trying to get our heads around the access security matrix and figure out exactly what the press and the public can and can't have online access to."

--- Index References ---

News Subject: (Family Social Issues (1FA81); Divorces (1DI23); Judicial Cases & Rulings (1JU36); Personal & Family Law (1PE02); Health & Family (1HE30); Social Issues (1SO05); Legal (1LE33))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Florida (1FL79); U.S. Southeast Region (1SO88))

Language: EN

Other Indexing: (Barbara Petersen; Marynelle Hardee)

Word Count: 508
Court clerks to make court records available to everyone online

Frank Fernandez

The Supreme Court has ended a moratorium on remote online access to court records, but it will still be a while before most of the public will be able to get on their home and office computers and view documents like lawsuits and criminal charging affidavits.

And in about one third of the state’s 67 counties, including Volusia and Flagler, attorneys receive preferential treatment because they can sit at their office computers and remotely view documents other members of the public must go to the courthouse to read. That disparity should end, wrote Carol Jean LoCicero, an attorney representing a media coalition, in a letter sent Thursday to Ricky Polston, the chief justice of the state Supreme Court.

That access also means that attorneys don't have to pay the $1 per page for a court document the public must pay since lawyers can simply print them out for free in their office, wrote LoCicero, who said the attorneys are receiving “constitutionally-suspect preferential access” in more than 20 counties.

“The Media asks that the Court clarify for clerks the impropriety of continuing to provide all attorneys with preferential access,” LoCicero wrote.

Laura Roth, the chief deputy clerk for Volusia County Clerk Diane M. Matousek, said the clerks are simply following the rules established by the Supreme Court, which carved out the exception for attorney preference.

“Ask the Supreme Court, they are the ones that made the rule,” Roth said in a phone interview. Attorneys have had the access in Volusia County since Dec. 17, 2012.

Roth wrote that attorneys can view any document that is completely public but they cannot view confidential cases or expunged cases unless they are the attorney of record. The attorneys do not pay any fee for the access.

Roth wrote in an email that the clerks can’t simply grant access to the public now that attorneys have access, because the rules for what attorneys can see versus what the public can see “are not the same at all.”

Roth wrote in a letter that clerks were making documents available online before concern about sensitive information prompted the Supreme Court to order the moratorium.
She added that she realizes it irritates people. But it has to do with protecting confidential information.

"I don’t think it was, in my humble opinion, that there was some evil intent — ‘Let’s just give it to the attorneys,’ " Roth said.

Flagler County Clerk of Court Gail Wadsworth said attorneys are getting the remote access because they are now filing documents electronically. She added that attorneys must register to get online access, which has been available since February 2012.

Both Wadsworth and Roth said their offices are working on reaching the point where the public will be able to view courthouse documents from their own computers.

But they, like clerks in the rest of Florida, sort through a number of rules about who gets access to what records before documents begin appearing online to the public. Clerks will refer to a complicated matrix, a spreadsheet-like chart based on laws and rules that helps them understand who sees a particular record and who doesn’t.

“My personal goal is for us to be compliant with the matrix in a year, crossing my fingers,” Wadsworth said.

Roth didn’t have a time estimate. She wrote in a letter that the matrix is missing some important information dealing with “document type permission” needed for the programming work ahead.

“What we’ve decided is that if we waited to accommodate the entire matrix and all the security levels at once, it would probably take too long, so we are probably going to roll it out in phases,” Roth said.

Wadsworth said she does not want to rush the process and increase the possibility of a mistake, like having a child’s confidential records appear on someone’s computer screen.

“We will do this. We will take our time. We will be as throughout as we can possibly be,” Wadsworth said.

Wadsworth said the public won’t need a password to access the records remotely and documents like criminal charging affidavits will be available online, although some information like Social Security numbers will be redacted as they are now.

The Supreme Court issued the limited moratorium in 2004 on providing online access to records to protect confidential information while allowing access to nonconfidential records. The result is that if a member of the public clicks on a clerk’s website to look at a civil or criminal case, the most they will see is basic information, like a name and case number. The Supreme Court lifted the moratorium in March.

Barbara Petersen, president of the First Amendment Foundation, said it will take the clerks some time.

“I’m glad that the moratorium has been lifted,” Petersen said. “The clerks are going to move as quickly as they can to get this implemented. The clerks that I’ve talked to want very much to provide online access, because it makes their job easier. There’s not as many people walking into the courthouse requesting records.”

--- Index References ---

News Subject: (Government Litigation (1GO18); Legal (1LE33); Judicial Cases & Rulings (1JU36); Civil Rights Law (1CI34))
Most court records could soon be available online

March 25--The Florida Supreme Court has lifted a decade-long moratorium on electronic access to court records, but it will likely be more than a year before the public can view Hillsborough County court records online, according to Clerk Pat Frank.

Since last year, attorneys have been required to file civil pleadings electronically in Hillsborough County. All lawyer-submitted criminal filings must be made electronically by April 22. And traffic filings will be electronic by the end of July.

The Florida Supreme Court imposed a moratorium in 2003 on the dissemination of most court records over the Internet to give court officials time to change court rules and protect confidential records. Since then, the Florida Courts Technology Commission has been working on proposals to adapt court rules and procedures to adapt them to the electronic age.

On March 19, the Supreme Court issued an order lifting the moratorium and establishing standards for electronic access to different kinds of court records.

"I really am pleased," said Barbara Petersen, president of the First Amendment Foundation. "I don't know what took them so long, but I really am pleased that they've lifted it."

"Right now, you have to go to the courthouse to get virtually anything, so this is excellent and a huge step forward," Petersen said, adding she questions some of the details, however, such as the courts not allowing electronic access to divorce records.

The Supreme Court issued a complicated set of rules, accompanied by a spreadsheet breaking down who has access to what information and under what circumstances. For examples, judges and court personnel will have access to virtually everything that has not been expunged or sealed, but attorneys and parties to cases will be able to see fewer documents online and anonymous members of the public will see even less.

There are also separate rules for law enforcement, general online subscribers, and the attorney general, among others.

The chart appears to say that the general public will have to submit requests to the clerk's office for most categories of documents, allowing the clerk's office to remove personal identifying information or information about victims of sexual or child abuse before making the documents public online. Once the specific documents are posted after review, they will be viewable by everyone without further request.

Hillsborough County Court Clerk Pat Frank said her office is still working on its electronic case management system and has to explore redaction software for removing confidential information from electronic records before allowing online access.
"I would like to say we could just throw the switch" and make records accessible online, Frank said. But in reality, it likely will take a year after the traffic records are electronic, she said.

"It's just very tedious," said Frank, who said her staff is limited. "These people have been working weekends and they've been working overtime at night. Many of them don't get overtime pay."

Frank said the staff has to figure out how to work under the new rules and procedures. "There's going to be a learning period for everybody," she said. "There's going to have to be a lot of training."

esilvestrini@tampatrib.com

813-259-7837

Twitter: @ElaineTBO

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