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July 12, 2013

FILED VIA ECF

Molly Dwyer
 Clerk of the Court
 U.S. Court of Appeals
 for the Ninth Circuit
 The James R. Browning Courthouse
 95 7th Street
 San Francisco, CA 94103

Re: *Courthouse News Service v. Planet*
U.S. Court of Appeals Docket No. 11-57187

Dear Ms. Dwyer:

We represent Appellant Courthouse News Service in this case, argued on May 8, 2013, and write in response to Appellee Michael Planet's July 8, 2013 update of his October 31, 2012 letter under Federal Rule of Civil Procedure 28(j).

As was true of Appellee's original Rule 28(j) letter, the subject of his update – amendments to California's e-filing Rules of Court – does not bear on this case, which alleges systemic violations of the First Amendment right of access to civil complaints filed in paper form. As stated at the June 28 Judicial Council meeting, California courts that offer e-filing "at this time are few." Ventura Superior is not among them.

Even if Ventura eventually adopted e-filing, it would not change the federal constitutional question of whether the First Amendment allows denying access for days or weeks while administrators process complaints. At Orange County Superior, the site of California's e-filing pilot project, substantial delays in access to newly e-filed complaints are routine and result from that court's practice of not allowing access until after processing – the same policy contested on First Amendment grounds in this case. See *Electronic Filing and Service*, Attachment D at 5-6 nn.4-5; accord FER 10-13. In contrast, many California courts provide access to paper-filed complaints on the day they are filed. ER 63-64, 76-92, FER 8-13, 79-80, 134-35.

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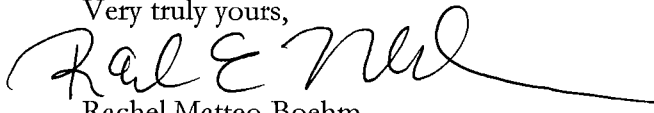
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On their face, the rule amendments do not even address access to e-filings. And the Judicial Council's report did not "grapple" with access except to respond to comments from press and open government organizations concerned about access delays. That response did not assert that any of the rule amendments altered access to e-filings, but instead cited the same state law Appellee has cited in this case, to *justify* delays. *Electronic Filing and Service* 33-36, 117-19 & Attachment D (comments from, inter alia, the *Los Angeles Times*, Bay Area News Group, and the California Newspaper Publishers Association). The report thus further illustrates that the state law Appellee cites will not moot or modify the federal constitutional question at issue here, or otherwise render abstention appropriate in this First Amendment case.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rachel Matteo-Boehm", with a long horizontal flourish extending to the right.

Rachel Matteo-Boehm

cc: Robert Naeve, Esq.