

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

COURTHOUSE NEWS SERVICE,)

Plaintiff,)

v.)

NEW MEXICO ADMINISTRATIVE)

OFFICE OF THE COURTS;)

ADMINISTRATIVE OFFICE DIRECTOR)

ARTHUR W. PEPIN; NEW MEXICO)

FIRST JUDICIAL DISTRICT COURT)

CLERK’S OFFICE; and the FIRST)

JUDICIAL DISTRICT COURT CLERK)

KATHLEEN VIGIL)

Defendants.)

Civil Action No. _____

**DECLARATION OF VICTORIA PRIESKOP IN SUPPORT OF
PLAINTIFF COURTHOUSE NEWS SERVICE’S
MOTION FOR PRELIMINARY INJUNCTION**

I, Victoria Prieskop, declare and state as follows:

1. I make this declaration in support of the *Motion for Preliminary Injunction* filed by Courthouse News Service (“Courthouse News”) in the above entitled action. I have personal knowledge of the following facts and would and could testify to them if called as a witness.

2. I started working for Courthouse News in 2008 as a substitute reporter and then became a primary reporter in June 2014. From the start, my duties included covering new civil actions filed in Santa Fe County District Court, Bernalillo County District Court, Valencia County District Court and Sandoval County District Court.

3. I currently work as the New Mexico reporter for Courthouse News, reporting on the courts as well as general news from New Mexico, including political and environmental matters. My

duties include writing a daily report on new civil litigation filed in the federal and state courts of New Mexico.

4. In that coverage, in all those courts, I was allowed to go behind the counter into the work spaces of the clerk's staff prior to implementation of electronic filing ("e-filing") in order to review and subsequently report on newsworthy civil complaints. I was sometimes joined by other news reporters. Below, I explain the access that existed before e-filing, when the complaints were still in paper form.

5. In Santa Fe County District Court, I would signal an intake clerk when I arrived at the court and the clerk would open the door for me to go into the work area of the clerk's office, which consisted of a large, open room. I had access to two sets of newly filed complaints. One set was held in a rolling cart, like a moveable book shelf. Those cases had been docketed and placed in manila, legal-size case folders with the case number affixed to one edge of the folder. I also had access to a second set of cases kept in a stack of temporary folders in a shallow cardboard container, like the lid to a box for reams of paper on top of a file cabinet. These cases had not been docketed, and they included cases filed that same day. In Santa Fe, these complaints were kept in plain manila folders, while in Albuquerque, they were in blue folders.

6. Before I left for the day, I went up to the intake clerks at the counter and asked for any new complaints. They would hand me cases that had just been filed and set aside in their work space at the counter and I would review them, before they were put in the stack of cases still to be docketed.

7. In Bernalillo County District Court in Albuquerque, I would also be let in behind the counter by a clerk at the intake counter. I would proceed to a half-cubicle within a farm of cubicles behind the counter where the new complaints were kept in two sets. One set was in a rack of cases that had been docketed and placed in permanent folders with case numbers. At the other end of the

cubicle was a stack of new cases in temporary, blue folders that had just been filed and not yet docketed. During the afternoon, intake clerks would occasionally supplement the stack of newly filed complaints. Before I left at the end of the day, around 5:00 p.m., I would make the rounds of the docketing clerks to see if they had any new cases I had not seen.

8. In Valencia County District Court in Los Lunas, I would arrive and the intake clerks recognized me as a reporter and one would jump up from their chair at the counter and let me into the area behind the counter. The reporters' work space was among stacks of cases but I would walk out to the counter and see the cases that were not yet placed in the stacks, but were in permanent folders, on a table behind the counter. I asked the clerks for permission to review them, which they always allowed and would then review the new cases at the workspace in the stacks. I would then return those cases to the table behind the intake counter.

9. At the Sandoval County District Court in the town of Bernalillo, I was recognized as a reporter by the intake clerks when I arrived. One of the clerks would rise from his or her chair and let me into the area behind the counter. This was a low-volume court, and I only went there once every two weeks. I would pick up the cases from a long work table about ten feet behind the intake counter where I would review the new cases that had been put in folders in various trays on the work table. I would arrive in the morning but I recall seeing cases that had been filed that same morning and that I was able to review.

10. On one occasion, I recall that another newspaper reporter, whose name I did not learn, came to the clerk's office and he too was recognized as a reporter. He was provided with the file he was searching for, reviewed it, and then left.

11. I also covered U.S. District Court in New Mexico through the courthouse in Albuquerque. I would visit the court in the afternoon and ask the intake clerk for the new cases. She

would hand me a stack of new cases in blank folders that I would review at a small table in the public area near the intake counter. I saw cases filed that day, and I understand that the cases had not yet been docketed. In U.S. District Court, my understanding is that two copies of all new complaints were submitted in paper form by the filer, and I was reviewing one of those copies.

12. After the implementation of e-filing, I now see the new complaints that are e-filed in U.S. District Court in New Mexico as soon as they are received. I know that because I can see cases that are filed after hours when I check the PACER site after 5:00 p.m. in the afternoon, and I can view cases filed on weekends when I check PACER on weekends.

13. In the state courts of New Mexico, after they switched over to mandatory e-filing, I could no longer see the new complaints as they were received. Instead, I was required to wait until the new complaints were processed and a docket entry appeared on computer terminals at the courthouse. When I saw a new docket entry, I would then click on the case number, which served as a link taking me to that case's docket page. I then clicked on the word "complaint," which took me to the full document, in order to do my review and reporting.

14. Subsequently, I was allowed to see the complaints online as well as at the courthouse. But, I can only see the cases after they are processed by the clerk. I routinely see cases on a delayed basis, a day or two after they were filed. I check every week day until after 5:00 p.m. so I can see the last cases processed that day. This way, I know if a case filed on a given day has been delayed because I check on that given day until after the clerk's office has closed and the staff has stopped processing new complaints.

15. In February of this year, 2021, my bureau chief Jamie Ross asked me to begin tracking the delays in access in the courts of New Mexico. Since then, I have logged each general civil case filed in the courts of New Mexico, noting when the case was filed based on its file date and when it

was available for review. I base the date when it was available for review on checking every week day until approximately 6:00 p.m., well after the staff has stopped processing cases for the day. A true and correct copy of the spreadsheet log that I created and have maintained to track access delays for newly filed complaints in New Mexico state courts is attached hereto as Exhibit B-1 and incorporated herein by reference. A true and correct copy of the spreadsheet log that I created and have maintained to track access delays for newly filed complaints in the Santa Fe County District Court is attached hereto as Exhibit B-2 and incorporated herein by reference.

16. The spreadsheet where I enter the data for filing date and date available for review automatically calculates the delay between those two dates. The tracking sheet where I have entered the data shows that, overall, the courts of New Mexico delayed 30% of the new cases until one or more days after the filing of the complaint between February and June of this year. *See* Exhibit B-1. For the cases filed in Santa Fe County District Court, my tracking shows that access was delayed for 59% of the new cases until one or more days after the filing date of the complaint during this same time period, representing 506 new complaints. *See* Exhibit B-2.

17. The total number of cases held back past the day of filing in New Mexico state courts between February 23 and June 30 is 2,342 new complaints. They include two complaints that were highly newsworthy. One was a new complaint filed by the Department of Environmental Affairs in New Mexico against the Los Alamos National Laboratory over the cleanup of toxic materials. The case was filed on February 24, 2021, but I was not able to see it because it had not been processed until a day later. By then, the Associated Press had already learned of the suit and distributed a news story on the case. Additionally, on May 26, 2021, a complaint was filed by a journalist against the sheriff of Rio Arriba County, who alleged that the sheriff had harassed her and excluded her from press briefings after she reported on the shooting death of a special education student. I was not able

to see that case when it was filed because it had not been processed, and I am not allowed to see cases before they are processed. By the time I was able to get review the case, it was stale news and I was not able to report on it.

18. I have covered stories for the Courthouse News website that include coverage of budget issues affecting the New Mexico courts. As part of that coverage, I telephoned Defendant Pepin, who could not comment for the record but who was helpful in referring me to a court official who could. The story was titled “New Mexico Court Crisis Averted, for Now” and the lead paragraph said, “SANTA FE, N.M. (CN) — Facing a possible shutdown of jury trials, the New Mexico State Board of Finance voted Wednesday to give nearly \$700,000 from emergency funds to the state’s embattled court system.” A true and correct copy of the article is attached hereto as Exhibit B-3 and incorporated herein by reference.

19. I have also written stories for the Courthouse News website on jaguar territory loss in New Mexico, the New Mexico Supreme Court’s decision upholding a COVID ban on indoor dining, another New Mexico Supreme Court decision upholding fines levied against businesses that stayed open during the Covid crisis, New Mexico’s legal pursuit of armed paramilitary groups, and many more stories on a wide range of topics.

20. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed in Albuquerque, New Mexico on this 22nd day of July, 2021.



VICTORIA PRIEKOP