



REPORT:
**Tour of Florida Courthouses
to Access Court Records**

Provided by
Thomas & LoCicero, PL
on behalf of the
News Media Coalition

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Introduction

For several years, the Thomas & LoCicero law firm has represented a large coalition of media organizations¹ focused on ensuring that principles underlying the constitutional rights of access to the records of the judicial branch remain a priority in our state, particularly as the courts transition to e-filing and court clerks push the public to look for court records online rather than at the courthouse.

Recently, in order to demonstrate how access is working on the ground in Florida's courts, an experienced journalist, Ryan Abbott, the regional bureau chief for Courthouse News, took a tour through courthouses at the southern and northern ends of the state, while also gathering information from the middle swath. Access, both online and at the counter, is routinely delayed. Here's his description of what happened:

Key West

Mr. Abbott started at the southernmost point of the state, in early October. At the Key West courthouse for Monroe County Circuit Court, he walked into the clerk's office and politely asked to inspect a complaint in a case that had been filed the day before, based on a docket record seen on a public terminal at the courthouse. A counter clerk told him the complaint was in the Odyssey case management system but not publicly available. She told him the only way to see the complaint was to print it out for the price of one dollar per page. So Mr. Abbott paid six dollars for a printout.

From there he drove to the Marathon branch of the court where the counter clerk told him that new cases must first be docketed, redacted and then assigned a case number, a process that takes a day or two. She said a new case can only be inspected if a case number is provided first. Since there were no public terminals through which to find case numbers for recent filings, Mr. Abbott left without reviewing a filing.

At the Plantation branch of the court, Mr. Abbott asked to see the new complaints filed that day. The counter clerk told him that her office had three days to docket and open a new file. The clerk said the journalist must wait for the docket to appear on the court's website, then call the branch with a case number, pay over the phone by credit card, and then wait for a copy of the complaint to be delivered via email. She said that in order to inspect the case for free at the

¹ The coalition includes The Associated Press; The Bradenton Herald, Inc.; Courthouse News Service; the First Amendment Foundation, The Florida Press Association; TEGNA Inc. (d/b/a WTLV-TV/WJXX-TV, and WTSP-TV); Gannett Co., Inc. (d/b/a *Florida Today*, *Indian River Press Journal* (*Treasure Coast Newspapers-Vero Beach*), *Naples Daily News*, *The News-Press*, *PNJ.com/Pensacola*, *The Stuart News* (*Treasure Coast Newspapers*, *Fort Pierce*), *Tallahassee Democrat*; Gatehouse Media, LLC (d/b/a *The Apalachicola Times*, *Crestview News Bulletin*, *Daily Commercial*, *Herald-Tribune*, *Holmes County Times Advertiser*, *News Chief*, *Northwest Florida Daily News*, *Ocala StarBanner*, *Palm Beach Post*, *Panama City News Herald*, *Santa Rosa's Press Gazette*, *The Daytona Beach News-Journal*, *The Destin Log*, *The Florida Times-Union*, *The Gainesville Sun*, *The Ledger*, *The Mirror*, *The Star*, *The St. Augustine Record*, *The Walton Sun*, and *Washington County News*); Miami Herald Media Company; The New York Times Company; Nexstar Media Group, Inc. (d/b/a WFLA-TV, WKRG-TV and WMBB-TV); Orlando Sentinel Communications Company, LLC; Scripps Media, Inc. (d/b/a FOX4, WFTS-TV and WPTV-TV); and Sun-Sentinel Company, LLC.

counter, a reporter must wait for the filing to be docketed and opened online, record the case number, then return to the clerk's office and ask for the cases to be printed out. No images were available online, and there were no public terminals at the courthouse. Mr. Abbott left without reviewing a filing.

Miami

He then drove north to the courthouse for Miami/Dade County Circuit Court and asked a counter clerk for a copy of a complaint filed two court days earlier. The complaint had been docketed but an icon representing the image of the complaint was grayed out, meaning it could not be opened.

The counter clerk said he could *not* allow Mr. Abbott to review the case for free. Mr. Abbott then asked if he could pay for a printout at a dollar per page. The counter clerk said normally that would be the case, but this complaint could not be printed. A supervisor then invited the journalist into his office to explain that the document had not yet been sent over to his office from "tech services," which handles redaction by automated software. The supervisor further explained that the redaction software regularly breaks down, but tech services does not inform the rest of the clerk's office of the breakdown. When the software is not broken, and a complaint image is successfully sent over to the clerk's office, it must be hand-redacted by court personnel before it becomes public. The supervisor expressed frustration with what he termed "a broken system" and rhetorically asked what could be expected from a county that could not even pay for his business cards.

In reviewing the court's records, Mr. Abbott observed that the current delay for free inspection of new complaints filed in Miami is roughly eight court days. In other words, the court is withholding new filings for eight court days after the day of filing. In the paper era, in the same court, new civil actions could be inspected as soon as they crossed the counter. As a matter of routine on the courthouse beat, journalists in Miami/Dade checked the stack of new civil complaints at the end of the day and looked through the filings from that same day.

Mr. Abbott stopped for the evening in Davie, Florida to attend a fund-raising dinner for the First Amendment Foundation. Columnists Dave Barry and Carl Hiaasen spoke on the theme of public access to government records, training their wit on the electoral process in Florida and the Division of Elections.

Fort Lauderdale

In the morning, Mr. Abbott set out for Broward County Circuit Court. In the clerk's office, he asked to look at the most recent civil complaints. He was sent to the "copy window" where two window clerks told him new filings could not be seen until they were "validated." Validation, they explained, is the process of reviewing the documents and redacting any confidential information. They said validation is *not* done on request. Once validation occurs, the filings are available on the court's website and the clerk's office public terminals at the same time.

Based on observation, the amount of delay ebbs and flows in Broward, at times falling behind by three or four days and then being caught up to one day. In order to review the flow of filings – the electronic equivalent of the paper stack of new filings – a reporter needs to pay \$1

for a search of a series of case numbers. During his visit, the most recent filing Mr. Abbott could inspect was from the previous day.

Palm Beach

At the counter in the clerk's office in Palm Beach County Circuit Court, Mr. Abbott asked to inspect a series of recent cases based on docket information from public terminals at the courthouse. He was told by a counter clerk that images of new records were "locked" until they are reviewed by a court employee, uploaded, and then available for review remotely and at courthouse terminals, at the same time.

The counter clerk said the whole process takes "up to three days," an estimate that was confirmed through observation. The docket is generally posted one day after the filing and redaction takes one to two days more.

Okeechobee

From Palm Beach, Mr. Abbott drove to Okeechobee Circuit Court, entered the clerk's office on the first floor and asked to review recent civil complaints. He was directed to a nearby room with public terminals and found that the most recent docketed complaint was three days old. The docket entry included an image that could be opened up. A counter clerk told him that any new case must be accepted and reviewed before it can be seen.

Mr. Abbott asked if there was any way to see more recent complaints, through an intake log, for example. The counter clerk said, "Before acceptance, we do not know a file exists." Mr. Abbott was unable to see any new complaints less than three days old.

Osceola

Mr. Abbott then drove north on a beautiful sunny afternoon to Osceola Circuit Court, where he entered the clerk's office and found a more chilly environment. On the third floor, he was met outside the elevator door by a desk clerk handing out number tickets. The clerk sent him to a windowless room with a TV monitor displaying ticket numbers. His number came up and he went to the designated window to meet a combative clerk. When Mr. Abbott asked how he could inspect new complaints, she answered, "You can't do that."

He said he was a reporter and was confident that he was asking for public records. The clerk told him to go online, where, she said, access was "instantaneous." In fact, online access to the complaints themselves is running between three and four court days behind the day of filing. The reporter asked the window clerk if there were public terminals in the courthouse, and she sent him to the "information room."

He found docket information for a case filed that morning, without an image attached. He proceeded to the reception desk in the information room and asked if he could see the document. The desk clerk said it would need to be "unlocked." Because the end of the work day approached, he didn't have the time. He suggested that Mr. Abbott register online for access, but then added that registrants needed to be attorneys. Online, a would-be registrant must indeed include a Florida bar number. Mr. Abbott left without seeing any records.

Orlando

In order to report on a court in the middle swath of Florida, Mr. Abbott asked reporter Marilyn Alvarez to visit Orange County Circuit Court and attempt to see any recent civil actions. In the clerk's office on the third floor, a counter clerk told the reporter that the court must "accept and approve" a new civil filing before the docket can be seen both at the courthouse and online.

The related documents must then go through a redaction program, the clerk explained. The goal is to redact new filings within 24 to 48 hours, she said, conceding that the office has fallen behind. On the public terminal at the courthouse, a search for the most recent civil case available for inspection showed that the office was in fact withholding cases for *six court days* after the day of filing. Noted the counter clerk, "Lots of documents, not enough hands."

Tavares

Ms. Alvarez went to the information desk in Lake County Circuit Court, and was sent to the check-in window on the first floor, and from there to the reading room next door, a room with computer terminals. A search for the most recent cases showed that a small drawing of a lock was superimposed on the document icons. In order to see a new complaint, she was required to enter her email address and click request.

She then went back to the check-in window and asked if it was possible to see the complaints that were locked or any that were filed that day. The counter clerk said that unless the reporter was a party to the case, she must request the new complaint and wait for it to be redacted. The request goes to the IT department for redaction, and it usually takes two to three business days. The documents are not redacted unless someone makes a request for the document.

DeLand

At the courthouse for Volusia County, Ms. Alvarez was directed to three public computer terminals on the second floor. On a tab titled "daily cases filed circuit civil," no cases from the same day were visible. She went to the counter and talked with a counter clerk and her supervisor who explained that if a new complaint is not available on the computer terminal, it cannot be reviewed.

They further explained that an efiled case first goes into a queue where its reviewed and accepted by a clerk in the courthouse call center and then goes into a second queue where it is reviewed by the civil department which also checks that the fees are paid and hand redacts the document. The document is then machine redacted when it is opened by a member of the public. They said the clerk's goal is to have documents publicly available within three business days. Actual delays vary from day to day but that estimate was about right overall.

Yulee

In late October, Mr. Abbott returned to visit courts along Florida's northern border. He took a car for hire to the clerk's office in Nassau County Circuit Court. At the clerk's counter,

he spoke to a clerk behind a glass window who turned her own terminal around, explaining that it was the court's public terminal. She passed a mouse under the glass to Mr. Abbott and directed him to the court's website.

While she watched, he attempted to open the court's search page but was met by a display saying the page was unresponsive. The clerk said she would call the "tech people" and left a message with them. While the reporter and the clerk waited, she explained that the clerk must first "accept" a new case, at which point docket information becomes available on the court's website. The images, however, are held for "review." Once a clerk manually reviews the filing, the clerk explained, the document becomes public.

She said a particular case can be requested "on demand," which will move that filing to the head of the redaction line. "We have three days," she said, to complete the redaction. After waiting for roughly 20 minutes, Mr. Abbott left the courthouse without having inspected any new filings, recent or otherwise. On the way to pick up a rental car, his rideshare driver explained to a fellow fisherman that he successfully fishes for smallmouth bass in culverts by the side of the road while he waits to be pinged for his next fare.

Jacksonville

A rental car secured, Mr. Abbott drove due south to the massive courthouse for Duval County Circuit Court where he proceeded to the clerk's office on the ground floor. He pressed a button to speak by microphone to an apparently disgruntled counter clerk on the other side of thick glass. The clerk refused to answer any questions about the process, sending him instead to the law library on the second floor where he was able to get on a public terminal.

A kindly librarian there instructed him to open an internet browser and go to the court's website. The most recent docket records were for cases filed two days earlier. Each docket was accompanied by a document icon upon which was superimposed the word "LOCKED." Mr. Abbott went back downstairs to the clerk's office and explained that the images were locked. The clerk told him that the public cannot look at the documents "unless you are a party."

Mr. Abbott countered that the records are public and asked for a supervisor. The clerk returned without a supervisor and explained that Mr. Abbott should sign up online for an account. After two days, if the request for an account is granted, he could then ask online for a case to be "unlocked," a process which generally requires a full court day. Mr. Abbott left without being able to inspect any case.

Macleenny

Mr. Abbott then headed west to Baker County Circuit Court. He walked into a traditional clerk's office where he was able to talk directly to a clerk at a long counter. He was directed to a public computer terminal where he opened a program called "Clericus" and was able to search for new cases.

In a low volume court, the most recent case was from the previous day. The icon was not locked and the associated document opened for review. He then went to the counter to inquire about procedure for making new filings public. The clerk's IT employee overheard the conversation, approached and shook hands with Mr. Abbott. He explained that when a case is

filed in paper or electronic form, the documents can be seen on Clericus right away, while access on the court's website is delayed by one day.

He also described a security matrix that allows court officials to see documents without clerk redaction but excludes the public and the press. If the document clears an initial automated review, he said, it is available right away on Clericus. If it does not, anyone can come to the counter and ask to see a document which will be promptly reviewed and posted.

He then asked if the reporter was involved with the First Amendment Foundation to which Mr. Abbott replied that he had attended a function for the foundation a couple weeks earlier. The court employee expressed strong approval of the foundation's work. Mr. Abbott explained that the court was providing the best access he had yet encountered in Florida. The Court Clerk herself then came forward and introduced herself. In the course of a conversation, she expressed frustration with the redaction rule, saying that one court employee's entire work day was dedicated to redacting every document that came into the courthouse.

Lake City

Mr. Abbott then drove southwest to Columbia County Circuit Court. He found a public terminal in the clerk's office and clicked on the Clericus icon, but it required a user name and password. He went up to a counter clerk who summoned an official who told Mr. Abbott, "You can't use Clericus."

She said the program was restricted to clerks processing complaints. She told Mr. Abbott to use the public terminal to open an internet browser and go to the court's website, in order to search for new filings. On the court's website, the most recent docket was for a case filed the previous day. But the image icon was grayed out, meaning it would not open. Affixed to the public terminal was a printed message that said, "In order to protect confidential information that may be contained in otherwise public records, certain cases are available only after specific request and additional clerk inspection."

Mr. Abbott returned to the counter. A few steps back from the counter, three clerks sat at desks. In the manner of a chorus, they explained that all the complaints are "locked" and remain locked until a specific unlocking request is made. Then it takes 24 to 48 hours to unlock a complaint, they said, because there is only one clerk to redact documents for the entire building. Mr. Abbott then picked up an order of sushi and spent the night at Holiday Express in Lake City.

Jasper

In the morning, he drove through a terrain of woodlands and open fields to Hamilton County Circuit Court. He entered a small courthouse and found his way to the clerk's counter. In response to a request to see recent civil complaints, the counter clerk looked puzzled and referred him to the processing clerk.

She explained that she processes new filings once a day and the docket can then be reviewed online. She said images of documents are "mostly on demand." She explained that a security matrix allows judges and clerks to see the documents right away but members of the public and reporters must request that the documents be "unlocked."

She said the unlocking request is made online and that she is notified “on the computer,” pointing to her terminal. She then reviews the documents and unlocks them generally on the following work day. Because the clerk’s office had no public terminals, Mr. Abbott was not able to search for the most recently filed case and left without being able to inspect any recent filings.

Madison

Driving due west, Mr. Abbott proceeded to the big, traditional courthouse for Madison County Circuit Court. When he started asking questions, a counter clerk called the Court Clerk on a phone, explaining that a reporter wanted to see some new complaints. The Clerk arrived a short time later, shook hands with Mr. Abbott, and brought him over to talk with the lone processing clerk in the court’s records room, which was filled with large bound volumes of docket ledgers.

The processing clerk explained that she keeps a handwritten intake log on a yellow pad, listing the date, case number and parties for each new complaint as it comes in. Mr. Abbott asked to see the most recent case on the intake log. The processing clerk walked to a shelf, pulled a paper file, looked over the document inside, and handed it to Mr. Abbott.

The records room in Madison was like a fossil reminder of the excellent paper access once provided in Florida’s courts, and it was the only remaining example of traditional access found by Mr. Abbott on his voyage through the courts of Florida.

Monticello

Proceeding west, with news radio reporting that a Florida man had been arrested over a recent spate of mail bombs, Mr. Abbott drove towards Monticello. In a small town with 14,000 people, the traditional courthouse for Jefferson County Circuit Court sits in the very middle of town at the center of a traffic circle.

At the clerk’s counter, an employee showed Mr. Abbott to the “vault records room,” about the size of a large closet and filled with the aroma of dusty books. While an antiquated computer terminal was fired up, the counter clerk explained that dockets and document images could be seen online. She said the new filings must be redacted before they can be inspected. She said the clerk’s office has Clericus, but it doesn’t work.

From the public terminal, Mr. Abbott conducted a search for the most recent case which had been filed ten days earlier in the very low-volume court. He was able to review the document itself.

Tallahassee

Driving west towards his final stop on the Florida tour, Mr. Abbott arrived at Leon County Circuit Court, directly across from the state Capitol, on the first day of early voting. In the center of the foyer for the circuit court clerk’s office was a room extending out from the clerk’s counter titled “HELP ROOM” and containing a row of public terminals. He was able to find dockets for new complaints filed earlier that same day, but no documents could be opened. A box next to each docket item said “req,” standing for “request.”

Mr. Ryan approached a counter clerk's window and explained that the documents tied to the docket records were locked, and he wanted to see them. She answered that, in order to look at them, he must make a request through the clerk's website. The clerk's office must then review the document and unlock it. However, he could also fill out an application, have it notarized and send it back to the clerk, she told him.

After the application was accepted, Mr. Ryan was able to review a small number of cases from the same day while most were delayed until the following day. That registered access is the same at the courthouse and online. Without registering, Mr. Abbott could either fill out a written form at the courthouse, or make an email request on a courthouse terminal. An automated reply to any such email states, "It may take up to seven business days to fulfill this request."

Mr. Abbott then left for the airport, stopping first by a tavern next to Florida State University on the eve of a football game.