

The Honorable Nancy Pelosi  
Speaker of the House  
H-232, U.S. Capitol  
Washington, DC, 20515

The Honorable Kevin McCarthy  
House Republican Leader  
H-204, U.S. Capitol  
Washington, DC, 20515

December 4, 2020

Dear Speaker Pelosi and Leader McCarthy:

We are retired federal judges, writing in support of H.R. 8235, the Open Courts Act of 2020 (OCA), and in hopes of floor action on the bill in the coming days.

We are very familiar with the federal judiciary's existing case management and electronic case filing system (CM/ECF), the indispensable docket management tool that we used on a daily basis. Based on that first-hand experience, we are acutely aware of CM/ECF's shortcomings, including the need for consolidation and modernization. In our view, however, the single biggest flaw in the system is the pay-for-access feature that places undue burdens on pro se litigants, researchers, students and other interested members of the public.

For that reason, we were heartened by the introduction of H.R. 8235 in September and its bipartisan approval in the House Judiciary Committee. We joined other interested parties in a letter to the Administrative Office of the United States Courts (AO) urging it to support this laudable and long-overdue reform. Unfortunately, our letter went unanswered. We have now learned that the AO is actively campaigning against this badly needed legislation. This is both regrettable and short-sighted in our view.

We write to assure you that the AO does not speak for all federal judges. We, as well as many of our colleagues, adamantly support the Open Courts Act in its current form. We welcome the enhanced access to justice and the unfettered access to court records that its passage will bring.

Now more than ever, at a time when the Judiciary is often under attack, those who care deeply about the integrity and accessibility of our courts must seek out ways to build greater trust in our system of justice. Modernizing the case management system and removing an outdated, unnecessary paywall via a comprehensive, bipartisan solution like the OCA would go a long way toward accomplishing that worthy goal.

We hope that you consider moving the OCA to the floor in the coming days, and we stand ready to answer any questions you or your staff may have. You may contact us through Judge Smith at [swmsmith@stanford.law.edu](mailto:swmsmith@stanford.law.edu).

Sincerely,

Hon. Nancy Gertner  
United States District Judge (ret.)  
District of Massachusetts

Hon. Shira A. Scheindlin  
United States District Judge (ret.)  
Southern District of New York

Hon. Mildred E. Methvin  
United States Magistrate Judge (ret.)  
Western District of Louisiana

Hon. Brian Owsley  
United States Magistrate Judge (ret.)  
Southern District of Texas

Hon. Viktor Pohorelsky  
United States Magistrate Judge (ret.)  
Eastern District of New York

Hon. Stephen Wm. Smith  
United States Magistrate Judge (ret.)  
Southern District of Texas