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 13 COURTHOUSE NEWS SERVICE

14 UNITED STATES DISTRICT COURT
 15 CENTRAL DISTRICT OF CALIFORNIA
 16 WESTERN DIVISION

17 Courthouse News Service,

18 Plaintiff,

19 v.

20 Michael D. Planet, in his official capacity
 21 as Court Executive Officer/Clerk of the
 22 Ventura County Superior Court.

23 Defendant.

CASE NO. CV11-8083 R (MANx)

**[PROPOSED] ORDER DENYING IN
 PART AND GRANTING IN PART
 THE MOTION TO DISMISS AND
 ABSTAIN OF DEFENDANT
 MICHAEL D. PLANET**

Date: Nov. 21, 2011
 Time: 10:00 am
 Courtroom: 8, 2nd Floor
 Judge: The Hon. Manuel Real

24 The Motion to Dismiss and Abstain (“Motion”) of Defendant Michael D. Planet
 25 (“Defendant”), in his official capacity as Court Executive Officer and Clerk of the
 26 Ventura County Superior Court, came on for hearing on November 21, 2011, before
 27 the Honorable Manuel L. Real. Having considered the papers submitted by the
 28

1 parties, and the arguments of counsel, and good cause appearing, IT IS HEREBY
2 ORDERED as follows:

3 (1) As to Plaintiff Courthouse News Service's first and second causes of
4 action, for violations of the First Amendment and common law rights of access and 42
5 U.S.C. § 1983, Defendant's Motion to Dismiss and Abstain is DENIED on the
6 grounds that abstention is neither required nor advisable under the abstention
7 doctrines enunciated in *O'Shea v. Littleton*, 414 U.S. 488, 94 S. Ct. 669, 38 L. Ed. 2d
8 674 (1974) and *Railroad Commission of Texas v. Pullman*, 312 U.S. 496, 61 S. Ct.
9 643, 85 L. Ed. 971 (1941). *New Orleans Public Service, Inc. v. Council of the City of*
10 *New Orleans*, 491 U.S. 350, 359, 109 S. Ct. 2506, 105 L. Ed. 2d 298 (1989); *Family*
11 *Division Trial Lawyers of the Superior Court-D.C. v. Moultrie*, 725 F.2d 695, 703-04
12 (D.C. Cir. 1984), *Ripplinger v. Collins*, 868 F.2d 1043, 1048-49 (9th Cir. 1989).

13 (2) In addition, Defendant's Motion to Dismiss and Abstain is DENIED as to
14 Courthouse News' first and second causes of action on the grounds that Plaintiff has
15 adequately stated claims upon which relief may be granted. *E.g.*, *Shroyer v. New*
16 *Cingular Wireless Servs., Inc.*, 622 F.3d 1035, 1041 (9th Cir. 2010); *Doe v. United*
17 *States Dep't of Justice*, 753 F.2d 1092, 1104 (D.C. Cir. 1985).

18 (3) As to Courthouse News's third cause of action, for violation of California
19 Rule of Court 2.550, Defendant's Motion to Dismiss and Abstain is GRANTED on
20 the grounds that Defendant has asserted immunity to Courthouse News' state law
21 claim under the Eleventh Amendment to the United States Constitution and hence that
22 claim is now barred.

23 Courthouse News Service shall file an amended complaint in accordance with
24 this Order within 30 days of this Order.

25 Date: _____, 2011

26
27 _____
28 The Honorable Manuel L. Real
United States District Court Judge