

JONES DAY

3161 MICHELSON DRIVE • SUITE 800 • IRVINE, CA 92612
TELEPHONE: (949) 851-3939 • FACSIMILE: (949) 553-7539

December 26, 2013

VIA CM / ECF FILING

Ms. Molly C. Dwyer, Clerk of the Court
United States Court of Appeals for the Ninth Circuit
The James R. Browning Courthouse
95 7th Street
San Francisco, California 94103

Re: *Courthouse News Service v. Planet*
Case No. 11-57187
Argued May 8, 2013
Circuit Judges Noonan, Wardlaw and Murguia

Dear Ms. Dwyer:

Appellee Michael Planet responds to Appellant Courthouse News's December 20, 2013 Rule 28(j) letter regarding *Sprint Communications, Inc. v. Jacobs*, 2013 U.S. LEXIS 9019 (Dec. 10, 2013).

Sprint Communications explains that the *Younger v. Harris* abstention doctrine bars federal-court interference with three discrete types of ongoing state proceedings. *Id.*, 2013 U.S. LEXIS 9019 at * 16-17 & * 23. However, Justice Ginsburg's opinion is inapposite, because it does not discuss the two very different abstention doctrines at issue in this case.

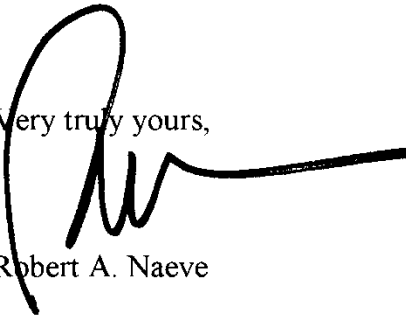
In particular, *Sprint Communications* does not discuss, define or limit the obligation of federal courts to abstain from hearing federal lawsuits whose determination is dependent upon resolution of unsettled questions of state law. *See Railroad Comm'n of Texas v. Pullman Co.*, 312 U.S. 496 (1941); *Courtney v. Goltz*, 2013 U.S. App. LEXIS 23943 (9th Cir. Dec. 2, 2013) (*Pullman* abstention is appropriate when "(1) the case touches on a sensitive area of social policy upon which the federal courts ought not enter unless no alternative to its adjudication is open, (2) constitutional adjudication plainly can be avoided if a definite ruling on the state issue would terminate the controversy, and (3) the possible determinative issue of state law is uncertain").

Similarly, *Sprint Communications* does not discuss, define or limit the doctrine of equitable abstention, which applies *in the absence of* pending state proceedings, when a federal lawsuit "would entail heavy federal interference in such sensitive state activities as administration of the judicial system." *E.T. v. Cantil-Sakauye*, 682 F.3d 1121, 1123-1124 (9th

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Cir. 2012) (quoting *Los Angeles County Bar Ass'n v. Eu*, 979 F.2d 697, 703 (9th Cir. 1992)); *see generally*, *O'Shea v. Littleton*, 414 U.S. 488 (1974); *Vasquez v. Rackauckas*, 734 F.3d 1025, 1038 n.8 (9th Cir. 2013) (noting that, "In *E.T.*, the dispositive ground for abstention was the specter of federal supervision of state judicial proceedings").

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. Naeve', with a long horizontal flourish extending to the right.

Robert A. Naeve

9th Circuit Case Number(s) 11-57187

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