REPORTERS COMMITTEE
FOR FREEDOM OF THE PRESS

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By certified mail

February 12, 2026

Brandy S. Lonchena
Clerk of Court, U.S. District Court Western District of Pennsylvania
Joseph F. Weis, Jr., U.S. Courthouse
700 Grant Street, Suite 3100
Pittsburgh, Pennsylvania 15219

Re: Access to judicial records in immigration cases

Dear Clerk Lonchena:

I write regarding public access to immigration cases pending in the Western District of Pennsylvania. I am an attorney at the Reporters Committee for Freedom of the Press, a nonprofit whose attorneys provide pro bono legal services to journalists throughout the country, including in Pennsylvania. I am a member of the bar of Pennsylvania and each of our federal district courts in the state, including the Western District of Pennsylvania.

Upon inquiry during a visit to the U.S. courthouse in Johnstown this week, a reporter was told by the clerk's office that she could be provided with copies of court orders and docket sheets in immigration proceedings, but she could not have copies of habeas petitions and related exhibits. According to the reporter, court staff informed her that these records are "restricted" because of federal rules and Fed. R. Civ. P. 5.2(c). But those rules do not prohibit in-person copying of unsealed records available for viewing on the public terminal—nor could they, given that the "courts of this country recognize a general right to inspect *and copy* public records and documents." *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 (1978) (emphasis added).

We previously wrote to the Western District of Pennsylvania in August 2025, urging the Court to reduce restrictions on electronic public access to records filed in immigration cases. A copy of that letter, which was sent to then-Chief Judge Mark Hornack, is enclosed. Our letter urged changes to this court's practices related to Rule 5.2(c), which by default blocks public access to immigration case filings via PACER, the electronic system for federal court records, forcing journalists to visit the courthouse to view them in person.

It is our understanding that the Western District of Pennsylvania is still requiring journalists to visit the courthouse in person to access immigration case records and we continue to urge the Court to revisit this policy, as outlined in the August 2025 letter. However, today we write separately about the Clerk's Office's apparent practice of not only

prohibiting remote electronic access to habeas petition records, but also prohibiting them from being copied at all when a member of the press or public views them in person at the courthouse. However, Rule 5.2(c) does *not* prohibit copying such records from the public courthouse terminal—by its own terms, it restricts only "remote electronic access" to such records. Fed. R. Civ. P. 5.2(c).

Whether the Western District of Pennsylvania has adopted a written order or informal policy denying copies, this arbitrary barrier limits reporters' ability to access immigration case records and raises significant constitutional concerns. The common law and the U.S. and Pennsylvania Constitutions afford members of the press and public a presumptive right of access to judicial proceedings and records.

This right of access includes not merely viewing judicial records, but copying them as well. The Third Circuit has squarely held that judicial records subject to the right of access must be "made reasonably accessible in a manner suitable for copying and broader dissemination." *United States v. Criden*, 648 F.2d 814, 823 (3d Cir. 1981). And for good reason—the press acts as a surrogate for the public in obtaining and reviewing public records, and a reporter cannot reasonably be expected to understand the full import of a judicial record by merely looking at it for a few minutes on a public terminal.

By prohibiting copies of records in immigration cases, without any justification that could possibly overcome the strong presumption of access, the Clerk's Office is violating that right. Further, blocking copying of these records prevents the press and public from timely accessing the filings. As the Fifth Circuit has noted: "Timeliness of publication is the hallmark of 'news' and the difference between 'news' and 'history' is merely a matter of hours." *United States v. Dickinson*, 465 F.2d 496, 512 (5th Cir. 1972); *see also United States v. Wecht*, 537 F.3d 222, 229 (3d Cir. 2008) ("Although post-trial release of information may be better than none at all, the value of the right of access would be seriously undermined if it could not be contemporaneous."); *Grove Fresh Distribs., Inc. v. Everfresh Juice Co.*, 24 F.3d 893, 897 (7th Cir. 1994) ("The newsworthiness of a particular story is often fleeting. To delay or postpone disclosure undermines the benefit of public scrutiny and may have the same result as complete suppression."), *superseded on other grounds as recognized by Bond v. Utreras*, 585 F.3d 1061, 1068 n.4 (7th Cir. 2009).

And, as a policy matter, allowing reporters to make physical copies eases the burden of taking copious handwritten notes and ensures more accurate and contemporaneous reporting on immigration proceedings in federal court.

We urge the Western District to examine its orders, policies, or procedures that prevent reporters or others from copying judicial records in immigration cases and to immediately rescind them. And we remain at your service to discuss our August 2025 proposal to alter this court's practices related to Rule 5.2(c). Thank you for your consideration in this matter and do not hesitate to contact me if I can provide any additional assistance.

Sincerely,

/s/Paula Knudsen Burke
Paula Knudsen Burke
(717) 370-6884
pknudsen@rcfp.org

Enclosure: August 2025 letter

cc: Chief United States District Judge Cathy Bissoon,
United States District Court Western District of Pennsylvania (via FedEx)

[PROPOSED] STANDING PROCEDURAL ORDER RE:
PUBLIC ACCESS TO IMMIGRATION CASES RESTRICTED BY
FEDERAL RULE OF CIVIL PROCEDURE 5.2(C)

1. The court orders that in an action or proceeding relating to an order of removal, or to immigration benefits or detention, access to an electronic file is authorized to the extent provided by Fed. R. Civ. P. 5.2(c) for 10 days after the case filing. At that time, restrictions on remote access to the full electronic record shall be removed except for redactions required pursuant to Rule 5.2(a) to protect confidential information (i.e., social security numbers), unless an objection is filed according to the procedure in paragraph 2 of this rule, such that all unsealed filings will be accessible to the public electronically after 10 days.

2. Any party who objects to the removal of the restrictions provided by Rule 5.2(c) shall file objections with the court within 7 days of the case filing. Any response to the objection shall be filed within 7 days. Restrictions will not be lifted until the court rules on any objections.

3. At all times, paper copies of documents restricted by Rule 5.2(c) will be provided when requested at each courthouse subject to the condition that they shall not be placed on the internet within the first 10 days after the case filing if there are no objections or until the presiding judge lifts the restriction.

4. The presiding judge may modify this standing order at any time in the interest of justice.

5. This order shall be served by the Clerk's Office on all parties when the case is filed and on each person that requests a paper record.

So ordered.

*s/*_____

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By mail

August 21, 2025

Chief Judge Mark Hornak
U.S. District Court for the Western District of Pennsylvania
Joseph F. Weis, Jr. U.S. Courthouse
700 Grant Street
Pittsburgh, PA 15219

Dear Chief Judge Hornak:

The Reporters Committee for Freedom of the Press ("Reporters Committee") writes to respectfully request that this Court issue a new standing order to revise its practice of restricting remote public access to records filed in immigration cases. This procedure is currently governed by Federal Rule of Civil Procedure 5.2(c), which limits electronic access to such filings to parties and their lawyers, making those documents available to the public in-person only. This restriction prevents timely public access to fast-moving legal developments and impedes the ability of the press to report on critical, newsworthy matters. It also unnecessarily burdens clerks of court with requests for paper copies of filings in these matters. The Rule permits courts to opt out, *see* Fed. R. Civ. P. 5.2(c) ("Unless the court orders otherwise . . ."), and at least one U.S. District Court has already done so. *See* D. Mass. Gen. Order 19-02 (June 1, 2019), https://tinyurl.com/msfnvvbp. The Reporters Committee urges this Court to exercise its discretion to depart from the access limitations imposed by Rule 5.2(c).

Timely public access to judicial records is not just good public policy—it is a matter of constitutional importance. As the Supreme Court has recognized, the public's understanding and oversight of the judiciary plays a fundamental role in democratic self-government. *See, e.g., Globe Newspaper Co. v. Superior Court,* 457 U.S. 596, 604 (1982) (public access "serves to ensure that the individual citizen can effectively participate in and contribute to our republican system of self-government"); *Valley Broad. Co. v. U.S. Dist. Ct. of Nev*., 798 F.2d 1289, 1293 (9th Cir. 1986) (access to court records "helps the public keep a watchful eye on public institutions and the activities of government"). As a result, the First Amendment and the common law provide a qualified right of access to court proceedings and records. *See Press-Enterprise Co. v. Superior Court*, 478 U.S. 1, 13 (1986); *Nixon v. Warner Commc'ns, Inc.,* 435 U.S. 589, 597 (1978); *Courthouse News Serv. v. Planet*, 947 F.3d 581, 586 (9th Cir. 2020); *see Delaware Coal. for Open Gov't, Inc. v. Strine*, 733 F.3d 510, 514 (3d Cir. 2013) (applying *Press-Enterprise* test). Moreover, "[a] necessary corollary of the right to access is a right to *timely* access." *Planet*, 947 F.3d at 589 (emphasis added). The press often carries out this essential function on behalf of the public by reviewing judicial filings as soon as they are submitted and reporting on court proceedings as they unfold.

Rule 5.2(c) runs counter to this crucial interest by blocking the public's electronic access to judicial records in immigration cases. *See* Fed. R. Civ. P. 5.2(c). In most federal cases, PACER provides immediate online access to the public for all filings. To limit access, a party must generally request sealing and demonstrate that its privacy interests outweigh the public's right of access. *See, e.g., In re Cendant Corp.*, 260 F.3d 183, 194 (3d Cir. 2001) ("In order to override the common law right of access, the party seeking the closure of a hearing or the sealing of part of the judicial record bears the burden of showing that the material is the kind of information that courts will protect and that disclosure will work a clearly defined and serious injury to the party seeking closure." (internal quotations omitted)). Not so in immigration cases; the Rule strips the public's electronic access to records for the public as a default.

The Rule's obstacles to access produce harmful consequences. Immigration proceedings in federal court often move quickly. Real-time access is essential for both reporters covering a major and contested area of public policy and the public seeking to stay informed about the government's immigration enforcement actions. As the leading pro bono legal services organization for journalists in the United States, the Reporters Committee regularly hears from reporters who struggle to cover these cases due to Rule 5.2(c). The Rule forces journalists—and any interested members of the public—to travel to the courthouse during business hours to review filings in print. The result is practical obscurity for many of the filings in these matters, as it is highly burdensome for reporters to go to all of the various courthouses across the country where immigration matters are pending, and it is practically impossible for them to do so as soon as a document is filed. Additionally, in cases that capture significant public attention, clerks' offices are likely to be overwhelmed by members of the public and the press arriving at the courthouse in droves seeking print copies of filings. Thus, the press and the public are effectively denied timely insight into what may be significant legal developments.

Further, the Rule's restriction on access is both too broad and too narrow to reasonably serve its purported goal of protecting sensitive information. The Judicial Conference implemented the Rule in 2007, citing the "prevalence of sensitive information and the volume of filings" in immigration cases. Fed. R. Civ. P. 5.2 advisory committee's note. Records from the committee meeting where this version of the Rule was adopted, however, reveal that the specific concern was the burden that the Department of Justice faced in redacting administrative records where cases were appealed to federal court from the immigration court. *See* Meeting Minutes, Civil Rules Advisory Committee, 3:110-112 (May 22-23, 2006), https://www.uscourts.gov/sites/default/files/fr_import/CV05-2006-min.pdf. But redaction technology has improved dramatically since 2007, and in any event the Rule is not limited to administrative records—it sweeps in all records in any case "relating to an order of removal, to relief from removal, or to immigration benefits or detention," Fed. R. Civ. P. 5.2(c), including habeas petitions where the administrative record (if there is one) may not be filed at all. The broad scope of the Rule no longer makes sense. Plus, though it is ostensibly designed to safeguard privacy, the Rule still allows in-person viewing of records—including any administrative file—at the courthouse. Sensitive, unredacted information can still be disclosed, just through a slower and less transparent process. As written, Rule 5.2(c) is simply ineffective as well as overly broad.

District courts have repeatedly exercised their discretion to lift the Rule's access limitations in specific cases. *See, e.g., Kordia v. Noem*, No. 3:25-cv-01072, ECF No. 47 (N.D. Tex. June 2, 2025) ("[T]he Court directs the Clerk of Court to lift all viewing restrictions on the docket-i.e., to make all prior filings electronically available to the public."); *Mahdawi v. Trump*, No. 2:25-cv-00389, ECF No. 73 (D.Vt. May 23, 2025); *Khalil v. Joyce*, No. 1:25-cv-01935, ECF No. 29 (S.D.N.Y. Mar. 12, 2025) ("With the consent of both parties, the Court orders that the limitations on remote access to electronic files otherwise applicable in this case, see Fed. R. Civ. P. 5.2(c), are lifted."). Appellate courts have done the same. *See, e.g.*, *Suri v. Trump*, No. 25-1560, ECF No. 26 (4th Cir. June 26, 2025); *Mahdawi v. Trump*, No. 25-1113, ECF No. 88 (2nd Cir. May 9, 2025). This is unsurprising, given the mismatch between the Rule's supposed purpose and its practical effects.

The District of Massachusetts has gone even further, enacting an alternative policy where the Rule's access restrictions are automatically lifted after 30 days unless a party objects. D. Mass. Gen. Order 19-02 (June 1, 2019), https://tinyurl.com/msfnvvbp. This policy change underscores courts' authority and flexibility to adopt more balanced approaches that better align with principles of transparency and public access. That said, even that 30-day window of restricted access in Massachusetts is unnecessarily long given that there are often dozens of important filings submitted during that time. In one high-profile immigration case in the District of Massachusetts, there were 47 docket entries within the first 30 days of an immigration case being filed—including extensive briefing on the petitioner's habeas claims and key jurisdictional issues. *Ozturk v. Hyde*, No. 1:25-cv-10695 (D. Mass.). The press and public were deprived of electronic access to those filings for weeks, for essentially no reason at all—the restrictions have since been lifted, without objection by any party.

Because of the importance of timely public access to these matters, we respectfully urge this Court to adopt a standing order lifting the remote access restrictions imposed by Rule 5.2(c) after 10 days, absent objection by a party. A proposed order to that effect is attached for the Court's convenience. This solution would promote more accurate and contemporaneous reporting on immigration proceedings in federal court, as well as reaffirm the judiciary's commitment to transparency without adversely affecting litigants' privacy interests.

Please do not hesitate to contact Lisa Zycherman, Vice President of Legal Programs at the Reporters Committee (lzycherman@rcfp.org), and/or Paula Knudsen Burke, Senior Supervising Attorney in Pennsylvania at the Reporters Committee (pknudsen@rcfp.org), to discuss this issue further or to request additional information.

Sincerely,

Reporters Committee
for Freedom of the Press