

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**COURTHOUSE NEWS SERVICE,**

Plaintiff,

v.

**MARYELLEN O'SHAUGHNESSY, in her  
official capacity as Clerk of the Franklin  
County Court of Common Pleas,**

Defendant.

Case No: \_\_\_\_\_

Judge: \_\_\_\_\_

**DECLARATION OF WILLIAM GIRDNER IN SUPPORT OF COURTHOUSE NEWS  
SERVICE'S MOTION FOR PRELIMINARY INJUNCTION AGAINST DEFENDANT  
MARYELLEN O'SHAUGHNESSY**

Pursuant to the provisions of 28 U.S.C. §1746, the undersigned, William Girdner, makes the following declaration under the penalty of perjury:

1. I am the founder and editor of Courthouse News Service ("Courthouse News"), the Plaintiff in this matter.

2. I make this declaration based on my personal knowledge in support of Courthouse News' Motion for Preliminary Injunction against Defendant Maryellen O'Shaughnessy ("Defendant").

3. Since time beyond memory, the press has reviewed new civil complaints when they crossed the intake counter and were received by the clerk in courts across the country. Journalists reviewed the new complaints as part of their work covering the courthouse beat and because the complaints often contained news of disputes with local and national import. That news was reported when the complaints were received by the clerks, because like fresh bread, news grows

stale quickly. Most federal courts and many state courts carried that tradition of timely on receipt access into the modern era of electronic filing of new complaints and other litigation documents. But some state courts have not.

4. With the transition to e-filing, access to new civil filings at Franklin County Court of Common Pleas (“FCCCP”) has deviated from the tradition of timely access. Defendant’s policies and practices now impose an access blackout for a day or more because she requires new filings to be placed into the court docket before they can be seen by the press and public. In the paper era, reporters saw the new cases at intake – before docketing. The modern-day equivalent of docketing is called “processing,” where a processing clerk looks over the pre-docket entries made by the filer, often makes additional entries, and then places the new filing into the court docket. The access blackout leaves the press and public in the dark, while the news rapidly grows stale.

5. Based on my many years as a journalist covering courts throughout this country and my personal experience overseeing Courthouse News, I have observed that prompt and complete access to civil complaints is essential to robust and accurate news reporting about new civil lawsuits. Readers are seeking and focus on the latest news and fresh information. That is why traditionally and now, news outlets report today’s events today, in the current news cycle.

6. I have found that the commencement of litigation can affect many people beyond the litigants named in the lawsuit itself. When courts withhold access to a new complaint for hours and days, during processing, it is as good as sealed. The ability of lawyers, professors, law students, news reporters, and readers of our web site to know about and freely discuss a new legal contest pending in a public court of law is suppressed when a new case is withheld. A lawyer’s ability to advise clients about new litigation in a timely manner is impaired. A news organization’s ability to follow the story is hampered. And the practical ability of the public to comment on events in an

important public institution is impeded or eliminated altogether.

**Courthouse News Publications and Subscribers.**

7. Courthouse News is a nationwide legal news service focusing on new civil litigation with a network of reporters based across the nation. We provide reports on appellate rulings, legislation, and new civil cases from federal and state courts around the country.

8. I founded Courthouse News in 1990 out of a belief that news about civil litigation went unreported because the traditional news media failed to cover much of the important business of the courts. Courthouse News is similar to other news services, such as the Associated Press, except that Courthouse News specializes in reporting about civil lawsuits, from the inception of new cases and on to appellate rulings.

9. Courthouse News' coverage of rulings, trials and new civil complaints initially focused on the United States District Court for the Central District of California, where journalists trooped down to the clerk's office every afternoon and gathered a stack of new complaints from the intake clerk to look over for news stories. By 1997, Courthouse News' regional coverage in California included the major metropolitan state and federal courts in Los Angeles, Orange County, California, and San Francisco. By 2001, Courthouse News was also covering state and federal courts in Houston and Dallas, Texas; Chicago, Illinois; New York; Washington; and New Jersey. Courthouse News continued expanding its coverage of trial courts over the years, first in major metropolitan areas and then gradually extending into less populous areas. Today, Courthouse News has approximately 240 employees, most of them editors and reporters who cover state and federal trial and appellate courts across all 50 states.

10. Courthouse News' nation-wide coverage is reported in a variety of publications offered to subscribers, reporting on all stages of civil litigation, from the initial complaint to

subsequent filings, hearings, and rulings, and on through to final appeal in federal and state courts around the nation, including the U.S. Supreme Court. Courthouse News has more than 2,300 subscribers nationwide to its *New Litigation Reports*.

11. Of those subscribers, 102 institutions receive Courthouse News reports on Ohio's civil filings, including the following based in Ohio: Case Western Reserve University; Clermont County Prosecutor's Office, BakerHostetler, Benesch, Friedlander, Coplan & Aronoff, LLP; Frost Brown Todd, LLC; Porter, Wright, Morris & Arthur, LLP; Taft Stettinius & Hollister, LLP; Thompson Hine, LLP; Ulmer & Berne, LLP; Vorys, Sater, Seymour and Pease, LLP, among others.

12. Among academic institutions, subscribers include Loyola Law School, Southern Illinois University School of Law, UC Hastings College of Law, and UCLA School of Law, among many others. And all but a very few of the nation's large and mid-sized law firms subscribe to one or more of Courthouse News' publications.

13. A substantial number of news and entertainment outlets are also Courthouse News subscribers, including but not limited to, *The Atlanta Journal Constitution*, *The Dallas Morning News*, *Detroit Free Press*, Fox Entertainment Group, *Houston Chronicle*, *Los Angeles Times*, North Jersey Media Group, *The Salt Lake Tribune*, *San Antonio Express News*, *San Jose Mercury News*, *Tampa Bay Business Journal*, the Associated Press, CNN, *The Wall Street Journal*, Warner Bros., and many broadcast stations.

14. I have found that as resources for mainstream media have diminished, media outlets rely on Courthouse News for prompt information about court filings. Courthouse News has been credited as the original reporting source by a range of publications, including: *The Mercury News*, *ABA Journal*, ABC News, *The Atlantic*, *Austin American Statesman*, Black Christian News

Network, *California Bar Journal*, CBS News, *The Christian Science Monitor*, *The Daily Beast*, *The Dallas Morning News*, *Forbes*, Fox News, *The Guardian*, *The Hill*, *Houston Chronicle*, *The Huffington Post*, *Long Island Press*, *Los Angeles Times*, *Mother Jones*, National Public Radio (NPR); NBC News, *New York Daily News*, *New York Magazine*, *The New York Times*, *Politico*, *Rolling Stone*, *Salt Lake City Tribune*, *San Antonio Express-News*, *Slate*, *The Telegraph* (UK), *The Wall Street Journal*, *The Washington Post*, *The Washington Times*, Women's Health Policy Report, United Press International (UPI), *USA Today*, *U.S. News and World Report* and the YouTube news channel. American, Canadian, and New Zealand radio shows have also interviewed Courthouse News reporters.

15. One category of publications is Courthouse News' *New Litigation Reports*, which are nightly newsletters containing staff-written summaries of significant and newsworthy new civil complaints. The *New Litigation Reports* focus on civil complaints filed against business and government entities, as well as any other civil action that might be of interest to Courthouse News' subscribers. These reports do not cover criminal, domestic relations, or probate matters. Courthouse News does not seek to report on any filings that are statutorily confidential or accompanied by a motion to seal.

16. As of the date of this declaration, Courthouse News publishes 116 *New Litigation Reports*. These reports are emailed to subscribers each evening, generally between 5:00 p.m. and 7:00 p.m.

17. In Ohio, Courthouse News publishes four *New Litigation Reports* on the latest civil filings in state and federal courts. The *Cincinnati Report*, the *Central Ohio Report*, the *Cleveland State Report*, and *Cleveland Federal Report* contain original, staff-written summaries of significant new civil complaints.

18. The *Central Ohio Report*, which covers FCCCP, is written by a reporter based in Columbus who covers 32 state courts, in addition to the United States Southern District of Ohio (Columbus). In terms of newsworthy civil complaints, FCCCP is the most important and voluminous of state courts covered by the *Central Ohio Report*. The *Central Ohio Report* has 63 subscribers.

19. Courthouse News currently employs three reporters who cover the state and federal trial and appellate courts in Ohio, and who are supervised by Courthouse News' Midwest & Northeast Bureau Chief, Adam Angione.

20. To prepare *New Litigation Reports* and identify new cases that may warrant a broader website article, Courthouse News reporters have traditionally visited their assigned courts, so that they can review all the complaints to determine which ones are newsworthy. Courthouse News reporters often visit courts daily, usually at the end of the day, to review the day's filings, but sometimes less frequently, especially in remote areas and courts with fewer filings, and occasionally reporters base their reports on docket information made available online. As the federal courts and an increasing number of state courts are making court records, including newly filed complaints, available online, Courthouse News also covers courts remotely through the Internet.

21. In addition to the *New Litigation Reports*, Courthouse News publishes the *Daily Brief*, a daily report on major federal trial court rulings as well as appellate rulings in the state and federal courts, including those in the U.S. Supreme Court. Courthouse News also publishes a publicly-available website ([www.courthousenews.com](http://www.courthousenews.com)) featuring news reports and commentary, which is read by hundreds of thousands of readers each month (with 521,778 unique page views in December 2021). The website functions much like a daily print newspaper by featuring staff-

written articles from all over the nation that rotate off the webpage in a 24-hour cycle.

### **THE TRADITION OF ACCESS TO NEW COMPLAINTS**

22. It has been a long-standing tradition for the press to review new civil complaints in courts across the country on the day of filing, after they crossed the intake counter, before docketing. In other words, access was on receipt. This tradition ensures that interested members of the public learn about new cases in a timely manner, while the news is still fresh.

23. As Courthouse News expanded, I visited federal and state trial courts throughout California and neighboring states to figure out how the access worked and to start a new report. Those courts regularly provided journalists with access to the new paper complaints filed that day, in a bin of some kind, wood, wire mesh, or cardboard, right after the complaints crossed the intake counter – before docketing. The same was true as our coverage expanded to the Midwest and East Coast, in Chicago, New York, and Washington D.C. The pattern also held true through the South, in Dallas and Houston; in the Southeast in Miami; and in the Southwest in Phoenix and Albuquerque. The access came right after intake and before docketing. Clerks allowed reporters to check the stack of newly-filed civil complaints once they crossed the counter. This was true as well in the Ohio state courts in Cleveland, Cincinnati, Columbus and Youngstown.

24. Access to paper complaints in FCCCP was consistent with that statewide and national tradition. Before the advent of e-filing, the day's stack of new complaints was placed on the legal newspaper's desk behind the counter. After some discussion with the Clerk, the Courthouse News reporter could review those new complaints at the end of the day on which they were filed by picking them up from the Daily Reporter's desk. This type of arrangement was common with reporters allowed behind the court clerk's counter in a host of American cities, including San Francisco, Portland, Seattle, Chicago, St. Louis, New York City, Miami, New

Orleans, Houston, Austin, Albuquerque and Phoenix, among others.

25. While expanding our coverage in 2019, I traveled to Youngstown and visited the clerk's office in Mahoning County Court of Common Pleas. The court had earlier moved over to mandatory e-filing. But there on the counter I saw the vestiges – what I call “the bones” – of traditional access. There was a wooden box labeled “civil complaints” where, in the days of paper, the new complaints were placed once they crossed the counter. I was so enthusiastic about finding that traditional access artifact that I photographed the wooden box and later wrote an op-ed piece about the discovery. *See July 10, 2019, Youngstown Op-Ed by William Girdner, **Exhibit 1**, and **Photo of Civil Complaints Box, Exhibit 1a.***

#### **BASIC MECHANICS OF FILING**

26. Through my experience covering civil litigation for more than 30 years, including but not limited to my own in-person visits to many state and federal courts, as well as the supervision of CNS reporters and editors, I have developed extensive personal knowledge of intake and docketing (now often called “processing”) procedures for new complaints, as well as the procedures for press access to new complaints. Before the advent of electronic filing of new complaints, the nearly-universal process for the filing of new paper complaints consisted of an attorney or runner coming to the clerk's counter and handing a new complaint (often multiple copies of the complaint) across the counter to the intake clerk, accompanied by a check. The clerk took a cursory look at the complaint, checking for the jurisdiction and the filing fee. A flurry of stamping then followed and, within a minute or so, the filer departed with a receipt and, most often, a copy of the newly filed complaint.

27. The intake clerk then typically set the complaint aside and placed it in a box or tray to which the press had access. It was often called a press box or media box. The following morning,

a docketing clerk would empty the box and begin the work of docketing the new complaint. That work would include noting the parties, nature of the action, filing lawyer, and contact information. The new paper complaint was then put in a file folder and sent either to a records room or the assigned judge.

28. Press access in paper-filing courts across the country traditionally took place right after intake, on the day of filing, and before docketing. The docketing clerk normally took a day or two to complete his/her work. Members of the press were given access to the newly-filed complaints when they crossed the counter and before they were docketed.

#### **ADVENT OF ELECTRONIC FILING**

29. With the advent of e-filing, I have observed that many federal and state courts throughout the country have continued the tradition of access and have adopted procedures that ensure the press has access to newly-e-filed civil complaints on receipt by the court. However, one group of state courts, including FCCCP, have pushed press and public access behind the modern-day electronic version of docketing which has caused delay.

30. The e-filing software now completes the basic intake work previously completed by intake clerks handling paper filings. Before the filer can electronically submit and file a new filing to the court, the filer must enter basic case information and complete any filing requirements the court specifies. Based on the case designation supplied by the filer, the electronic filing system can – and does in many courts – filter the new, non-confidential complaints into an electronic “queue” that serves the same function as the physical bin where the intake clerk used to put new paper complaints for review by the press.

31. The vast majority of federal district courts make newly e-filed documents, including complaints, available for review when they cross the electronic equivalent of the intake

counter and are received by the clerk of courts. These courts utilize PACER's public access system to provide such timely access. The new filings are automatically received, stamped with the date and time of receipt, assigned a case number, and placed into the docketing (or "case management") system. In other words, the software performs the work previously done by a human intake clerk, and it allows docketing clerks to fix any clerical mistakes after the new complaint becomes public.

32. The PACER e-filing and public access system, which is sometimes referred to as an "auto-accept" system, is the type of system utilized by this U.S. District Court for the Southern District of Ohio, as well as the U.S. District Court for the Northern District of Ohio and the great majority of federal courts. The public can then review new complaints through PACER without the need for a clerk to complete docketing ahead of access. The timing of such a sequence parallels the traditional timing sequence in the paper era – on receipt, before docketing. This allows journalists to review and report on the new civil complaints when they are received by the court while at the same time allowing busy clerks to complete docketing as their schedules and workloads allow.

33. The Eastern and Western Divisions of the U.S. District Court for the Southern District of Ohio use the CM/ECF (Case Management/Electronic Case Files) system for e-filing and the PACER (Public Access to Court Electronic Records) system to provide access. Based on Courthouse News' tracking data, these Ohio federal courts provide same-day access to the overwhelming majority of new civil cases. Between January 1, 2022, and May 31, 2022, Courthouse News tracking of lawyer-filed original petitions (not including removals, transfers, pro se and miscellaneous cases) showed that 96.29% of the its new civil complaints could be reviewed within a few minutes of filing, including those filed after hours and on weekends.<sup>1</sup>

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<sup>1</sup> See Declaration of Adam Angione, ¶ 28, Exhibit 4, at 29.

## **FCCCP's E-FILING SOFTWARE**

34. While many state courts also continue to rely on paper filings, there is a strong trend towards e-filing, and in the transition to e-filing, many state courts, like the federal courts, have continued the tradition of press access by providing on-receipt access to newly e-filed complaints. State e-filing courts that provide access on receipt – and before processing – include state courts in Alabama, Nevada, Arizona (“superior courts”), Connecticut (“superior courts”), Hawaii (“circuit courts”), New York (“supreme courts”), Utah (“district courts”), and most recently Vermont (“superior courts”). Courthouse News also has such on-receipt access to new complaints in certain Georgia Superior and State Courts, California Superior Courts, and Washington Superior Courts.

35. Among those state courts, Utah’s district courts provide the press with timely access to newly e-filed civil complaints on receipt, when they are received by the clerk of courts, before court staff has processed them, through e-filing software provided by Tybera, Inc., (“Tybera”), the same e-filing software used by FCCCP.

36. Using Tybera’s e-filing software, called “eFlex,” Utah’s district courts provide on-receipt access to newly e-filed civil complaints. Tybera’s system automatically accepts Utah’s new filings and places them in the public docket, where they are immediately accessible by press and public. If certain filings require corrections, those can be made afterwards. This “auto-accept” method for docketing complaints is also used by most of the federal courts throughout the country.

37. There are alternatives to the auto-accept system for providing access to journalists. The most prominent is the “press queue” system, which sends new complaints into a filtered queue for journalists who must register with the clerk and receive a user name and password to gain access to the press queue. This press queue procedure is followed by individual state courts in

California, Georgia, and Arizona. Another version of the queue system allows both press and public access. New York courts follow this “public queue” procedure, allowing on-receipt access to all. Through these methods – press queue and auto-accept – a variety of e-filing software vendors provide on-receipt access to new complaints, in keeping with traditional paper access at the counter.

38. The on-receipt access system provided by Tybera (used by FCCCP) is not unique in its ability to provide timely, pre-processing access to new complaints. Other third-party vendors that provide on-receipt access include Granicus, Inc., Tyler Technologies, Inc., and Journal Technologies, Inc., as well as other “homegrown systems” developed by courts in Connecticut, New York, California, Washington and Hawaii. The federal courts, including this U.S. District Court for the Southern District of Ohio, have set up the same on-receipt access through CM/ECF e-filing and PACER public access.

#### **PRIOR COURTHOUSE NEWS LITIGATION**

39. Since 2009, Courthouse News has initiated a number of actions to try and take back press access taken away by state court clerks in the electronic technology transition. In all those cases, the clerks were, as here, withholding newly e-filed civil complaints until after docketing, contrary to tradition. The simple actions clerks have taken to comply with the straightforward injunctions Courthouse News has obtained demonstrate the practicability of following the tradition of access in the new electronic age. And where Courthouse News has obtained relief, we have never had to seek court intervention to follow up on the relief granted.

40. The first action brought by Courthouse News was filed in the Southern District of Texas in June 2008 against Harris County’s newly elected clerk of courts, Loren Jackson, who campaigned on the slogan, “Get online and not in line.” Once in office, he imposed a “no-access-

before-process” policy which delayed press access to civil complaints while the clerk’s staff members “processed” (i.e. docketed) the complaints. In July 2009, Judge Melinda Harmon enjoined Jackson’s policy and directed him to provide access to complaints on the same day they were filed, with only a few exceptions. The injunction did not specify the requisite manner of how access should be provided. Courthouse News and Jackson then stipulated to a permanent injunction, which provided that the clerk would provide same-day access with exceptions for extraordinary circumstances.

41. In September 2011, Courthouse News filed a similar First Amendment action against Clerk Michael Planet in Ventura County Superior Court (California) in the Central District of California. As in *Jackson*, Courthouse News challenged the clerk’s no-access-before-process policy with regard to new civil complaints which delayed access by two or more court days for a majority of the new actions. In May 2016, Judge S. James Otero granted Courthouse News’ motion for summary judgment and prohibited the clerk from withholding new civil complaints until after they were processed. He ruled that the qualified right of access to new complaints attaches on receipt and said access must be timely thereafter. After the 2016 judgment and injunction in *Planet*, Ventura Superior Court made a number of changes to its access procedures that resulted in Courthouse News seeing virtually all new complaints at Ventura Superior Court on the day they are filed.

42. In late 2016, Courthouse News brought a First Amendment action in the Southern District of New York against New York County Clerk Milton Tingling. The complaint alleged that Tingling was enforcing a policy and practice of withholding the newly e-filed civil complaints until after docketing (referred to as “review and logging procedures”), in violation of the tradition of same-day access and the First Amendment. On December 16, 2016, Judge Edgardo Ramos

granted Courthouse News' motion for a preliminary injunction, enjoining the clerk from denying access to new civil complaints until after docketing and requiring him to provide contemporaneous access to documents on receipt. The New York courts operate e-filing under a homegrown system and, within six weeks of the order, began posting complaints on the New York State Courts Electronic Filing web site contemporaneously with their filing, before docketing. As a result of the injunction, Courthouse News—and the rest of the press corps and the public—can see virtually all new complaints e-filed in the state courts of New York as they are received across the virtual counter and before they are docketed, thereby returning access that keeps with tradition in the courts of New York.

43. In 2018, Courthouse News brought similar First Amendment claims against the Norfolk County and Prince William County Superior Court Clerks in the Eastern District of Virginia. Courthouse News challenged a no-access-before-process policy in the two primarily paper-filing courts. The policy prevented the press and public from accessing new complaints until after they were docketed and scanned (or, as it is referred to in Norfolk and Prince William County, “indexed”). In February 2020, after a four-day bench trial, Judge Henry Coke Morgan, Jr., issued a declaratory judgment, finding that the press and public enjoyed a qualified right of access to newly e-filed civil complaints “contemporaneous with the filing of the complaint.” On June 24, 2021, the Fourth Circuit affirmed the lower court’s decision, emphasizing that contemporaneous access in a paper court means that newly filed complaints must be made available the same day as filed insofar as practicable.

44. Then on January 17, 2020, just before the Virginia trial was about to start, the Ninth Circuit handed down its “Planet III” opinion affirming that the First Amendment right of access to new civil complaints attaches when they are filed, and any delay after that point must be justified

by an overriding government interest and use of the least restrictive alternative. In reaching this holding, the Court applied and enforced the *Press-Enterprise II* test. In January of 2021 – after nearly a decade of litigation and multiple appeals, Judge Dolly Gee of the Central District of California entered an amended judgment declaring a qualified First Amendment right to access new complaints on receipt and permanently enjoining the clerk from denying access to new complaints until after they are processed, regardless of whether the complaints are filed in paper or electronic form.

45. Most recently, on November 19, 2021, Judge Christina Reiss in the District of Vermont permanently enjoined the state court clerks from withholding public access until the completion of docketing, bringing access in Vermont into line with the on-receipt access already being provided in Connecticut and New York, the other states in the Second Circuit. Vermont recently appealed the Reiss ruling to the Second Circuit. In the meantime, Vermont complied with Judge Reiss’s injunction by putting in place an auto-accept system on December 10, 2021, three weeks after her order, thereby providing public access on receipt.

#### **IMPORTANCE OF PROMPT ACCESS**

46. The timeliness of our news reports is a fundamental part of their value to subscribers and to readers of our website. News runs on a daily cycle where events occur during the day and are reported that afternoon and evening. Newsmakers and reporters then sleep, and the whole cycle starts all over again the next day. Especially in today’s digital age, where news is delayed even hours or until the next day or longer, it is devalued by delay. A day late is generally too late because the news in a day-old complaint has already been overtaken by events in the current news cycle.

47. When civil actions are not reported to the public when they are received by a court,

the news in those civil actions is effectively suppressed. They are less likely to prompt news coverage and are thus less likely to come to the public's attention as the days pass. I compare news to bread, fresh on the day it is made, stale the next day. In the Eastern District of Virginia, Judge Morgan agreed, and on the fourth day of trial, he said, "If you don't get it when it's fresh, it's like stale bread or stale anything else. So I think the plaintiff's point on that is well-taken."

48. A new civil complaint serves as the opening bell in a legal contest, and the new complaint can signal a contest of great public interest. Obtaining complaints directly from the court is the only way for reporters to provide the public with consistent and reliable information about new civil actions at the court.

#### **EFFORTS TO RESOLVE ACCESS DELAYS**

49. On August 17, 2021, I sent letters on behalf of Courthouse News to Defendant and FCCCP's Administrative Judge requesting access to newly e-filed civil complaints upon their submission to and receipt by Defendant. *See* Courthouse News' Letter to Maryellen O'Shaughnessy, **Exhibit 2**, and Courthouse News' Letter to Administrative Judge Steven L. McIntosh, **Exhibit 3**. The letters explain how e-filing systems, such as Tybera, can easily solve delays in access to e-filings. These systems use work "queues," which are electronic inboxes that filter new filings. Queues are customizable based on the user and the type of e-filing, among other customizable items, making certain categories of e-filings only viewable by certain users. For example, a working queue that accepts all e-filings, regardless of type or confidentiality, typically restricts access to only the clerk and the clerk's staff. Press or public queues, on the other hand, are simply another version of a work queue filtered to include only non-confidential, public filings.

50. FCCCP's Administrative Judge did not respond to Courthouse News' letter.

51. On September 1, 2021, Defendant's staff member, Sharlene L. Chance,

acknowledged Defendant's receipt of the letter and responded by email. *See* September 1, 2021, Sharlene I. Chance Email Response, **Exhibit 4**.

52. On October 4, 2021, I sent another email on behalf of Courthouse News to Defendant's staff member, Ms. Chance, to check on the status of its request for timely access to complaints upon their submission to and receipt by Defendant. *See* October 4, 2021, Email of William Girdner, **Exhibit 5**.

53. On October 5, 2021, Ms. Chance responded, and stated that Defendant would "have a response to [Courthouse News] within two weeks." *See* October 5, 2021, Email of Sharlene I. Chance, **Exhibit 6**. Those two weeks came and went, and Defendant failed to respond.

54. On November 19, 2021, I reached out to Defendant again on behalf of Courthouse News. *See* November 19, 2021, William Girdner Email to Defendant, **Exhibit 7**.

55. On November 22, 2021, Defendant finally responded to Courthouse News and ultimately rejected its request for timely access to new civil complaints. *See* November 22, 2021, Letter of Maryellen O'Shaughnessy to Courthouse News, **Exhibit 8**.

56. In her response, Defendant referred to the "Local Rules and Rules of Superintendence" as requiring her to "perform a review of all complaints filed with the Clerk's office and only after review and approval do complaints become part of the official court record." Defendant also claimed that the "average length of time" her Clerk's Office "completes its review [is] within eight business hours, often sooner."

57. Defendant's concession of an average delay of eight business hours means that access to new cases is delayed on average by one day, and, because Defendant's estimate is an average, it means that access to many new complaints is delayed well beyond one day.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 10 day of June, 2022 in Pasadena, CA

  
\_\_\_\_\_  
William Girdner

Op-Ed

# Youngstown

July 10, 2019

EXHIBIT

1

*Accomplishing chrysalis in reverse, the court in Youngstown was caught at the moment it was metamorphosing from a traditional box-on-the-counter paper access court to a delayed access efilng court, a terrible sight to behold.*



**By Bill Girdner**  
Editor of Courthouse News Service.

Mahoning County Court of Common Pleas occupies a grand old building in the center of Youngstown, Ohio, an old steel center that keeps one foot in its reinventing present and the other in its union past.

At the clerk's counter, my eyes lit up when I saw a wooden box sitting on the counter titled "Civil Cases." It held new cases that had just come across the counter. "Old school access," I said to my companions. The helpful and energetic court worker OK'd a photo of the box.



*Courthouse News Service bureau chief Ryan Abbott (right) and reporter Charly Himmel (center) speak with court staff at the Mahoning County Court of Common Pleas in Youngstown, Ohio. (Bill Girdner / CNS)*

There was more, though. Journalists could walk behind the counter to ask for filings that are being docketed, and there were desks for journalists to use in the records room next door.

And indeed that space was occupied by a denizen from the old world, a white-haired, former radio reporter who wore suspenders, heavy work shoes, told stories nonstop, and seemed to know everybody in the courthouse.

But I had caught a court right at the moment of transition, like the metamorphosis from caterpillar to butterfly, except in reverse. The court had mandated electronic filing a few weeks earlier. I asked a supervisor if the new electronic filings appeared on the terminals immediately as the paper filings did in the wood box on the counter.

He said they did not. He said that had been one of the options but the county chose against it. So access to the electronic filings was being withheld while they were reviewed and docketed by clerks.

To make up for that, the staff was printing out the new e-filed cases as soon as they came in and putting them on the counter. I figured that accommodation was likely to be axed in some efficiency review sooner or later. And then, like a number of other state courts, the beautiful thing that is a traditionally open clerk's office would, in the name of technology, enfold itself into a caterpillar of degraded access.

But the trips to review press access are generally accompanied by a brief exploration of the town, in destinations I would never seek out as a tourist. And like its court, Youngstown is in a time of transition.

An old commercial building in the very center of town, a block from the state courthouse, across the street from the new federal courthouse, had been refurbished by the Hilton chain. They had done a lovely job of it and the restaurant at street level had a nice menu and a good choice of beers. It seemed to double as the main restaurant in town.

Among other signs of life, I was genuinely shocked as we were driving into this old steel town to see what looked like a healthy local paper, The Vindicator, housed in an Art Deco building with a few delivery trucks pulled up to the loading docks outside its press building. The paper was being read by the hotel's parking lot attendant, a gregarious, middle-aged black man, as we drove in.

"That will be thirty-five dollars!" he sang out, before smiling. The \$10 fee was paid as part of the hotel bill.

The hotel building is at the main intersection in town, an oval of trees and grass that split Market Street into two one-way streets, which are intersected by Federal Street.

The main shopping and walking street is Federal with a few bars and restaurants. None of the storefronts were boarded up, my main indicator of an ailing city.

Early the next morning, I took a walk around the city center. Like many towns in the region, a college provides much of the town's energy and business. Youngstown State University spreads across a rise next to downtown.

Next to the school is a big Catholic church and directly across from the church is a memorial put up by the Ohio Historical Society that commemorates the Little Steel Strike of 1937 when 20,000 steel workers went out on strike against a group of small steel companies.

Two strikers were killed in a chaotic battle between the workers and local police allied with private guards firing shotguns. The governor called out the national guard to end the strike.

"This marker commemorates those workers who gave their last full measure of devotion so that all workers would have a right to bargain for their labor," said

the plaque.

I walked past The Vindicator's press building, and rounding out my morning tour I went back by the court of common pleas. A crowd was gathered outside, reflecting the biosphere of the courthouse. There were young court workers in neat shirts and slacks next to lawyers in suits and ties, including one very large fellow with white hair, a pink face, enormous girth and a bellowing voice. He was dressed in a dark, chalk-striped suit above shiny white sneakers.

Then a guard came down the steps to announce that the court was closed all day, due to an electrical failure.

With that, I returned to the hotel, got a cup of coffee-to-go from the restaurant, and headed out of town with bureau chief Ryan Abbott, towards Western Pennsylvania.

Later returning to California, I found a letter online from The Vindicator's general manager, posted two days after I left, noting that the paper had just turned 150 years old.

"Regrettably, after four generations of Maag-Brown family ownership, The Vindicator will not have much of a birthday celebration. With a deep sense of sadness and tremendous dismay, we notified our employees yesterday that The Vindicator would cease publication in 60 days."

Youngtown's renaissance, if it is to come, will be too late for the local paper.

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### Additional Reads

'The Flash' actor Ezra Miller arrested at Hawaii karaoke bar

March 29, 2022

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March 29, 2022

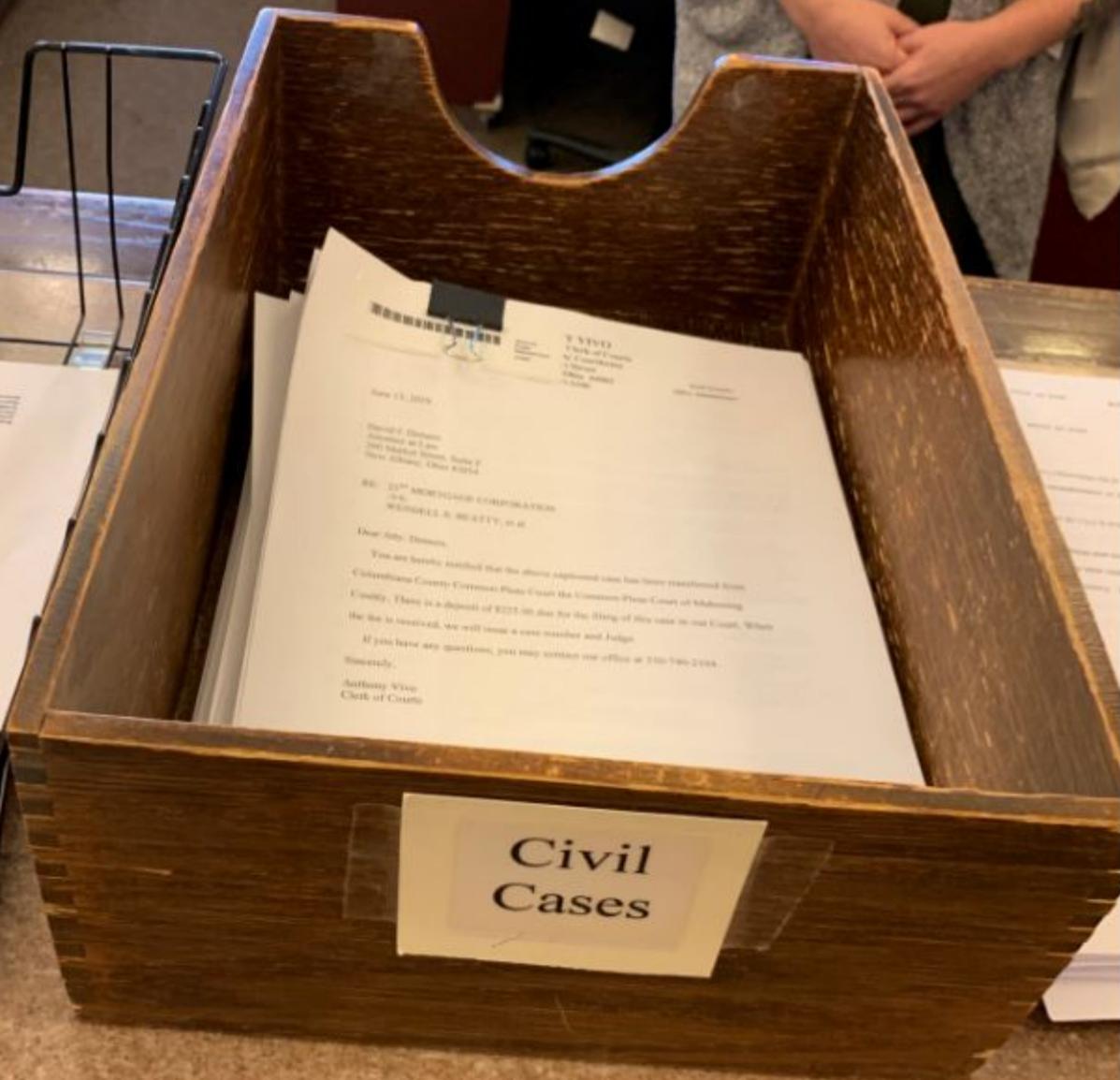
Ukraine-Russia ceasefire talks yield glimmers of hope

March 29, 2022

Chicago City Council votes to confirm first Asian American alderwoman

March 28, 2022

**EXHIBIT**  
**1A**



CLERK OF COURTS  
MADISON COUNTY  
COURTHOUSE  
NASHVILLE, TN 37203  
615.253.1234

June 13, 2024

Donald F. Thomas  
200 Market Street, Suite 2  
Nashville, TN 37203

RE: 22<sup>nd</sup> MORTGAGE CORPORATION  
v.  
WENDIE L. BEATTY, et al

Dear Mr. Thomas:

You are hereby notified that the above captioned case has been transferred from  
Madison County Courtroom Place Court to the Madison County Court of Madison  
County. There is a deposit of \$225.00 due for the filing of this case in our Court. When  
the fee is received, we will issue a case number and judge.

If you have any questions, you may contact our office at 310.740.2194.

Sincerely,  
Anthony Vice  
Clerk of Courts

**Civil  
Cases**

## COURTHOUSE NEWS SERVICE

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

Date: August 17, 2021

Maryellen O'Shaughnessy

*Clerk of Courts*, Franklin County Court of Common Pleas

345 S High Street, 4th Floor, Courtroom 4B

Columbus, OH 43215

Dear Clerk O'Shaughnessy,

I am writing from Courthouse News Service to respectfully request that the Franklin County Court of Common Pleas provide traditional access to new civil complaints when they are submitted for e-filing and received by the Clerk of Courts, rather than after the Clerk's review, processing, acceptance, and docketing. Back in the years of paper filing, The Daily Reporter newspaper and Courthouse News had traditional access to new civil complaints on the day they were filed, before docketing. Such pre-processing access was common in state and federal courts in the paper era. Now, in the electronic era, such timely access to complaints submitted to the Court for filing through the e-filing system is required by Superintendence Rule 45(A), as a "case document" includes documents "submitted" by a member of the public to a court, and court records (which includes case documents) are presumed open to public access.

The federal courts, including the U.S. District Courts for the Northern and Southern Districts of Ohio, and an increasingly long list of state courts, now provide that traditional access for complaints submitted electronically. They do so by giving the press (or the press and general public) access to new non-confidential complaints when they cross the electronic counter (submission by the filer) via an electronic in-box (receipt by the Clerk) that filters in the non-confidential case types, mimicking the access provided in the past to new paper cases. The electronic in-box works off non-confidential case designations made by the filer, so it does not include confidential filings. Further, in Franklin County, a complaint cannot be filed under seal electronically, and as such, no newly submitted complaint through the e-filing system would be confidential and exempt from public access.

Tybera's eFlex, the e-filing software system used by the Franklin County Court of Common Pleas, is capable of providing on-receipt (upon submission) access via a review queue. The courts of Utah, for example, use Tybera to provide an on-receipt review queue to press and public. A number of other private vendors provide such access: Journal Technologies, Tyler Technologies, Granicus and OLIS, which are used in California, Nevada, Georgia, Arizona and Alabama courts. Even several state court home-grown systems offer on-receipt access: Hawaii, Washington, Connecticut and New York. PACER, the system used by the federal courts, also provides access when new complaints are submitted for filing.

As noted, this request for access to e-filed, non-confidential complaints will not conflict with the formally adopted electronic filing guidelines within Administrative Order No. 8, which requires filing parties to conventionally file (paper file) complaints under seal.

I would greatly appreciate the favor of letting me know within the next two weeks if the Court would consider accommodating this respectful request.

Thank you,

A handwritten signature in black ink, appearing to read "Bill Girdner". The signature is stylized with a large, looped "B" and a long, sweeping horizontal line extending to the right.

Bill Girdner  
Editor, Courthouse News Service  
bgirdner@courthousenews.com

**COURTHOUSE NEWS SERVICE**

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

Date: August 17, 2021

Honorable Stephen L. McIntosh

*Administrative Judge*, Franklin County Court of Common Pleas

345 S High Street, 4th Floor, Courtroom 4B

Columbus, OH 43215

Dear Judge McIntosh,

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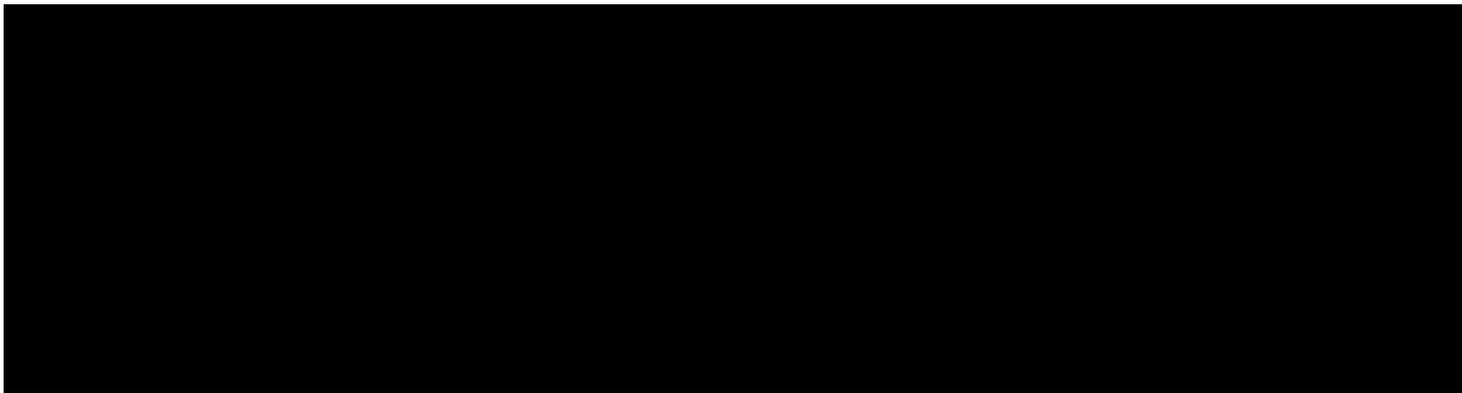
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Bill Girdner  
Editor, Courthouse News Service  
bgirdner@courthousenews.com



**From:** Bill Girdner  
**Sent:** Wednesday, September 1, 2021 9:48 AM  
**To:** Chance, Sharlene I. <[sichance@franklincountyohio.gov](mailto:sichance@franklincountyohio.gov)>  
**Subject:** RE: Traditional Access to New Non-Confidential Civil Complaints

How unusual! A reasonable and fair response. Thanks so much and please ask any questions you like.

My office number here is 626 577 3870, and you have my email address.

Thanks again,

Bill

**From:** Chance, Sharlene I. <[sichance@franklincountyohio.gov](mailto:sichance@franklincountyohio.gov)>  
**Sent:** Wednesday, September 1, 2021 7:18 AM  
**To:** Bill Girdner <[bgirdner@courthousenews.com](mailto:bgirdner@courthousenews.com)>  
**Subject:** Traditional Access to New Non-Confidential Civil Complaints

Good morning Mr. Girdner,

The Honorable Maryellen O’Shaughnessy is in receipt of the attached letter. She has forwarded it to my attention to review. Once I have the opportunity to review your letter, I will meet internally with the Clerk’s Team and respond accordingly.

Thank you for contacting Clerk O’Shaughnessy’s Office.



**Sharlene I. Chance, Esq.** | *Legal Compliance Officer*  
Franklin County Clerk of Courts  
The Honorable Maryellen O’Shaughnessy  
d: (614) 525-3307 | m: (614) 581-8852 | f: (614) 525-4325  
e: [sichance@franklincountyohio.gov](mailto:sichance@franklincountyohio.gov)  
w: [clerk.franklincountyohio.gov](http://clerk.franklincountyohio.gov)

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**"My office is dedicated to providing timely, accurate and courteous service to the people of Franklin County."**  
—Maryellen O’Shaughnessy, Franklin County Clerk of Courts

*Message regarding COVID-19*

*Our priority is to ensure the welfare of our employees, partners, and the people we serve throughout this pandemic. We are working together and implementing recommendations from the healthcare professionals. We promote the use of: face coverings, disinfectant and frequent hand washing. Thank you for your support.*





---

**From:** Bill Girdner <[bgirdner@courthousenews.com](mailto:bgirdner@courthousenews.com)>  
**Sent:** Monday, October 4, 2021 4:52 PM  
**To:** Chance, Sharlene I. <[sichance@franklincountyohio.gov](mailto:sichance@franklincountyohio.gov)>  
**Subject:** Traditional Access to New Non-Confidential Civil Complaints



Hi Sharlene,

I hope you and the folks in your office are doing well. I am following up on our request for on-receipt access to new civil complaints through a Tyler press queue. Time is passing by and we would like to resolve this matter. Can you let me know within two weeks what your team has decided.

Thanks very much,

Bill Girdner

---

**From:** Bill Girdner  
**Sent:** Wednesday, September 1, 2021 9:48 AM  
**To:** Chance, Sharlene I. <[sichance@franklincountyohio.gov](mailto:sichance@franklincountyohio.gov)>  
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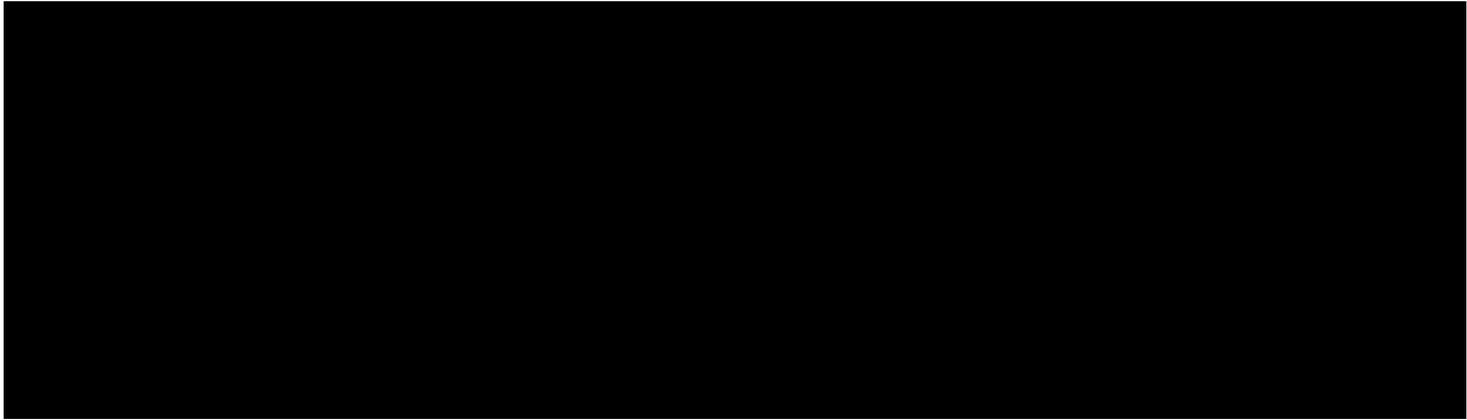
Thanks again,

Bill

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**From:** Chance, Sharlene I. <[sichance@franklincountyohio.gov](mailto:sichance@franklincountyohio.gov)>  
**Sent:** Wednesday, September 1, 2021 7:18 AM  
**To:** Bill Girdner <[bgirdner@courthousenews.com](mailto:bgirdner@courthousenews.com)>  
**Subject:** Traditional Access to New Non-Confidential Civil Complaints

Good morning Mr. Girdner,



**From:** Chance, Sharlene I. <sichance@franklincountyohio.gov>  
**Sent:** Tuesday, October 5, 2021 5:25 AM  
**To:** Bill Girdner <bgirdner@courthousenews.com>  
**Subject:** RE: Traditional Access to New Non-Confidential Civil Complaints

**EXHIBIT**  
6

Good morning Bill,

Clerk O'Shaughnessy will have a response to you within two weeks.

Thank you for your patience.

Sharlene



**Sharlene I. Chance, Esq. | Legal Compliance Officer**  
Franklin County Clerk of Courts  
The Honorable Maryellen O'Shaughnessy  
d: (614) 525-3307 | m: (614) 581-8852 | f: (614) 525-4325  
e: [sichance@franklincountyohio.gov](mailto:sichance@franklincountyohio.gov)  
w: [clerk.franklincountyohio.gov](http://clerk.franklincountyohio.gov)

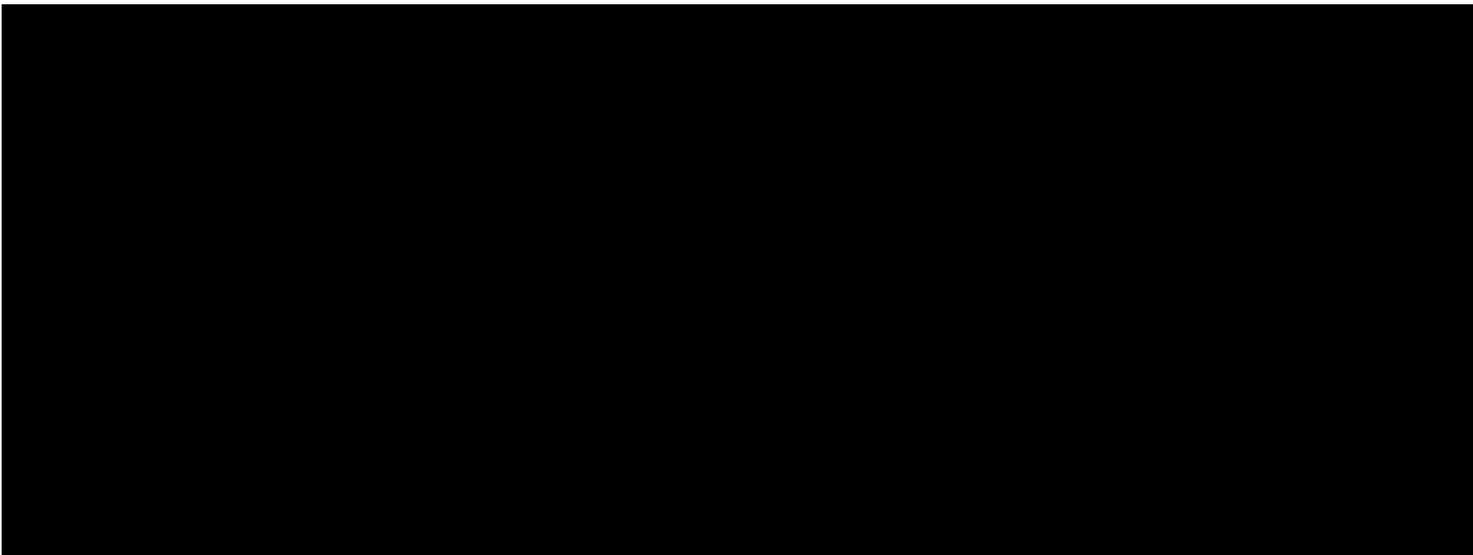
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---

**From:** Bill Girdner  
**Sent:** Friday, November 19, 2021 1:10 PM  
**To:** Chance, Sharlene I. <[sichance@franklincountyohio.gov](mailto:sichance@franklincountyohio.gov)>  
**Subject:** RE: Traditional Access to New Non-Confidential Civil Complaints



Hello Sharlene!

Two weeks has well come and gone.

Can you please give us a yea or a nay on our request for on-receipt access to the new civil complaints. I would note for your reference that the Court's e-filing vendor, Tybera, is also the e-filing vendor for the state of Utah where it provides the press and public with on-receipt access.

Please let me know what the Clerk has decided.

And have a Happy Thanksgiving!

Bill

---

**From:** Chance, Sharlene I. <[sichance@franklincountyohio.gov](mailto:sichance@franklincountyohio.gov)>  
**Sent:** Tuesday, October 5, 2021 5:25 AM  
**To:** Bill Girdner <[bgirdner@courthousenews.com](mailto:bgirdner@courthousenews.com)>  
**Subject:** RE: Traditional Access to New Non-Confidential Civil Complaints

Good morning Bill,

Clerk O'Shaughnessy will have a response to you within two weeks.

Thank you for your patience.

Sharlene



**The Honorable Maryellen O'Shaughnessy**  
Franklin County Clerk of Courts

Clerk of Courts Administration  
373 South High Street, 23<sup>rd</sup> Floor  
Columbus, Ohio 43215  
614.525.3600

November 22, 2021

Bill Girdner  
[bgirdner@courthousenews.com](mailto:bgirdner@courthousenews.com)  
Editor, Courthouse News Service  
30 N. Raymond  
Third Floor  
Pasadena, CA 91103

Re: Request for access to new civil complaints

Dear Mr. Girdner:

Thank you for your patience while my Team and I reviewed your request for access to new civil complaints when they are submitted for e-filing and received by the Clerk of Courts for review, rather than after the Clerk's review and approval. As the Franklin County Clerk of Courts, I am committed to the transparency of the records maintained by my Office. We are unable to grant your request, at this time.

As Clerk, I am bound by the Local Rules and Rules of Superintendence (collectively, the "Rules") and must follow the processes set forth therein. Specifically, the Rules require the Clerk to perform a review of all complaints filed with the Clerk's office and only after review and approval do complaints become part of the official court record. A document that has not been accepted by the Clerk is not part of the official court record and is, therefore, not a court record that is open to public access as contemplated under Sup.R. 45(A). In fact, not even Franklin County court personnel, including judges, are provided with information about complaints that have not undergone Clerk review and acceptance.

Additionally, an analysis by my Office of the average length of time it takes to review documents showed that the Office completes its review within eight business hours, often sooner. Upon completion of the Clerk's review, the documents are either rejected, in which case they do not become part of the official court record, or accepted, in which case the case caption and case number become immediately available via the Clerk's Case Information Online system. My Office's main objective is to provide accurate information to the media and the public. If my Office were to provide access to media outlets, including Courthouse News Service, prior to review and acceptance, it could create a scenario in which the media is reporting inaccurate information, potentially causing irrevocable harm.

I will continue to evaluate your request in light of any changes or updates to the Rules. We appreciate your understanding. If you have further questions or concerns, please do not hesitate to contact the Franklin County Clerk of Courts Office.

Sincerely,

*Maryellen O'Shaughnessy/sic*

The Honorable Maryellen O'Shaughnessy  
Clerk of Courts