

Hon. Hank Johnson  
Chairman, Subcommittee on Courts, IP and the Internet  
2240 Rayburn House Office Building  
Washington, D.C., 20515

Hon. Doug Collins  
Member, House Judiciary Committee  
1504 Longworth House Office Building  
Washington, D.C., 20515

December 10, 2020

Dear Reps. Johnson and Collins:

Congratulations on the House's passage of the Open Courts Act of 2020 on Tuesday.

We write to express our appreciation to you for drafting the bill; for strengthening the text over the past three months, as you considered stakeholder concerns and suggestions; and for your leadership in seeing it through to the House floor.

You have accomplished something that no one had before: passage of legislation that will modernize the judiciary's antiquated case management system and eliminate the PACER paywall, which for too long has unjustly restricted the public's access to public documents. As Rep. Johnson said during debate, "Transparency and accessibility should be our goal, not profits and limited access." This bill achieves that ideal.

We are especially impressed with your efforts in creating a sustainable funding model – both for the transition from the old system to the new one and for sustaining the new system once completed. As you know, the lack of a "pay-for" had hampered previous efforts. And although the funds to fix CM/ECF and PACER may of course be granted via appropriations, that you conceived a near-deficit-neutral means of funding these upgrades is laudable.

Additionally, we appreciate the inclusion of a provision that will require the new system to comply with data accessibility standards, thereby ensuring that people with disabilities will not be left out.

We also want to thank you for negotiating in good faith with the Administrative Office of the U.S. Courts, as we note that the version of the bill that passed the House included several provisions made at the AO's request. This includes the enactment date being delayed from three years to five years; the definition of "power user" being lowered from \$25,000 in PACER fees per quarter to \$6,000; and the Director of the AO being given the authority to "modify[] the scope and scale" of the new system should there be a budgetary shortfall.

In spite of these compromises, we were disappointed to learn shortly before the vote that the AO continued to oppose the bill and was dispatching judges to lobby against it until the last minute. We were confident that you would not be intimidated, and you were not.

At the same time, we were heartened by several additions to the bill that we see as accountability upgrades. This includes a 60-day public comment period for any fees the Judicial Conference seeks to charge for implementation; a clause that ensures these fees would "not impair access to justice...nor inhibit not for profit research of the business of the Federal courts"; and a GAO review of both the costs to build the new system and of any implementation issues the AO might raise.

As the action moves to the Senate, we note our gratitude and appreciation of what you've accomplished. Thank you, Reps. Johnson and Collins, for your work to make the federal judiciary more accessible, fair and transparent.

Sincerely,

American Society of Magazine Editors  
Campaign for Accountability  
Centro de Periodismo Investigativo  
Data Coalition  
Defending Rights & Dissent  
Demand Progress  
Electronic Frontier Foundation  
Eye on Ohio, the Ohio Center for Journalism  
Fiat Fiendum  
Fix the Court  
Free Law Project  
Government Accountability Project  
Government Information Watch  
Investigative Economics

National Press Photographers Association  
National Taxpayers Union  
Niskanen Center  
Open The Government  
Project On Government Oversight  
Public Knowledge  
R Street Institute  
Radio Television Digital News Association  
Robert Crown Law Library, Stanford Law School  
Sage Information Services  
Society of Professional Journalists  
VOCAL-New York