

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**COURTHOUSE NEWS SERVICE,**  
30 N. Raymond, Third Floor  
Pasadena, CA 91103

**Plaintiff,**

vs.

**AFTAB PUREVAL, in his official capacity as Clerk  
of the Hamilton County Court of Common Pleas,**  
Hamilton County Clerk of Courts  
1000 Main Street, Room 315  
Cincinnati, OH 45202

**Defendant.**

CIVIL ACTION NO. 21-CV-197

JUDGE:

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

Plaintiff Courthouse News Service (“Courthouse News” or “CNS”), by and through its undersigned attorneys, alleges the following in support of its Complaint for Injunctive and Declaratory Relief against Defendant Aftab Pureval, in his official capacity as Clerk of the Hamilton County Court of Common Pleas (“Defendant”).

**INTRODUCTION**

1. The First Amendment provides the press and public with a presumptive right of timely access to civil complaints filed with the court. This right of access attaches to new complaints upon filing which occurs at the time of receipt. Where the right of access applies, it must be contemporaneous. Such access is fundamental to the press and public; it is essential to accurate and fair news reporting of civil court actions, and thus vital to the public’s ability to discuss what is happening in an important branch of government. Delayed access inhibits that

discussion.

2. Courts across the country have recognized that the presumptive right of access attaches to judicial documents, including civil complaints, upon filing. When a complaint is withheld, the news it contains grows stale and the public is left unaware that a case has been filed and that the powers of the judicial branch of government have been invoked.

3. A new civil complaint is filed with the Hamilton County Court of Common Pleas (“HCCCP”) when it is received by the clerk. But Defendant enforces a policy and practice of withholding access to new civil complaints from the time they are received until after they are processed by court staff. Processing takes time. It consists of clerical activity, including “filing cleanup.”

4. Defendant in effect seals the new complaints until their news value has diminished or disappeared through his policy of “no-access-before-process.” Similar no-access-before-process policies have been deemed unconstitutional in a series of cases brought by Courthouse News. In 2009, the U.S. District Judge Melinda Harmon of the Southern District of Texas struck down the Harris County clerk’s policy delaying access to new e-filed complaints until after docketing. In 2016, the U.S. District Judge Edgardo Ramos of the Southern District of New York enjoined the policy of the Manhattan trial court clerk denying press and public access while new filings were being “reviewed and logged.” In 2020, U.S. District Judge Henry Coke Morgan Jr. of the Eastern District of Virginia struck down a policy in Norfolk and Prince William counties that delayed access to new paper filings so that the court could first docket and scan them. In 2021, U.S. District Judge Dolly Gee in Central District of California declared a right of access to new civil complaints when received, before processing.

5. Courthouse News is informed and believes that HCCCP built its own e-filing

system and it shares basic characteristics common to all e-filing systems: (i) the filer goes through a set of screens online that require a selection of court, case type and the payment of fees; (ii) the filer then sends that information with a PDF document into an e-file manager (“EFM”), sometimes called a “catcher’s mitt”; (iii) the EFM automatically assigns a transaction number and delivers the information and PDF into a clerk review queue; (iv) the documents sit in the review queue while they wait for court staff to process them; and (v) once processed, the documents move to the docket or “case management system.”

6. Many state courts and most federal courts provide access when the new complaint is caught by the catcher’s mitt, before it is clerically processed. That point of access mirrors the traditional point of access to paper filings, when they were received, before they were docketed.

7. Defendant’s no-access-before-process policy results in regular delays in access to new complaints. Since the beginning of 2020 through February 2021, there have been several months in which Defendant withheld access to *more than 40%* of new e-filed civil complaints for at least one court day, with many complaints withheld for two or more court days. In fifteen weeks during that period, Defendant has withheld *more than 50%* of the new complaints on the day of filing. These delays are unnecessary and easily avoidable, as demonstrated by the federal and state courts across the country that provide access upon receipt. Likewise, Defendant can provide on-receipt access, but has chosen not to.

8. Since 2012, Courthouse News has requested timely access from a succession of two HCCCP clerks. The latest on that list is Defendant who, like the one before him, has refused Courthouse News’ request. Like the previous clerk, he continues to withhold access to new e-filed complaints until after processing. As a result, Courthouse News continues to see significant delays in access to new civil complaints filed in HCCCP.

9. Courthouse News brings this action to address a violation of the First Amendment and seeks declaratory and injunctive relief.

### **JURISDICTION AND VENUE**

10. The claims Courthouse News asserts in the Complaint arise under the First and Fourteenth Amendments to the United States Constitution and the Civil Rights Act, Title 42 U.S.C. §§ 1983-1988. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 (federal question), 1343 (civil rights), and 2201 (declaratory relief).

11. Venue is appropriate in this judicial district of the United States District Court for the Southern District of Ohio under 28 U.S.C. § 1391(b) because Defendant resides in Ohio and is employed in this district by the Hamilton County Court of Common Pleas. Venue is also appropriate because a substantial part of the events or omissions giving rise to Courthouse News' claims occurred in this district, specifically at the Hamilton County Court of Common Pleas.

### **THE PARTIES**

12. Courthouse News is a nationwide news service founded almost 30 years ago out of a belief that a great deal of news about civil litigation went unreported by traditional news media, a trend that has only increased in the last decade. Courthouse News now employs approximately 240 people, most of them editors and reporters, covering state and federal trial and appellate courts in all 50 states in the United States.

13. Defendant Aftab Pureval, as the Clerk of Courts for the Hamilton County Court of Common Pleas, is being sued in his official capacity as the Clerk. The Clerk is responsible for, among other things, the administration of court records at HCCCP. According to the Clerk's official website, the "Hamilton County Clerk of Courts is the official record keeper and agent of Hamilton County's Justice System." *About the Clerk's Office*, Aftab Pureval, Hamilton County Clerk of Courts, <https://www.courtclerk.org/general-information/about-the-clerk/about-the->

clerks-office/ (last visited Mar. 21, 2021). The website also lists the services the Clerk's office provides. The very first service listed is to "[p]rovide public access to the records of the Court in Hamilton County." *Id.*

14. Acting in his official capacity, Defendant, and the clerks acting under his direction and supervision, are directly involved with and/or responsible for the delayed access to newly filed complaints experienced by Courthouse News and other members of the press. Such acts reflect the official policies and practices of Defendant's office as a whole.

15. Defendant's actions, as alleged in this Complaint, are under the color of Ohio law and constitute state action within the meaning of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983. On information and belief, Defendant Aftab Pureval's primary place of employment is in Hamilton County, Ohio.

16. Defendant is sued in his official capacity only. Courthouse News seeks relief against Defendant as well as his agents, assistants, successors, employees, and all persons acting in concert or cooperation with him or at his direction or under his control.

### **FACTUAL ALLEGATIONS**

17. Courthouse News has challenged access take-aways by state courts as they adopted electronic filing in recent years. Following the Ninth Circuit's ruling in *Planet III*, 947 F.3d. at 590, which case had been in litigation for a decade, Courthouse News again wrote to Defendant. On January 26, 2021, Courthouse News sent a written request for on-receipt access to new, public court filings.<sup>1</sup> On February 11, 2021, Courthouse News notified HCCCP and its presiding judge of the Defendant's lack of response and the existing delays in direct access to new e-filed civil complaints.<sup>2</sup> After being informed that Courthouse News' request was referred to HCCCP's

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<sup>1</sup> (Letter to Aftab Pureval, attached as Exhibit A).

<sup>2</sup> (Letter to Judge Jody Luebbers, attached as Exhibit B).

technology committee, Courthouse News also notified the judge leading the technology committee on March 5, 2021.<sup>3</sup>

18. Despite the efforts of Courthouse News, the Defendant has failed to implement a system to ensure on-receipt access to the newly filed civil complaints.

**A. Courthouse News' Reporting Activities**

19. Courthouse News publishes a variety of publications that include New Litigation Reports containing original, staff-written summaries of significant new civil petitions or complaints. In Ohio, Courthouse News publishes 4 New Litigation Reports: the CNS Cincinnati Report, the CNS Central Ohio Report, the CNS Cleveland State Report, and CNS Cleveland Federal Report. The CNS Cincinnati Report provides coverage of new litigation throughout the southern third of Ohio, including Hamilton and Montgomery counties, as well as Boone, Campbell, and Kenton counties in Kentucky.

20. Courthouse News also publishes the *Daily Brief*, which covers published appellate rulings in state and federal courts, including the appellate courts in Ohio, the U.S. Supreme Court and federal circuit courts, as well as significant rulings from the federal district courts. Courthouse News also publishes a freely available website, [www.courthousenews.com](http://www.courthousenews.com), featuring news reports and commentary, which is read by roughly 30,000 people every weekday. The website functions much like a print daily newspaper, featuring staff-written articles from across the nation that are posted throughout each day, and rotated on and off the page on a 24-hour news cycle.

21. Courthouse News has been credited as the original source of reporting on various topics by a wide range of publications, including: *ABA Journal*, *ABC News*, *The Atlantic*, *Austin American Statesman*, Black Christian News Network, *California Bar Journal*, CBS News, *The*

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<sup>3</sup> (Email to Judge Chris Wagner, attached as Exhibit(s) C1 and C2).

*Dallas Morning News*, Fox News, *Houston Chronicle*, *Los Angeles Times*, National Public Radio; NBC News, *The New York Times*, Politico, *Rolling Stone*, *Salt Lake City Tribune*, *The Wall Street Journal*, *The Washington Post*, *USA Today*, *U.S. News and World Report*.

22. Courthouse News has more than 2,200 subscribers nationwide, including law firms, law schools, government offices and news outlets such as: The Associated Press, *Austin American-Statesman*, *The Atlanta Journal Constitution*, *The Boston Globe*, CNN, *The Dallas Morning News*, *Detroit Free Press*, *Honolulu Civil Beat*, *Las Vegas Review Journal*, *Los Angeles Times*, *Portland Business Journal*, *St. Paul Business Journal*, *The Salt Lake Tribune*, *The San Jose Mercury News*, *Tampa Bay Business Journal*, Variety, Walt Disney Company and Warner Bros.

23. In Ohio, the Courthouse News litigation reports cover civil complaints, focusing on those against business institutions and public entities. Courthouse News reporters do not cover family law matters, name changes, probate filings, most mortgage foreclosures, or collection actions against individuals unless the individual is famous or notorious. Larger courts, such as Hamilton County and Cuyahoga County, are covered daily with reports emailed to subscribers nightly.

24. To prepare the New Litigation Reports and identify new cases that may warrant a website article, Courthouse News' reporters review complaints filed with the court that day. Courthouse News does not seek to review or report on the tiny fraction of new civil complaints that are sealed or statutorily confidential. Given the nature of news coverage and the Courthouse News publications, any delay in the ability of a reporter to obtain and review new complaints necessarily holds up the reporting on factual and legal controversies for subscribers and readers.

25. Courthouse News began covering Ohio courts in 2003 – in the paper era – when both state and federal courts gave the press access to newly filed civil complaints as they crossed

the counter in the clerk's office, when the news they held was fresh. This nationwide tradition of access was observed by HCCCP and the Northern and Southern Districts of Ohio.

26. In those paper years, the HCCCP clerk gave the press and public access to new paper complaints as soon as they crossed the counter, before they were docketed. When the new complaint crossed the counter, the intake clerk placed a copy of the complaint in a black, plastic tray which remained on top of the clerk's counter, year in and year out, where the complaints were freely available for review. After switching to e-filing, the HCCCP clerks abandoned tradition and pushed press access behind docketing (also called "processing").

27. Nearly all federal district courts and many state courts provide access to new civil complaints on receipt. HCCCP could also do so but does not. Instead, the Defendant withholds the complaints until after court staff have processed them, in effect sealing them until clerical tasks are completed. As a direct result, there are significant delays between when a new complaint is e-filed and when it can be seen by the press and public.

28. Prior to commencing this action, Courthouse News tracked and compiled access data for civil complaints e-filed at HCCCP. The data notes delays between when each complaint was received by the court and when each complaint was made public.

29. From January 1, 2020, through the end of February 2021, Courthouse News tracking showed that delays in access at HCCCP were regular and pervasive. Over that period, an average of 41% of newly e-filed civil complaints were withheld from public access for at least one court day and about 11% were withheld at least two days.

**B. Part I: First Amendment Right of Access Attaches to New Civil Complaints**

30. Analysis of a First Amendment right of access claim is based on two steps. The first is to determine whether a right of access attaches and, if the right attaches, to determine

whether suppression of that right serves an overriding interest and is narrowly tailored. *Press-Enterprise Co. v. Superior Court*, 478 U.S. 1 (1986) (“*Press Enterprise II*”); *United States v. Miami Univ.*, 294 F.3d 797, 821 (6th Cir. 2002). (“We turn to the two-part test applied by the courts when determining whether a qualified right of First Amendment access attaches in a particular situation.”)

31. As to the first part of the test, the First Amendment to the U.S. Constitution and the analogous provisions of Sections 11 and 16 of Article I of the Ohio Constitution create a presumptive right of public access where (1) the information sought has “historically been open to the press and general public,” and (2) “public access plays a significant positive role in the functioning of the particular process in question.” *United States v. Miami Univ.*, 294 F.3d 797, 821 (6th Cir. 2002), citing *Press-Enterprise Co. v. Superior Court*, 478 U.S. 1 (1986); see also *State ex rel. Scripps Howard Broad. Co. v. Cuyahoga Cty. Court of Common Pleas, Juv. Div.*, 73 Ohio St. 3d 19, 20, 652 N.E.2d 179 (1995).

32. The first federal judge to consider the situation of a state court clerk withholding access in the transition to e-filing was U.S. District Judge Melinda Harmon in Houston in 2009. “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. “*Courthouse News Serv. v. Jackson*, C.A. No. H-09-1844, 2009 WL 2163609 (S.D. Tex. July 20, 2009), citing *United States v. Valencia*, No. CRIM H-04-514 SS, 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)).

33. The U.S. Supreme Court and the Sixth Circuit have confirmed that a right of access applies to judicial records, “[T]he courts of this country recognize a general right to inspect and

copy public records and documents, including judicial records and documents.” *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978); *Brown & Williamson Tobacco Corp. v. Federal Trade Comm’n*, 710 F.2d 1165, 1177 (6th Cir. 1983) (finding that the First Amendment limits judicial discretion to seal documents in civil case).

34. Historically, journalists covering HCCCP could review new complaints filed in paper form at the clerk’s counter. “There is no dispute that, historically, courts have openly provided the press and general public with access to civil complaints.” *Courthouse News Service v. Schaefer*, 440 F. Supp. 3d 532, 559 (E.D. Va. 2020; accord *Bernstein v. Bernstein Litowitz Berger & Grossman LLP*, 814 F.3d 132, 141 (2d Cir. 2016).

35. A “significant positive role” is played by public access to the new civil complaints because the new complaint serves as the opening attack in a legal battle, just as this complaint does. As a result, new civil complaints are a traditional source of news. The ability to be informed about those contests serves a significant positive role in our democracy. “Logical considerations also support a presumption of public access,” *Bernstein*, 814 F.3d 132, 141. The right to review new civil complaints “is an indispensable predicate to free expression about the workings of government.” *Courthouse News Serv. v. Planet*, 750 F.3d 776, 785, 787 (9th Cir. 2014) (“*Planet I*”). Accord, *Courthouse News Service v. Schaefer*, 440 F. Supp. 3d 532, 557-559 (E.D. Va. 2020) (“the Court finds that the experience and logic test is satisfied and finds that the public and press enjoy a qualified First Amendment right of access to newly filed civil complaints”).

36. News coverage operates in a daily cycle where newsworthy events, such as newly filed civil complaints, occur during the day and are reported that same afternoon and evening, only to start the cycle again the next day. Where news is delayed until the next day or longer, it is

devalued and less likely to be reported. In other words, delayed news becomes “old news.”

37. Recognizing this, a broad range of federal courts have said that once the right of access attaches, it must be contemporaneous. *Nebraska Press Ass’n v. Stuart*, 427 U.S. 539, 96 S.Ct. 2791, 49 L.Ed.2d 683 (1976) (“The 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.”); *Doe v. Public Citizen*, 749 F.3d 246, 272 (4th Cir. 2014) (“Because the public benefits attendant with open proceedings are compromised by delayed disclosure of documents, we ... emphasize that the public and press generally have a contemporaneous right of access to court documents”); *Globe Newspaper Co. v. Pokaski*, 868 F.2d 497, 507 (1st Cir. 1989); (“[E]ven a one to two day delay impermissibly burdens the First Amendment.”); *Courthouse News Service v. Planet*, No. 11-cv-8083, Amd. Judgment for Dec. Relief and Perm. Injunction, Doc. No. 270, p. 1 (C.D. Cal., Jan. 26, 2021) (“There is a qualified First Amendment right of timely access to newly filed civil complaints,” and that right “attaches when new complaints are received by a court, rather than after they are ‘processed,’ – i.e. rather than after the performance of administrative tasks that follow the court’s receipt of a new complaint.”).

38. In a First Amendment action over a no-access-before-process policy enforced by Milton Tingling, the state court clerk in Manhattan, U.S. District Judge Edgardo Ramos ruled from the bench, “In 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. The 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. Each passing day may constitute a separate and cognizable

infringement of the First Amendment.” *Courthouse News Serv. v. Tingling*, No. 16-cv-08742, 2016 WL 8739010, at \*19 (S.D.N.Y. Dec. 16, 2016) New York state courts then began providing on-receipt access to new e-filed civil complaints through a public website.

**C. Part II: Defendant Does Not Have an Overriding Reason for Withholding Access; His No-Access-Before-Process Policy is Not Narrowly Tailored**

39. Turning to the second analytical step under *Press Enterprise II*, once the Court determines the right of access attaches, a presumption of openness arises which can only be overcome by a showing that “closure is essential to preserve higher values and is narrowly tailored to serve those interests.” *Press- Enterprise II*, 478 U.S. at 13-14; *accord Planet III*, 947 F.3d at 596; *Bernstein*, 814 F.3d at 144; *Schaefer*, 440 F. Supp. 3d at 559-60.; *United States v. Edwards*, 823 F.2d 111, 115 (5th Cir. 1987) (citing *Press II*, 478 U.S. at 14-15). (Right of access 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.”); *accord Jackson*, (“It is the defendant’s burden to overcome this presumption,” citing *Press II*, 478 U.S. at 14.)

40. In *Press Enterprise II*, the principle competing with the right of access was the right to a fair trial. Here the right Defendant seeks to enforce is “filing cleanup.”<sup>4</sup> Filing cleanup does not override the First Amendment right of access. Defendant’s no-access-before-process policy, which denies access to *all* complaints and other judicial records until after processing by the clerk’s office, is the sort of “blanket prohibition on the disclosure of records” that “implicates the First Amendment.” *Pokaski*, 868 F.2d at 505-06; *Planet III at 594*. “CNS’s reporting on complaints must be timely to be newsworthy and to allow for ample and meaningful public discussion regarding the functioning of our nation’s court systems. ... [A] ban on reporting news

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<sup>4</sup> (*Guide to Electronic Filing*, Aftab Pureval, Hamilton County Clerk of Courts, p. 25 (July 1, 2019), <https://www.courtclerk.org/forms/userguide.pdf>.) (Attached herein as Exhibit D).

‘just at the time [the] audience would be most receptive’ would be effectively equivalent to ‘a deliberate statutory scheme of censorship.’ ...[T]he need for immediacy of reporting news is ‘even more vital in the digital age,’ where timeliness is measured in terms of minutes or seconds.”

41. Further, Defendant’s no-access-before-process policy is not narrowly tailored because it is easily avoidable, as courts across the nation give the press and the public on-receipt access to new e-filed complaints using a great variety of software systems (i.e. access before process). The vast majority of federal courts, including the U.S. District Courts for Northern and Southern Districts of Ohio, and many state courts have configured their e-filing systems to automatically release public civil complaints to the public at large as soon as the court receives them, weekday or weekend, day or night, remotely or at the courthouse.

42. A growing number of state courts also provide on-receipt access but take a different approach. They configure their e-filing systems to allow credentialed members of the press to see new e-filed complaints that sit in the clerk’s queue, awaiting clerical action by court staff. By doing so, these state courts continue the tradition of providing press access to new complaints after they have crossed the clerk’s intake counter and before they are docketed, enabling the press to review complaints on the day they are filed.

43. The access given in those courts goes by different names, but all share the common characteristic of on-receipt access to new public complaints. Los Angeles Superior Court, the largest court in the nation, provides such access through its “Media Access Portal,” allowing review of the numerous, new e-filings upon receipt, before processing. The New York courts, including New York County Supreme Court in Manhattan, provide access through a “new cases” tab on a statewide e-filing portal, on receipt, before processing. Courts using Tyler Technologies software, in Georgia, Nevada and California give access through a “Press Review Queue,” on

receipt, before processing. In Hawaii, a registered reporter receives on-receipt access at “eCourts Kookua,” meaning “help” in the Hawaiian language.

44. While there are many variations in how the federal and state courts throughout this nation go about providing (and naming) these access points, the result is always the same. The timing of access is always *on receipt* when the news of new filings is fresh, the press can report on new complaints shortly after they are filed, and busy clerks can attend to their clerical tasks of processing new complaints as their schedules allow.

45. E-filing was designed to make the filing process more efficient. It should not take court transparency backwards. Instead of basic intake work being done by clerks at an intake window that work is now done by e-filing software. Filers use the e-filing system to enter case information, which is in compliance with the court’s minimum submission requirements, before submitting their filings to the court. Instead of sitting in a physical bin next to an intake window, new e-filed complaints now sit in an electronic queue where they can be timely reviewed by members of the media.

46. In 2009, when the state court shift to e-filing was still nascent, Judge Harmon wrote in *Jackson*, “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.” *Jackson*, C.A. No. H-09-1844, 2009 WL 2163609, at \*4-5.

47. Likewise, this Court should find that Defendant’s no-access-before-process policy, maintained in the face of easily available alternatives, violates Courthouse News’ First Amendment right of timely access. Despite Courthouse News’ repeated requests, Defendant has still failed to provide contemporaneous access to the newly filed civil complaints, and delays in access to new civil complaints at HCCCP are regular and pervasive due to Defendant’s policy and

practice of withholding access to new e-filed complaints until after administrative processing.

48. Courthouse News seeks declaratory relief and an injunction prohibiting that policy and practice.

### **COUNT ONE**

#### **Violation of U.S. Const. Amend. I and 42 U.S.C. § 1983**

49. Courthouse News incorporates herein the allegations of Paragraphs 1-48 above.

50. Defendant's actions under color of state law, including without limitation his policy and practice of withholding newly filed civil complaints from press and public view until after administrative processing, and the resulting denial of timely access to new civil complaints upon receipt for filing, deprive Courthouse News, and by extension its subscribers, of their right of access to public court records secured by the First Amendment to the U.S. Constitution.

51. At Hamilton County Court of Common Pleas, the presumption of access to new civil complaints arises when those complaints are filed and may be restricted only if "closure is essential to preserve higher values and is narrowly tailored to serve those interests." *Press-Enterprise*, 478 U.S. at 2, 106 S. Ct. at 2737, 92 L. Ed. 2d 1 (1986). For Defendant's no-access-before-process-and-review policy to "survive *Press-Enterprise*'s two-prong balancing test" (i.e., "rigorous" scrutiny), Defendant "must demonstrate that there is a 'substantial probability' that its [asserted] interest[s]... would be impaired by immediate access, and second, that no reasonable alternatives exist to 'adequately protect' that government interest." *Planet*, 947 F.3d at 596. Like other clerks with no-access-before-process policies, the Defendant cannot satisfy this test.

52. Courthouse News has no adequate and speedy remedy at law to prevent or redress Defendant's unconstitutional actions, and will suffer irreparable harm as a result of Defendant's violation of its First Amendment rights. Courthouse News is therefore entitled to a declaratory judgment and a permanent injunction to prevent further deprivation of the First Amendment rights

guaranteed to it and its subscribers.

**PRAYER FOR RELIEF**

*WHEREFORE, Courthouse News prays for judgment against Defendant as follows:*

53. A declaratory judgment pursuant to 28 U.S.C. § 2201 declaring Defendant's policies and practices that knowingly effect delays in access to newly filed civil complaints, including, *inter alia*, his policy and practice of denying access to complaints until after administrative processing, are unconstitutional under the First and Fourteenth Amendments to the United States Constitution because these policies and practices constitute an effective denial of timely public access to new civil complaints, which are public court records to which the First Amendment right of access applies;
54. A permanent injunction against Defendant, including his agents, assistants, successors, employees, and all persons acting in concert or cooperation with him, or at his direction or under his control, prohibiting him from continuing his policies and practices that deny Courthouse News timely access to new civil complaints, including, *inter alia*, his policy and practice of denying access to complaints until after administrative processing;
55. An award of costs and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988; and
56. All other relief the Court deems just and proper.

Dated: March 23, 2021

*Of Counsel:*

GRAYDON HEAD & RITCHEY LLP  
312 Walnut Street

Respectfully Submitted,

*/s/ John C. Greiner*

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**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

COURTHOUSE NEWS SERVICE

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
John C. Greiner, Alexandra M. Berry,  
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45202; (513) 629-2734; jgreiner@graydon.law

**DEFENDANTS**

AFTAB PUREVAL, in his official capacity as Clerk of the Hamilton County Court of Common Pleas

County of Residence of First Listed Defendant Hamilton  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
			LABOR	IMMIGRATION
			<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions

**V. ORIGIN** (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
Violation of U.S. Constitutional Amendment I and 42 U.S.C. § 1983

Brief description of cause:  
An action to enjoin defendant from denying press access to civil complaints until after administrative processing.

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE: 03/23/2021 SIGNATURE OF ATTORNEY OF RECORD: /s/ John C. Greiner

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Ohio



COURTHOUSE NEWS SERVICE

Plaintiff(s)

v.

AFTAB PUREVAL, IN HIS OFFICIAL CAPACITY AS CLERK OF THE HAMILTON COUNTY COURT OF COMMON PLEAS

Defendant(s)

Civil Action No. 21-CV-197

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Aftab Pureval, Clerk for the Hamilton County Court of Common Pleas Hamilton County Clerk of Courts 1000 Main Street, Room 315 Cincinnati, OH 45202

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

John C. Greiner Graydon Head & Ritchey LLP 312 Walnut Street, Suite 1800 Cincinnati, OH 45202

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk

Civil Action No. 21-CV-197

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**COURTHOUSE NEWS SERVICE**

30 N. Raymond, Third Floor, Pasadena CA 91103, (626) 577-6700, [home@courthousenews.com](mailto:home@courthousenews.com)

January 26, 2021

Aftab Pureval  
Hamilton County Clerk of Courts  
1000 Main St.  
Cincinnati, OH 45202

Dear Mr. Pureval,

I am writing to respectfully ask for a press queue in order to review and report on new civil filings, a traditional source of news.

With electronic filing, it is highly practicable to provide the press corps with access to new public court filings when they are received, which is when they are filed and when the First Amendment right of access attaches.

Such access is provided in federal courts through Pacer and in a great range of state courts through a variety of efile systems. On-receipt access allows the Cincinnati media to report on new filings when they are fresh, which is when they are filed. The news in court filings is not unlike bread in that it is best consumed fresh, and after a day or two or three, it is stale indeed.

We are asking for access only to civil filings in public case designations.

As you know, a lawyer sends a new civil complaint through the efile portal and into a review queue. The complaint is filed at that point. A press queue allows journalists to see new public filings as soon as they are filed, while they sit in the review queue waiting to be docketed.

With electronic filing, it is easy to provide the press with access to new public court records when they are received because the files are digitized by the filer and all efile systems can be configured to allow public access on receipt.

Long a public-oriented attribute of the federal courts, on-receipt access is increasingly common in the state courts. The biggest court in the nation, Los Angeles Superior Court, provides such access through a "Media Access Portal" that allows review of new civil e-filings in that monster court as soon as they are received, before docketing.

Its neighboring court, Orange County Superior, serving 3.2 million people, has just agreed to give the press and "Electronic Media Inbox," which gives the press access "automatically upon receipt."

Likewise, the courts of New York and Hawaii use internally developed e-filing systems to give the same access – on receipt – to press and public alike. And the federal courts, including the northern and southern districts of Ohio, give access on receipt to press and public through the Pacer system.

While there are variations in how these courts go about providing the access, the timing of the access does not vary. It is on receipt, when the news in the new filings is fresh. I would add that this is the kind of timely access the press used to have in the days of paper in the Hamilton Court of Common Pleas, as soon as the new complaints crossed the counter.

In past discussions on this topic with Courthouse News bureau chief Adam Angione and Graydon partner Jack Greiner, you have indicated you are favorably inclined towards on-receipt access. So I am respectfully renewing our request.

As we have argued in the federal courts, technology should illuminate the halls of government, not darken them. I would respectfully ask that you provide the Cincinnati media with a review queue that gives on-receipt access to the new public civil filings -- thus illuminating the work of the Court.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bill Girdner', with a long, sweeping horizontal line extending to the right.

Bill Girdner  
Editor  
Courthouse News Service  
[bgirdner@courthousenews.com](mailto:bgirdner@courthousenews.com)  
626 577 6700

**GRAYDON**

312 Walnut Street  
Suite 1800  
Cincinnati, OH 45202

Main 513 621 6464  
Fax 513 651 3836

**John C. Greiner**  
Direct: 513.629.2734  
Direct: 513.484.2734  
jgreiner@graydon.law

February 11, 2021

**EXHIBIT**  
**B**

Judge Jody M. Luebbers  
*Presiding and Administrative Judge*  
1000 Main Street, Room 340  
Cincinnati, OH 45202

Dear Judge Luebbers:

This firm represents Courthouse News Service (“CNS”) in connection with its request for a press queue in order to review and report on new civil filings.

CNS previously sent the Hamilton County Clerk of Courts, Aftab Pureval, a written request for on-receipt access to new public civil filings. At this time, Mr. Pureval has indicated that he does not object, and is even inclined towards on-receipt access, but he is waiting for guidance from the Judges of the Common Pleas Court.

On-receipt access allows the Cincinnati media and CNS to report on new filings when they are fresh, which, unsurprisingly, is the moment they are filed. The news in court filings is not unlike bread in that it is best consumed fresh, and, after a day or two, it is stale.

In the Hamilton County Court of Common Pleas, the lag between filing and docketing has yielded a significant number of stale filings. These delays vary from day to day depending on the workforce at the office, but they are frequently significant.

With electronic filing, it is highly practicable to provide the press corps with access to new public court filings at the moment they are received – which is when the First Amendment right of access attaches upon filing. Such on-receipt access is provided through Pacer in the federal courts, including the northern and southern districts of Ohio, and in a range of state courts through a variety of e-filing systems. Likewise, HCCCP’s e-filing system can be configured to allow public access on receipt.

As you are well aware, a new civil complaint is filed at the moment a lawyer sends it through the e-filing portal into the Clerk’s review queue. Because these files are digitized by the filer, it is a simple reconfiguration of the e-filing system to implement a press queue. A press queue is like a digital inbox which will allow journalists to see new public filings while they sit in review and await docketing.

Judge Luebbers  
February 11, 2021  
Page 2



These “press inboxes” are not a novel concept. Prior to the digital age, new paper filings were provided in multiple copies, one of which was placed within a press inbox immediately upon filing. If memory serves correctly, HCCCP’s press inbox was a black plastic tray that sat atop the intake counter in the Clerk’s office. The tray may very well be sitting there today, unless of course the Covid-19 pandemic has forced it behind glass or stowed away.

Technology has managed to speed up filing on the front end by reducing foot traffic, but it has slowed the public’s access on the backend. A return to the days of immediate access to case filings is not only practical, but constitutionally required. Long a public-oriented attribute of the federal courts, on-receipt access is increasingly being implemented in state courts. Los Angeles Superior Court, the largest court in the nation, provides such access through its “Media Access Portal,” allowing immediate review of the numerous, new civil e-filings upon filing and prior to docketing. Serving 3.2 million people, Orange County Superior Court will provide the press with an “Electronic Media Inbox” giving the press access automatically upon receipt. Likewise, the courts of New York and Hawaii use internally developed e-filing systems to give the same on-receipt access to press and public alike.

While there are variations in how these courts go about providing access, the timing of access does not vary. It is always *on receipt*, when the news of new filings is fresh.

As CNS has argued in the federal courts, technology should illuminate the halls of government, not darken them. On behalf of my client, I respectfully ask that the Hamilton County Clerk of Courts provide the Cincinnati media with a review queue or media inbox to give on-receipt access to the new public civil filings. I am happy to meet to discuss this matter if you believe this would be useful.

Sincerely,

GRAYDON HEAD & RITCHEY LLP

John C. Greiner

JCG:amb

10862379.2

**Berry, Alexandra**

**From:** Greiner, John C.  
**Sent:** Friday, March 5, 2021 1:26 PM  
**To:** 'cawagner@cms.hamilton-co.org'  
**Cc:** Berry, Alexandra  
**Subject:** FW: Courthouse News - Civil Filings Access [IWOV-CN.FIDX60237]  
**Attachments:** Courthouse News Service v Planet.rtf; CNS Letter to J. Luebbers - Civil Filings (2).PDF

**Sensitivity:** Private

Chris, thanks for your note. In terms of your request to “submit something” I don’t think there is much more to say than what we set out in the attached letter to Judge Luebbers.

As to your question about whether our client has access to the Clerk’s search program, our client has the regular attorney access on the clerk’s website for which it received a media account to access. But complaints do not appear there until after they are processed.

We don’t agree that what we are requesting conflicts with the Local HCCP Rules, and in any event, even if it did, the First Amendment requirement of same day access would supersede any contrary local rule. But we would also note that Local Rule 34(B) (10) & (11) actually conflict with Sup.R. 44. The definitions of a “filed document” differ in that Sup.R. 44 considers the document filed the moment it is deposited with the clerk. Rule 34(B) 10+11 consider a document to be filed *after completion* of processing and docketing. The Rules of Superintendence would supersede the local rules.

But while we would urge you to reconcile the Local Rules with the Rules of Superintendence, that is somewhat beside the point. The current system of access violates the First Amendment. Our client has successfully litigated this issue in several federal courts. Please see the attached opinion from the Ninth Circuit in the case of *Courthouse News Service v. Planet*, which sets out the argument comprehensively. Our client’s request is simple – please confirm that you will implement a system that allows access to complaints on the day they are filed. This access can be available to the public or limited to credentialed users. If you are unwilling to make that commitment, our client will consider its option to proceed through the courts to enforce its constitutional right of access.

Thank you.

 <p>312 Walnut Street Suite 1800 Cincinnati, OH 45202</p>	<p><b>JOHN C. GREINER</b> Attorney <a href="mailto:jgreiner@graydon.law">jgreiner@graydon.law</a></p> <p>Direct 513.629.2734 Mobile 513.484.2734 Fax 513.333.4316</p>
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Visit our [COVID-19 Business Resources](#) for guidance on how to plan and respond to the many issues that arise as the virus impacts businesses and our communities.

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you believe it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete the message. Do not retain a copy. Thank you.

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**From:** Chris Wagner [<mailto:cawagner@cms.hamilton-co.org>]  
**Sent:** Thursday, March 04, 2021 12:25 PM  
**To:** Greiner, John C.  
**Cc:** Berry, Alexandra  
**Subject:** Re: FW: Courthouse News - Civil Filings Access [IWOV-CN.FID60237]

\*\*\* External email - use caution \*\*\*

Jack, yes this matter was referred to the technology committee. I am still trying to set up our first meeting. If there is something that you like to submit to the judges feel free to send it to me.

Refresh my memory but you client has access to the Clerk's search program that shows what new cases the clerk's staff are working on that day. This report can be offered remotely. What the report does not show is any new case filings that are in the Clerk's in box and have not been touch by the staff? The local rules would need to revised to permit such viewing, correct?

Judge Christopher A. Wagner  
Hamilton County Court of Common Pleas  
513 946-5890

>>> "Greiner, John C." <[JGreiner@Graydon.law](mailto:JGreiner@Graydon.law)> 3/3/2021 2:17 PM >>>

Good afternoon Chris. I have not been able to follow up on our conversation from last week on the CBA Media Bench Bar Forum, but it is on my list.

This email concerns another matter however. You probably recall that we represent the Courthouse News Service. We talked at length several years back about same day access to civil complaints. Unfortunately, we've never been able to get to a point where the access is appropriate. Our client is at the point where we are insisting on a portal that will allow the review of complaints upon filing, even while the complaints are being "processed." Courthouse News has successfully litigated this issue in several lawsuits over the last few years.

We have spoken with Aftab, who has indicated that he is willing to put such a system in place, but he has not gotten approval from the Judges. We reached out to Judge Luebbers, and she has referred us to the Tech Committee.

My colleague Ally Berry and I are willing to meet to discuss the issue in more detail, but our client is anxious for a solution.

Please let us know if we can set up a time to talk.

Thanks, Jack

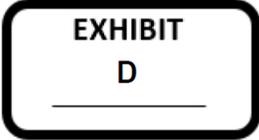
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[Redacted signature block]

	<b>JOHN C. GREINER</b>
	Attorney <a href="mailto:jgreiner@graydon.law">jgreiner@graydon.law</a>
312 Walnut Street	Direct 513.629.2734
Suite 1800	Mobile 513.484.2734
Cincinnati, OH 45202	Fax 513.333.4316

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### Common Pleas Rejected

Home	Case Search	E-Filing	Payment History	Support Documents	My Account
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Filing Overview

This filing has been rejected.  
Modification of this filing is prohibited.

Confirmation Number: 471608 Filing Type: JURY DEMAND Case Number: A 1500567 Case Caption: US BANK NATIONAL ASSOCIATION AS SUCCESSOR TRUSTEE v CHERYL A PETERS Judge: JOHN ANDREW WEST Additional Info: CHECK WEF013 FOR REQUEST #17812	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="3" style="background-color: #ccc;">Cost for Filing</th> </tr> </thead> <tbody> <tr> <td style="font-size: small;">Jury Demand</td> <td style="font-size: small;">1 @ \$270.00</td> <td style="text-align: right; font-size: small;">\$270.00</td> </tr> <tr> <td colspan="2" style="text-align: right; font-size: small;">Subtotal:</td> <td style="text-align: right; font-size: small;">\$270.00</td> </tr> <tr> <td colspan="3" style="text-align: center; font-size: small;">VISA</td> </tr> </tbody> </table>	Cost for Filing			Jury Demand	1 @ \$270.00	\$270.00	Subtotal:		\$270.00	VISA		
Cost for Filing													
Jury Demand	1 @ \$270.00	\$270.00											
Subtotal:		\$270.00											
VISA													

Filing Status: <span style="color: red;">Rejected</span> on April 21, 2016 at 5:45 PM (Reason: <i>FILING CLEANUP</i> ) Filing Started: March 8, 2016 at 10:27 AM Filing Submitted: March 8, 2016 at 10:31 AM
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Document Type	Title	Format	Pages
JURY DEMAND	JURY DEMAND OF DEFENDANT	PDF	1

[Back](#)

### Municipal Civil Rejected

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Filing Overview

This filing has been rejected.  
Modification of this filing is prohibited.

Confirmation Number: 471595 Filing Type: ANSWER Case Number: 15CV00555 Case Caption: PREMIERE PROPERTIES LP v SHAWNISE SMITH Judge: ADMINISTRATIVE JUDGE Additional Info: ATTORNEY COMMENT	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="3" style="background-color: #ccc;">Cost for Filing</th> </tr> </thead> <tbody> <tr> <td style="font-size: small;">Answer</td> <td style="font-size: small;">1 @ \$0.00</td> <td style="text-align: right; font-size: small;">\$0.00</td> </tr> <tr> <td style="font-size: small;">Copy Cost</td> <td style="font-size: small;">4 @ \$0.10</td> <td style="text-align: right; font-size: small;">\$0.40</td> </tr> <tr> <td colspan="2" style="text-align: right; font-size: small;">Subtotal:</td> <td style="text-align: right; font-size: small;">\$0.40</td> </tr> <tr> <td colspan="3" style="text-align: center; font-size: small;">VISA</td> </tr> </tbody> </table>	Cost for Filing			Answer	1 @ \$0.00	\$0.00	Copy Cost	4 @ \$0.10	\$0.40	Subtotal:		\$0.40	VISA		
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Answer	1 @ \$0.00	\$0.00														
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Subtotal:		\$0.40														
VISA																

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