

1 Robert A. Naeve (State Bar No. 106095)
 rnaeve@jonesday.com
 2 Erica L. Reilley (State Bar No. 211615)
 elreilley@jonesday.com
 3 JONES DAY
 3161 Michelson Drive, Suite 800
 4 Irvine, CA 92612
 Telephone: (949) 851-3939
 5 Facsimile: (949) 553-7539

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

9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA

11
 12
 13 COURTHOUSE NEWS SERVICE,

14 Plaintiff,

15 v.

16 MICHAEL PLANET, IN HIS
 OFFICIAL CAPACITY AS COURT
 17 EXECUTIVE OFFICER/CLERK OF
 THE VENTURA COUNTY
 18 SUPERIOR COURT,

19 Defendant.

Case No. CV11-08083 R (MANx)

Assigned for all purposes to
 Hon. Manuel L. Real

**[PROPOSED] ORDER
 GRANTING DEFENDANT'S
 MOTION TO DISMISS AND
 ABSTAIN**

20
 21
 22
 23
 24
 25
 26
 27
 28

1 A Motion to Dismiss and Abstain (“Motion”) filed by defendant Michael D.
2 Planet, in his official capacity as Executive Officer and Clerk of the Superior Court
3 of California, County of Ventura, came on for hearing on November 21, 2011,
4 before the Honorable Manuel L. Real.

5 Having considered all the papers submitted, oral argument, and the Court’s
6 file in this matter, and good cause having been shown, the Court hereby ORDERS
7 as follows:

8 (1) The Motion is GRANTED.

9 (2) The Court abstains and dismisses in its entirety Plaintiff Courthouse
10 News Service’s Complaint for Injunctive and Declaratory Relief (“Complaint”),
11 pursuant to the equitable abstention doctrine enunciated in *O’Shea v. Littleton*, 414
12 U.S. 488 (1974), and its progeny;

13 (3) The Court abstains and dismisses in its entirety CNS’s Complaint
14 pursuant to the abstention doctrine enunciated in *Railroad Comm’n of Texas v.*
15 *Pullman Co.*, 312 U.S. 496 (1941);

16 (4) The Court further concludes that CNS’s First Claim for Relief for
17 Violation of the First Amendment to the United States Constitution, pursuant to 42
18 U.S.C. § 1983, should be dismissed for failure to state a claim upon which relief
19 may be granted because there is no constitutional right to “same-day access” to
20 newly filed unlimited civil complaints;

21 (5) The Court further concludes that CNS’s Second Claim for Relief For
22 Violation of Federal Common Law, pursuant to 42 U.S.C. § 1983, should be
23 dismissed for failure to state a claim upon which relief may be granted because
24 there is no common law right to “same-day access” to newly filed unlimited civil
25 complaints; and

26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(6) The Court further concludes that CNS's Third Claim for Relief for violation of California Rule of Court 2.550 should be dismissed because it is barred by the Eleventh Amendment to the United States Constitution.

IT IS SO ORDERED.

Dated: _____

Hon. Manuel L. Real
U.S. District Court Judge

LAI-3151818