

Going to court for press access

This is a column about what can be accomplished if newspapers keep pushing for access to our courts – and call in the calvary.

In March of 2023, a doctor filed a lawsuit against Scotland County Memorial Hospital in Memphis, Missouri. He had been ousted from his position of CEO the year before. In the lawsuit, he alleged that the hospital's board violated the Missouri Sunshine law by failing to provide adequate timely notice of the board meeting at which a vote was taken to terminate the doctor as CEO. The doctor also accused defendants of defaming him.

The litigation had been in the news. A month prior to the scheduled September bench trial in the case, *The Edina Sentinel's* Echo Menges emailed the court's presiding judge and requested permission to video record. She asked to use a smartphone and a camera and tripod. She asked to be seated in the front row to have clear sight lines of the judge, counsel and witnesses. She promised to pool any video and to comply with Court Operating Rule 16.

In short, she did everything she was supposed to do.

The defendant hospital, though, opposed the motion – in perhaps the most ironic manner possible. Its attorneys cited the Sunshine Law as the reason video recording should be denied. The hospital argued that matters that were closed pursuant to the Sunshine Law – personnel matters – should not be made available to the media at trial.

The hospital's position was profoundly mistaken. The Sunshine Law declares all records and meetings to be open, and then provides discretionary exceptions to that general rule. But it does not create new privacy rights. Even more important, the Sunshine Law is not the operative law when it comes to court proceedings and records. Open courts and open court records are guaranteed by the Missouri Constitution: the "courts of justice shall be open to every person."

Article I, Section 14.

Fortunately, Menges, who is also the current president of the Missouri Sunshine Coalition, contacted Washington University School of Law's First Amendment Clinic. The clinic, which has been in operation for about five years, seeks to provide law students with opportunities to represent folks facing freedom of speech and press issues among other areas.

Enter third-year law student Rachel Sharma, of Opelika, Alabama. Sharma handled the oral argument on behalf of Menges, emphasizing to the court that *The Edina Sentinel* had been covering the litigation, it was a matter of public import, and that Menges had a right to be in the courtroom and report on the proceedings.

Sharma prevailed. The judge ruled that Menges could remain present in the courtroom for the trial and record video.

"Without the lucky happenstance of the First Amendment Clinic on deck for us, I would have been bullied in court with absurd and baseless objections," Menges said. "The First Amendment Clinic is a resource rural papers throughout the state should be looking at."

To keep information flowing freely, we have to continue to fight these battles using all the resources available. The Washington University School of Law First Amendment Clinic came and delivered.

While the clinic's students do not focus on Sunshine Law disputes, they can be a resource where court access and other First Amendment issues are at play, such as court access. The clinic can be contacted through its website: <https://firstamendment.wustl.edu/>.



CALENDAR

September

- 19-21** — Missouri Press Association's 158th Annual Convention, Springfield
- 19** — Newspaper Hall of Fame Induction Ceremony, Hotel Vandivort, Springfield
- 20** — Missouri Press Association Political Forums, Fox Theatre, Downtown Springfield
- 21** — Missouri Press Better Newspaper Contest Luncheon, Hotel Vandivort
- 22-28** — Missouri Photo Workshop, Kennett
- 26-27** — National Newspaper Association Foundation Annual Convention, Omaha, Neb.

October

- 17** — Missouri Photojournalism Hall of Fame Induction Ceremony, Columbia
- 17** — Ozark Press Association Annual Meeting, Willow Springs

Did you know?

You can find all of the latest registration forms for Missouri Press' events online at www.mopress.com.

The website also has award nomination forms, board of director applications and much more.