

Hon. James C. Duff
Director, Administrative Office of the United States Courts
One Columbus Circle NE
Washington, D.C., 20544
Delivered via e-mail

November 3, 2020

Dear Director Duff:

We write today in hopes that you and your staff will intensify your efforts to ensure that the public has live, unfettered access to any and all federal court hearings and bench rulings related to the ongoing federal election.

There are dozens of election lawsuits making their way through district and appeals courts at this very moment, and the American people have a keen interest in how these cases are being argued and how they are being decided.

Immediate access to court proceedings is critical to ensuring confidence in the voting process and in the fair administration of justice.

Even so, a hearing yesterday before the U.S. District Court for the Southern District of Texas in 20-3709, *Hotze v. Hollins*, was marred by a series of technical difficulties that severely impeded public access. Though court staff provided a call-in number to media, the line soon became overloaded and kicked off all the participants. Only some of the journalists were able to rejoin the line, and those who did said they were barely able to understand the judge and the attorneys, as the audio they were hearing was from a phone being held up to a speaker. Any time someone joined the call or dropped off, the line beeped, and the reporters' lines themselves were not muted – all this ambient noise making the proceedings nearly impossible to follow.

We appreciate that these are difficult and unprecedented times for everyone, including judges, officers of the court and those working to make courtrooms as accessible as possible. In fact, we were encouraged when Judge David Campbell, the chair of the Judicial Conference's Committee on Rules of Practice and Procedure, [told](#) a U.S. House subcommittee in June:

“The courts are conscious of their obligation to ensure public and media access to civil proceedings. That access normally is afforded by open courtrooms – a form of access currently limited or eliminated by local measures required to protect the health and safety of litigants, attorneys, witnesses, members of the public, the press, and court employees. **Fortunately, teleconference technology has allowed the public and the media to listen to civil proceedings they are unable to attend in person** (*emphasis added*).”

Clearly, though, something went terribly wrong yesterday, and we write to offer our professional thoughts on how to mitigate some of the challenges that were encountered:

1. Nearly every U.S. Court of Appeals has its own YouTube channel. To the extent possible, we ask that these channels be used both by district or circuit courts today and in the coming days to livestream emergency hearings or bench rulings pertaining to the election. Similarly, we know that many courts have Skype, Teams and/or Zoom accounts; these should also be used in place of conference lines, which are notoriously difficult to manage.
2. We are confident that in every city in which there is a federal district or appeals court, a local television or radio station would be willing and able to create and distribute a pool feed for media and the public. We would be happy to assist in deploying these assets.

3. Because the above solutions are not perfect, we ask that when there are delays or technical difficulties, the court in question either (A) note the delay or tech issue on its Twitter feed, if it has one; (B) send a release to its press list; and/or (C) post a brief notice on its homepage.

We appreciate that federal courts at every level are making their best efforts to provide as much public accessibility as possible while protecting everyone's health, and we stand ready to assist further should there be interest.

Sincerely,

Fix the Court

National Press Photographers Association

News Media Alliance

Radio Television Digital News Association

Reporters Committee for Freedom of the Press

Society of Professional Journalists

CC: Circuit Executives at United States Courts of Appeals