

EXHIBIT 4

COURTHOUSE NEWS SERVICE

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April 24, 2023

Robert Gast
State Court Administrator
Iowa Judicial Branch Building
1111 East Court Ave.
Des Moines, IA 50319

Dear Mr. Gast,

Thank you for the letter I received from you today responding to my letter that was sent, as you note, in September of last year. I should add at the outset that we in the press also sent an earlier letter asking for the same access, matching the old wire basket on the counter, in 2018. That letter was sent to Steve Davis, the communications director for the Iowa Judicial Branch. I enclose a copy of this letter for your reference.

You may not be aware that your vendor, Tybera, is in the process of implementing a system that would indeed reflect the access once provided by courts throughout the nation in the paper era, at the time the filing crosses the virtual counter. That system is being implemented in the Franklin County Court of Common Pleas in Ohio.

We have been assured by the representative for the clerk in Franklin County that the access system will be in place roughly one month from now, after the clerk was earlier enjoined by a federal judge in Ohio on this identical issue. So we are convinced that your office has the means for providing access. What appears to be lacking is the will.

You explain in your letter that you see practical and legal "difficulties" with granting the access that we believe is required by the First Amendment and that was formerly provided by Iowa courts in the days of paper. And, respectfully, you have not proposed any timeline for resolving this issue.

So while I very much appreciate your letter and the inquiry you are willing to make with your vendor Tybera and the fact that the Judicial Branch is willing to consider further "enhancements" in press and public access, I would respectfully suggest that, given the past requests to fix the access delays. and the lack of any commitment by you now towards fixing

them, I am not hopeful that this important First Amendment issue will be considered or resolved any time soon. In the meantime, the status quo of delayed access will remain in place.

So I believe it is best that we ask for this matter to be resolved in a forum which can move at a faster pace and can give us a decision regarding the constitutionality of what we consider to be a policy by your office, and that of the clerk, of effectively sealing the new civil complaints until they are processed by the clerk, by which time, to quote the 2018 letter, "a new lawsuit may well be 'old news.'"

We of course remain ready and willing to hear from your office with a more concrete proposal that would provide access to the new civil petitions when they are filed, and without the delays caused by processing, as the courts of Iowa did in the "old days."

Thank you,

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

Bill Girdner
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December 24, 2018

Steve Davis
Iowa Judicial Branch
1111 E. Court Ave.
Des Moines, IA 50319

Steve:

The Iowa Freedom of Information Council would like the Iowa Supreme Court, acting in its administrative capacity, to consider making two changes in the Electronic Data Management System that would enhance news reporters' access to the courts and assure timely news coverage of important court matters.

I would like to lay out our concerns and offer our suggestions for improvements the Supreme Court could make.

CHANGES AND UPDATES TO CASE SCHEDULES

As the Supreme Court's appointed central media coordinator for Expanded News Media Coverage, the Iowa FOI Council aims to ensure that there is one point of contact between the courts and news reporters and photographers in cases where ENMC has been approved by judicial officers.

That is in the interest of both the media and the courts. But the process could be improved if the regional media coordinators had ready access to updates or changes in the schedules for cases in which ENMC has been approved.

Recently, Brian Cooper of the Dubuque Telegraph Herald, the media coordinator in Region 1, discovered after the fact that an emergency plea hearing and immediate sentencing occurred in a case in Dubuque in which multiple media outlets had requested, and been granted, ENMC access. As a result, the media missed the hearing at which this newsworthy case was concluded.

Apparently the Dubuque County Clerk of Court and an unknown number of other clerks have discontinued their past practice of keeping the regional media coordinators informed of schedule changes in ENMC cases.

Clearly, we need something that works for all judicial districts



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so local news media organizations are aware of changes in scheduled trials or hearings in cases in which they have received permission to cover these proceedings electronically.

Our suggestion, which we discussed with Justice David Wiggins recently, would be to add media coordinators to notices sent electronically to the parties in these cases when scheduling orders are issued by judges. Then, the media coordinators can get the word out to interested media organizations. That would relieve both judges and clerks of having to deal with reporters calling periodically to check on the status of cases. It would also eliminate the chances of news media missing an important trial or hearing because of a schedule change.

ONLINE ACCESS TO NEWLY FILED COURT DOCUMENTS

On the matter of timeliness of new electronic court document filings, we have observed that it may take clerks of court anywhere from one to three or more days from the time a petition or other court document is filed for it to show up on Iowa Courts Online, where it is accessible to the public and the press.

Back in the “old days,” when paper court documents were filed in the clerks’ offices, a time-stamped copy of each filing went into a basket on the counter where it was publicly accessible that day. Reporters could see what new cases were filed that day and write their stories that day. That is the essence of news.

With electronic filing, a new lawsuit may well be “old news” by the time some new petitions show up online. In some cases, select media outlets may learn of a new lawsuit or other filing from a lawyer-source who might make a copy available to that reporter. But other media organizations do not have the petition. Timely access to court documents, which are public records, should not be determined by lawyers who may or may not have good relationships with certain journalists.

Other times, some groups – American Civil Liberties Union of Iowa, for example – announce new lawsuits to the media at a press conference or in a press release without making copies of the petition available until it is online. This discourages the sort of good reporting practice where reporters read the actual petition for themselves rather than rely on the plaintiff’s description in a news release.

A number of courts in other states have worked around this problem by making copies of new court filings available instantly to qualified news media organizations that register for the privilege in same way that news media now have online access to Iowa court documents. Again, this is the same access the parties in court cases have.



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If Iowa adopted this practice, court clerks still could review new filings to be sure that they are formatted correctly and that personally identifying information is redacted. But reporters would be able to report right away on newsworthy court filings.

I would remind you that as a condition of being approved for online access to court documents, journalists already must agree to keep confidential any personal information they discover in a petition and to report to the court when lawyers fail to redact those details from their filings.

IN SUMMATION

We know Iowa's courts are committed to making this state's judicial system accessible to the press and to the public, as evidenced by the Supreme Court's practice of holding oral arguments around the state and by livestreaming oral arguments and the interviews of judicial applicants by the State Judicial Nominating Commission.

We appreciate the Court's leadership on allowing cameras and computers in the courtroom, allowing news media electronic access to court filings and working with the Iowa Newspaper Association to enable date-range case searches on courthouse computer terminals.

The two changes we now propose would be in that spirit of transparency and would help Iowa news media do a better job of covering Iowa's courts.

Thank you for your consideration of these proposals. We would welcome the opportunity to discuss these in more detail with Court personnel.

Respectfully,

A handwritten signature in black ink that reads "Randy Evans". The signature is written in a cursive, flowing style.

Randy Evans
Executive Director

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IowaFOICouncil@gmail.com