

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO

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RICHARD W. NAGEL  
CLERK OF COURT  
2022 DEC 19 PM 3:40

U.S. DISTRICT COURT  
SOUTHERN DIST. OHIO  
EAST. DIV. COLUMBUS

In Re:

COURT PROCEDURES RELATING :  
TO PUBLIC AND NEWS MEDIA : GENERAL ORDER NO. 22-22  
ACCESS TO TRIAL EXHIBITS :

This Court issues this General Order to address the procedures the Court will use in providing public access, including media access, to admitted trial exhibits. In adopting this Order, the Court starts from the proposition that trials are public proceedings. The public and the press have a First and Fourteenth Amendment right to attend criminal trials<sup>1</sup> and that same right largely extends to civil trials.<sup>2</sup>

The constitutional right to attend a trial, though, does not give rise to a corresponding constitutional right to obtain the exhibits admitted at trial. Rather, the ability to see and hear the evidence as it is presented in the public forum suffices to satisfy constitutional obligations.<sup>3</sup>

That said, courts have long recognized a presumptive common-law right of access to judicial records.<sup>4</sup> As a general matter, this includes trial exhibits, which form a portion of the evidence that the court or the jury will rely on to decide a given matter.

This right of access is not unqualified. There may be circumstances where the right of access, or the timing of such access, must give way to other equally important rights, such as a defendant's right to a fair trial, witness safety, or other similarly weighty concerns. Thus, as the Supreme Court has observed, "the decision as to access is one best left to the sound discretion of

<sup>1</sup> *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555 (1980).

<sup>2</sup> *Brown & Williamson Tobacco Corp. v. F.T.C.*, 710 F.2d 1165, 1178 (6th Cir. 1983).

<sup>3</sup> *See United States v. Beckham*, 789 F.2d 401, 409 (6th Cir. 1986).

<sup>4</sup> *See id.*; *Nixon v. Warner Communications, Inc.*, 435 U.S. 589 (1978).

the trial court, a discretion to be exercised in light of the relevant facts and circumstances of the particular case.”<sup>5</sup>

Consistent with that observation, nothing in this General Order is designed to restrict, in any way, a judge’s right to exercise his or her discretion on this issue in a given case. Rather, the purpose of this General Order is to advise the public of the general procedures that this Court will use in providing access to admitted trial exhibits, to the extent that the assigned judge determines such access is appropriate in a given case.

Accordingly, under this General Order, a party requesting access to admitted trial exhibits should direct its request in writing to the chambers of the judge who is assigned to that matter, identifying the matter as to which materials are sought, and the specific admitted trial exhibits the requester is seeking. If the judge determines it is appropriate to provide such access, the judge’s staff will confer with the requester to determine the format in which to provide the requested material. If the judge elects to provide the requested material in electronic format, the Court will provide the electronic medium (e.g., flash drive, CD-ROM, etc.) for the transfer, but may charge the requester a fee for copies of records in electronic form as set forth on the fee schedule on the Court’s website.<sup>6</sup> If the Court instead elects to provide the materials in hard copy (i.e., paper) format, the Court may require the requester to prepay the copy charges associated with providing the requested materials, once again at the rate set forth on the fee schedule. The judge may, but is not required to, note the request for admitted trial exhibits and/or the identity of the requester on the docket in the matter.

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<sup>5</sup> *Nixon*, 435 U.S. at 599.

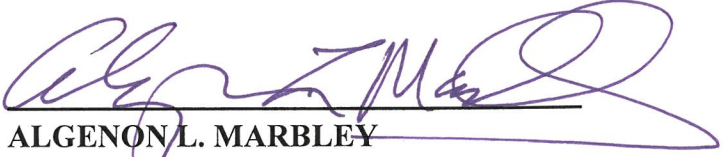
<sup>6</sup> See <https://www.ohsd.uscourts.gov/court-fee-schedule-and-payment-information>

The assigned judge also has discretion regarding the timing of such access. For example, in a given case, a judge may determine that providing such access while the trial is ongoing may give rise to an unacceptable risk that the jury will be tainted by news reports on the materials, and thus the judge may, but is not required to, elect to delay release of such materials until after jury deliberations are complete.

This General Order applies to admitted trial exhibits only, and does not address unadmitted trial exhibits. As a general matter, neither the press nor the public have any right of access to unadmitted trial exhibits. Similarly, this General Order is not intended to, and does not, address admitted trial exhibits as to which the Court has granted a sealing order.

**IT IS SO ORDERED.**

**DATED: December 19, 2022**

  
ALGENON L. MARBLEY  
CHIEF UNITED STATES DISTRICT JUDGE