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7 Attorneys for Defendant  
 8 MICHAEL PLANET, IN HIS OFFICIAL  
 9 CAPACITY AS COURT EXECUTIVE  
 OFFICER/CLERK OF THE VENTURA  
 COUNTY SUPERIOR COURT

10 UNITED STATES DISTRICT COURT  
 11 CENTRAL DISTRICT OF CALIFORNIA

14 COURTHOUSE NEWS SERVICE,  
 15 Plaintiff,  
 16 v.  
 17 MICHAEL PLANET, IN HIS  
 18 OFFICIAL CAPACITY AS COURT  
 19 EXECUTIVE OFFICER/CLERK OF  
 20 THE VENTURA COUNTY  
 21 SUPERIOR COURT,  
 Defendant.

Case No. CV11-08083 R (MANx)

Assigned for all purposes to  
 Hon. Manuel L. Real

**DEFENDANT’S NOTICE OF  
 MOTION AND MOTION TO  
 DISMISS AND ABSTAIN**

Date: November 21, 2011  
 Time: 10:00 a.m.  
 Courtroom: 8

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1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on November 21, 2011, at 10:00 a.m., or as  
3 soon thereafter as the matter may be heard in Courtroom 8 of the above-entitled  
4 court, located at 312 N. Spring St., Los Angeles, California 90012, defendant  
5 Michael D. Planet, in his official capacity as Executive Officer and Clerk of the  
6 Superior Court of California, County of Ventura, will and hereby does move the  
7 Court as follows:

- 8 1. To abstain and to dismiss Plaintiff Courthouse News Services (“CNS”)  
9 Complaint for Injunctive and Declaratory Relief in its entirety pursuant  
10 to the equitable abstention doctrine enunciated in *O’Shea v. Littleton*,  
11 414 U.S. 488 (1974);
- 12 2. To abstain and to dismiss CNS’s Complaint for Injunctive and  
13 Declaratory Relief in its entirety pursuant to the abstention doctrine  
14 enunciated in *Railroad Comm’n of Texas v. Pullman Co.*, 312 U.S. 496  
15 (1941);
- 16 3. To dismiss CNS’s First Claim for Relief for Violation of the First  
17 Amendment to the United States Constitution, pursuant to 42 U.S.C. §  
18 1983, because there is no mandatory, constitutional “right” to same-  
19 day access to newly filed unlimited civil complaints;
- 20 4. To dismiss CNS’s Second Claim for Relief For Violation of Federal  
21 Common Law, pursuant to 42 U.S.C. § 1983, because there is no  
22 mandatory, common-law “right” to same-day access to newly filed  
23 unlimited civil complaints; and
- 24 5. To dismiss CNS’s Third Claim for Relief for violation of California  
25 Rule of Court 2.550 because it is barred by the Eleventh Amendment  
26 to the United States Constitution.

27 The motion is based on this Notice of Motion, the concurrently filed  
28 Memorandum of Points and Authorities and Request for Judicial Notice, and all

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other pleadings and papers filed herein, and any additional argument the Court may consider at the hearing on this motion.

Dated: October 20, 2011

Respectfully submitted,

JONES DAY

By: /s/ Robert A. Naeve  
Robert A. Naeve

Attorneys for Defendant  
MICHAEL PLANET, IN HIS OFFICIAL  
CAPACITY AS COURT EXECUTIVE  
OFFICER/CLERK OF THE VENTURA  
COUNTY SUPERIOR COURT

LAI-3151864