

News

COURTHOUSE NEWS TEAM WINS VICTORY IN FOURTH CIRCUIT

Jul 01, 2021

The Fourth Circuit Court of Appeals on June 24 ruled in favor of BCLP client Courthouse News Service in *Courthouse News Service v. Schaefer*, an action brought under 42 U.S.C. § 1983 and the First Amendment to redress delays in access to newly-filed civil complaints caused by the policies of two state court clerks in Virginia.

Holding that “[t]he press and public enjoy a First Amendment right of access to newly filed civil complaints” and that “[t]his right requires courts to make newly filed civil complaints available as expeditiously as possible,” the Fourth Circuit affirmed Eastern District of Virginia Judge Henry Coke Morgan’s Feb. 21, 2020, ruling, following a four-day bench trial, that the First Amendment requires “contemporaneous” access to newly-filed complaints, and that “contemporaneous,” in this context, means “on the same day of filing, insofar as practicable, and if not practicable within one court day.” Applying this standard to the evidence presented at trial, Judge Morgan found that in this particular case, 85-90% of newly-filed complaints should be made available to the public and press on the day filed.

In ruling for CNS, the Fourth Circuit found that contemporaneous access was required in part because of the “immediate consequences precipitated by filing a complaint, consequences that the public must promptly understand,” and that “[t]he press and public thus have an important interest in reasonably contemporaneous access to civil complaints.”

This case represents a true cross-office effort. The BCLP team at the trial and appellate level was led by William Hibsher in New York together with Heather Goldman and Bryan Harrison in Washington, D.C., along with D.C. Paralegal Eileen Weiss. Extensive support throughout the case was provided by Rachel Matteo-Boehm, Katherine Keating and Jonathan Fetterly in San Francisco. Hibsher argued for CNS before the Fourth Circuit.

CNS was supported on the briefs, and at argument, by Amici Reporters Committee for Freedom of the Press and 28 media organizations from across the United States.

The Virginia clerks also have appealed the district court’s \$1.9 million attorney fee award to CNS pursuant to 42 U.S.C. § 1988. That appeal is still pending before the Fourth Circuit.

Click [here](#) to read more background on this case.

RELATED PRACTICE AREAS

- Media & First Amendment
- Litigation & Dispute Resolution
- Business & Commercial Disputes

MEET THE TEAM



Rachel E. Matteo-Boehm

San Francisco

rachel.matteo-boehm@bclplaw.com
+1 415 268 1996



Katherine Keating

San Francisco

katherine.keating@bclplaw.com
+1 415 268 1972



Jonathan G. Fetterly

San Francisco

jon.fetterly@bclplaw.com
+1 415 675 3451

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be “Attorney Advertising” under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP’s principal office and Kathrine Dixon (kathrine.dixon@bclplaw.com) as the responsible attorney.