

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MAINE

\_\_\_\_\_)  
COURTHOUSE NEWS SERVICE, )  
MTM ACQUISITION, INC. d/b/a )  
*Portland Press Herald, Maine Sunday* )  
*Telegram, Kennebec Journal,* and )  
*Morning Sentinel,* )  
and SJ ACQUISITION, INC. d/b/a )  
*Sun Journal,* )  
)  
Plaintiffs, )  
)  
v. )  
)  
JAMES T. GLESSNER, in his Official )  
Capacity as State Court Administrator )  
for the State of Maine Judicial Branch, and )  
PETER SCHLECK, in his Official )  
Capacity as Clerk of the )  
Penobscot County Superior Court, )  
)  
Defendants. )  
\_\_\_\_\_)

Civil No. \_\_\_\_\_

**DECLARATION OF BRENDA HERRLING**

I, Brenda Herrling, hereby declare and state as follows.

1. I am a reporter for plaintiff Courthouse News Service (“Courthouse News” or “CNS”). I make this declaration on personal knowledge in support of the plaintiffs’ Motion for a Preliminary Injunction.
2. I have worked as a reporter for Courthouse News Service for five years. Among other things, I am responsible for reporting on new case filings in the Penobscot County Superior Court in Bangor. My job responsibilities include traveling to the courthouse in Bangor on a regular basis, reviewing newly-filed civil actions, and procuring copies of complaints in cases of interest for inclusion in New Litigation Reports published by Courthouse News.

3. Until recently, the clerks at the Bangor courthouse would provide me with the paper case files for newly filed cases, and I would review them. I would then make copies of any complaints of interest and forward them to my supervisor. Courthouse News would then write short summaries of their allegations for inclusion in its New Litigation Reports for the Maine state courts. Those New Litigation Reports are then emailed to CNS's subscribers.

4. In December 2020, I became aware that the Penobscot County Superior Court had implemented electronic filing for all cases. After the switch to e-filing, the court stopped providing me with paper copies of newly filed court records. To my understanding, that is because paper files were no longer being created. Instead, the court began offering an online docket to locate and review new cases. However, the website was unable to display any information concerning electronically filed cases.

5. On January 15, 2021, I met with Peter Schleck, the Clerk of the Penobscot County Superior Court. Mr. Schleck informed me that there was a problem with the online database that was preventing new, electronically filed cases from being displayed. Mr. Schleck agreed that going forward, I would be permitted to call ahead before my visits to the courthouse and inform the clerk's office that I would be visiting and that I would like to see all cases filed since my last visit. The clerk's office would then print out the docket sheets (Register of Action) for each new case and have them waiting for me. When I would arrive at the clerk's office for my next visit, I would be able to go through the docket sheets to find the complaints I wanted, and then request a copy of those complaints from the clerk's office.

6. On January 22, 2021, I visited the clerk's office again, and requested docket sheets for all of the cases that had been filed since my previous visit on January 15. The clerk's office gave me the docket sheets for four cases, bearing docket numbers PENSC-CIV-2021-

00005 through PENS-CIV-2021-00008. Two of these cases (005 and 006) had been filed on January 14, 2021; no. 007 was filed on January 19, and no. 008 was filed on January 20, 2021.

Copies of these docket sheets are attached hereto as **Exhibit 1**.

7. After receiving the docket sheets for these cases, I asked for copies of the complaints filed in them. The assistant clerk informed me that I was not permitted to see the complaints because none of them had been served. The assistant clerk referred to the Maine court rule providing that electronically filed complaints are not publicly available until three business days after docketing of a proof of service.

8. On January 26, 2021, I returned to the Superior Court in Bangor. I requested the dockets of the new cases that had been filed since my last visit. I received two docket sheets in cases filed on January 26, nos. 0010 and 0011. However, the clerk informed me that I could not obtain a copy of the complaints in these cases because the clerk's office had not received a proof of service. A copy of the docket sheets for these matters is attached hereto as **Exhibit 2**.

9. During my visit on January 26, 2021, I asked the clerk how long it might take for the complaints in the cases I had been researching to be served. She responded that service could take up to 90 days after filing, and that during that time—plus three business days after the filing of a proof of service—the complaints would remain unavailable.

10. On January 27, I visited the clerk's office again, and this time asked for the docket sheet in *City of Bangor v. Kim Dalton et al.*, No. PENS-CIV-2021-00003, filed on January 11, 2021. The docket, attached hereto as **Exhibit 3**, states that the clerk's office accepted a proof of service in the case on January 25. I asked the assistant clerk for a copy of the complaint. She told me the complaint was not yet available because three business days had not elapsed since the acceptance of the proof of service.

11. On January 28, 2021, I visited the clerk's office again, and requested a copy of the complaint in *City of Bangor v. Dalton*. The clerk provided me with a copy of the complaint, 17 days after it was first filed.

12. On Friday, January 29, 2021, I returned to the Bangor clerk's office and reviewed a copy of the docket in *Bangor Pub. Co. v. State of Maine*, No. PENS-CIV-2021-00013, a Freedom of Access Act case filed the previous evening, January 28. A copy of this docket is attached hereto as **Exhibit 4**. I was not permitted to see the complaint in this case, because of the rule that public access is delayed until three business days after acceptance of a proof of service. I returned to the court on Monday, February 1, 2021, and was informed that the complaint was still not publicly available.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on February 2, 2021.

/s/ Brenda Herrling  
Brenda Herrling