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9 CAPACITY AS COURT EXECUTIVE
10 OFFICER/CLERK OF THE VENTURA
11 COUNTY SUPERIOR COURT

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12

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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,
22 Defendant.

Case No. CV11-08083 R (MANx)
Assigned for all purposes to
Hon. Manuel L. Real
**DECLARATION OF KAREN
DALTON-KOCH SUBMITTED
IN OPPOSITION TO MOTION
FOR PRELIMINARY
INJUNCTION**
Date: November 21, 2011
Time: 10:00 a.m.
Courtroom: 8

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I, KAREN DALTON-KOCH, declare and state as follows:

1. I am the Public Information Officer of the Superior Court of California, County of San Diego. I have personal knowledge of the facts stated in this Declaration. I could and would competently and truthfully testify to these facts if called upon to do so.

2. Attached to this Declaration as Exhibit "A" is a document entitled Scorecard Detail – Superior Court of the State of California Access To Newly Filed Civil Complaints, which was received by my office on or about February 2011.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 31st day of October 2011 at San Diego, California.



Karen Dalton-Koch

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EXHIBIT “A”

SCORE

REPORT CARD DETAIL

PREPARED BY
COURTHOUSE NEWS SERVICE

ABCDEF

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
ACCESS TO NEWLY FILED
CIVIL COMPLAINTS



REPORT CARD SUMMARY

SUPERIOR COURT OF THE STATE OF CALIFORNIA ACCESS TO NEWLY FILED CIVIL COMPLAINTS

Report Card 2011	
Subject	Evaluated by
Access to Newly-filed Civil Complaints	Courthouse News Service
Court	Grade
Alameda County Superior Court	A
Los Angeles County Superior Court (Downtown)	A
San Francisco County Superior Court	A
Riverside County Superior Court	A-
Santa Clara County Superior Court	A-
Solano County Superior Court	B-
Sonoma County Superior Court	B-
Contra Costa County Superior Court	C
Fresno County Superior Court	C
Orange County Superior Court	C
San Diego County Superior Court	C
Sacramento County Superior Court	D
San Bernardino County Superior Court	D
Santa Barbara County Superior Court	D
Ventura County Superior Court	D
Kern County Superior Court	F
San Mateo County Superior Court	F

PREPARED BY COURTHOUSE NEWS SERVICE

SCORE **A**

REPORT CARD DETAIL

Alameda County Superior Court

Description

Access procedures: Courthouse News is permitted to review case information and electronic versions of new complaints filed at the René C. Davidson Courthouse using a computer terminal at a desk behind the counter. The full text of most complaints are scanned and uploaded for electronic viewing, including remote viewing, on the day of filing. If any complaints that Courthouse News' reporter is interested in reviewing are not uploaded, the reporter sends an email to court staff listing those cases, and court staff uploads those complaints by 5:15 p.m.

Complaint availability: 98% of complaints are available on the same day they are filed.

Efforts to resolve delays: After experiencing delays in access in 2010 following a change in procedures instituted by a new court administrator, Courthouse News contacted the court executive officer and presiding judge. Following discussions with court officials, the court developed the current access procedures, which resolved the delays.

SUPERIOR COURT
OF THE STATE
OF CALIFORNIA
ACCESS TO
NEWLY FILED
CIVIL COMPLAINTS

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SCORE REPORT CARD DETAIL

Contra Costa County Superior Court

Description

Access procedures: Unlike other major courts, the Contra Costa Superior Court does not allow reporters to see newly-filed civil complaints until after they have been fully processed. Court staff places fully-processed complaints into a media bin for reporters to review. If there are complaints that have been processed but are not in the bin (which Courthouse News' reporter identifies based on the assigned case numbers), the reporter can request up to five complaints from court staff. If a reporter requests more than five complaints that are not already in the bin, the reporter must pay \$15.

Complaint availability: On average, about 80% of complaints that Courthouse News reports on are one court day old, and the remaining 20% are between two and five court days old by the time Courthouse News is permitted to see them.

Efforts to resolve delays: Courthouse News wrote to Court Executive Officer Kiri Torre twice in 2010 regarding access delays, but these efforts have not resolved the problem. While Ms. Torre has indicated she will make efforts to speed up processing, she has informed Courthouse News that the court will not be changing its policy of not allowing reporters to see new filings until after they have been fully processed, the result of which will almost certainly mean continued delays.

SUPERIOR COURT
OF THE STATE
OF CALIFORNIA
ACCESS TO
NEWLY FILED
CIVIL COMPLAINTS

PREPARED BY COURTHOUSE NEWS SERVICE

SCORE C REPORT CARD DETAIL

Fresno County Superior Court

Description
<p>Access procedures: Courthouse News' reporter waits in line to be buzzed into the clerk's secure file viewing room, which can take up to 10 minutes if the clerks are busy with other customers. Once in the viewing room, the reporter again waits in line to give the clerk a list of file case numbers to review, which begins with the first case number following the last case accessed during the previous visit. The clerk will only give Courthouse News' reporter those complaints that have been fully processed. Courthouse News' reporter then reviews complaints at a table in the viewing room.</p>
<p>Complaint availability: Historically, this court had same-day, behind-the-counter access for members of the news media. Currently, only about 10% of complaints are available for viewing on the same day they are filed, and 20% are available one court day after they are filed. The remaining 70% of newly filed complaints are first made available for review by news reporters anywhere between two to seven court days after filing.</p>
<p>Efforts to resolve delays: No recent efforts.</p>
<p>Efforts to resolve delays: Courthouse News attempted to work with court officials several years ago to reinstate timely access, but to no avail. Courthouse News is again attempting to work with court officials toward this goal.</p>

SUPERIOR COURT
OF THE STATE
OF CALIFORNIA
ACCESS TO
NEWLY FILED
CIVIL COMPLAINTS

PREPARED BY COURTHOUSE NEWS SERVICE



REPORT CARD DETAIL

Kern County Superior Court

Description
<p>Access procedures: Until recently, this court had procedures for permitting Courthouse News' reporter to access and review new complaints in a timely manner. Unfortunately, the court recently instituted new access procedures that have resulted in access delays. Under the new procedures, the reporter is required to use the court's outdated website to review limited online docket information to identify potentially newsworthy filings. The reporter then requests complaints of interest from the court staff, but is only given those that have been processed and placed on the shelf. Compounding the delays in access, Courthouse News' reporter is only permitted to review ten complaints per visit.</p>
<p>Complaint availability: Previously, Courthouse News was able to access and review all of the complaints that had been filed since the reporter's last visit. Under the new access system, most complaints that Courthouse News' reporter sees are three weeks to one month old. For example, during one recent week, the newest complaint that Courthouse News' reporter saw was four court days old. The remaining 75% of complaints were three weeks old or older.</p>
<p>Efforts to resolve delays: Courthouse News has recently attempted to work with the court to resolve access delays, only to be told that it must obtain a state-issued professional photocopier's license in order to have timely access to newly filed complaints that are available on the shelf. This statutory scheme, contained in Business & Professions Code § 22450 <i>et seq.</i>, was never intended for members of the news media. Courthouse News wrote to court officials to request same-day access to newly filed unlimited civil complaints in December 2010, and received a response from Court Executive Officer Terry McNally, who pledged to develop new procedures for improved access. Courthouse News is waiting to hear from the court on specifics related to procedural changes in access.</p>

SUPERIOR COURT
OF THE STATE
OF CALIFORNIA
ACCESS TO
NEWLY FILED
CIVIL COMPLAINTS

PREPARED BY COURTHOUSE NEWS SERVICE

SCORE **A**

REPORT CARD DETAIL

Los Angeles County Superior Court (Downtown - Stanley Mosk Courthouse)

Description
<p>Access procedures: At the Stanley Mosk Courthouse in downtown Los Angeles, complaints are scanned on the day of filing, and reporters review all new actions filed on a particular day through the court's computer system, which includes terminals for the general public in the courthouse and additional terminals in a designated press room located in the same building. Both the filing room – including the intake and processing areas – and the area in which the general public views cases on computer monitors close at 4:30 p.m., but the press room remains open until 7 p.m., which enables reporters to review even the latest-filed complaints on a same-day basis. On the rare occasion that a newsworthy case is not in the court's system, the court's public relations staff actively hunts the case down and provides it to the press. About 90 new civil, general jurisdiction cases are filed each day.</p> <p>Complaint availability: Complaints are available at the end of the same day they are filed.</p> <p>Efforts to resolve delays: N/A</p>

SUPERIOR COURT
OF THE STATE
OF CALIFORNIA
ACCESS TO
NEWLY FILED
CIVIL COMPLAINTS

PREPARED BY COURTHOUSE NEWS SERVICE

SCORE REPORT CARD DETAIL

Orange County Superior Court

Description

Access procedures: Even though most complaints are filed in paper form (e-filing is only mandatory for complex cases), Courthouse News is not permitted to see paper complaints, but instead must wait until those complaints are scanned and made available for electronic viewing through computer terminals at the courthouse or online via the court's web site. E-filed complaints are also made available for review in the same manner.

Complaint availability: Courthouse News does not see any complaints, whether e-filed or paper filed, on a same-day basis. The percentage of new complaints available on a next-day basis varies, but typically ranges from 60 to 100%. Those complaints that are not available the day after filing are generally accessible between two court days and one week after filing. E-filed cases typically take longer to appear on the court's online system than paper-filed complaints.

Efforts to resolve delays: Courthouse News' editor met with Court Executive Officer Alan Carlson in June 2010 to request that the court return to its previous, longstanding practice of providing same-day access to newly filed complaints, but never heard back from Mr. Carlson as to that request. In October 2010, Courthouse News again met with Mr. Carlson to request same-day access. As part of that request, Courthouse News asked for what it refers to as the e-filing "in-box" – *i.e.*, access, through a computer terminal, to the electronic versions of new complaints as soon as they are received by the court (in other words, the ability to see exactly the same thing as court staff sees when complaints are received). Mr. Carlson has never gotten back to Courthouse News regarding these requests, and the delays continue.

SUPERIOR COURT
OF THE STATE
OF CALIFORNIA
ACCESS TO
NEWLY FILED
CIVIL COMPLAINTS

PREPARED BY COURTHOUSE NEWS SERVICE

SCORE **A-**

REPORT CARD DETAIL

Riverside County Superior Court

Description

Access procedures: Thanks to the efforts of Court Executive Officer Sherri Carter, who recently joined the court after serving for many years as the clerk of the United States District Court for the Central District of California, new complaints are now made available for viewing through the court's website on a same-day basis. Electronic versions of new complaints can be viewed free of charge using terminals at the courthouse, or remotely over the Internet for a fee.

Complaint availability: Same day of filing. However, complaints are not posted to the web site until after the courthouse closes for the day, the practical effect of which is that Courthouse News must pay a subscription fee to view new complaints on a same-day basis. Ms. Carter has indicated that she will address this issue.

Efforts to resolve delays: Prior to Ms. Carter's intervention, Courthouse News had worked for many years to resolve persistent delays in access in Riverside, which had been caused by the court's policy of not allowing reporters to see the actual paper complaints but instead requiring reporters to wait until after these complaints had been scanned and made available for electronic viewing. These efforts included at least two in-person meetings and numerous phone calls with court officials. After each of these discussions, access would improve, only to deteriorate soon after each set of discussions.

SUPERIOR COURT
OF THE STATE
OF CALIFORNIA
ACCESS TO
NEWLY FILED
CIVIL COMPLAINTS

PREPARED BY COURTHOUSE NEWS SERVICE



REPORT CARD DETAIL

Sacramento County Superior Court

Description
<p>Access procedures: Currently, the court permits members of the news media to see newly filed complaints only after they have been processed, scanned and made available for electronic viewing on the Court’s online case management system.</p>
<p>Complaint availability: A recent tracking exercise showed that, of complaints that Courthouse News reported on, less than 5% were available for review on the same day they were filed. About 35% of complaints were available one court day after filing, 20% were available two court days after filing, and the remaining 40% of complaints were available three or more court days after filing, with access to some complaints delayed by seven or more court days.</p>
<p>Efforts to resolve delays: Delays in access have been a longstanding problem at this court. In 2007, Courthouse News met with court officials in an effort to resolve these delays. Court officials at that time were cooperative and agreed to implement a pilot program that permitted members of the news media to review each day’s new complaints between 4 and 5 p.m., even if they had not been fully processed, so long as reporters provided identification, and the files provided to the reporter were logged by the civil records staff. Although the pilot program initially appeared to be working well, it soon fell apart due to inconsistencies in implementation, and following the replacement of a key administrator, it was abandoned. Courthouse News made several follow-up attempts to find a solution to the problem, meeting with court officials in early 2009 and again in mid-2010 in an effort to resolve the delays. In both instances, court officials declined to take any steps to remedy the delays.</p>

SUPERIOR COURT
 OF THE STATE
 OF CALIFORNIA
 ACCESS TO
 NEWLY FILED
 CIVIL COMPLAINTS

PREPARED BY COURTHOUSE NEWS SERVICE



REPORT CARD DETAIL

San Bernardino County Superior Court

Description
<p>Access procedures: Courthouse News’ reporter fills out a form listing the case numbers for all complaints the reporter would like to view, which she identifies using the court’s online docket, which is typically one day old. Additionally, the reporter lists those complaints that were unavailable during the previous visit, either because the case files had been forwarded to the judge’s chambers, or because the clerk’s staff simply could not locate those complaints. Courthouse News’ reporter is only permitted to review complaints that have been fully processed.</p>
<p>Complaint availability: The newest complaints that Courthouse News’ reporter can access are two days old, with the average delay anywhere between one and two weeks.</p>
<p>Efforts to resolve delays: Courthouse News’ reporter has made informal efforts over the years to work with court administrators to ensure timely access to newly filed civil complaints, but has not made any progress, largely due to a belief on some court personnel’s part that any efforts would be lost due to staff turnover.</p>

SUPERIOR COURT
 OF THE STATE
 OF CALIFORNIA
 ACCESS TO
 NEWLY FILED
 CIVIL COMPLAINTS

PREPARED BY COURTHOUSE NEWS SERVICE

SCORE REPORT CARD DETAIL

San Diego County Superior Court

Description
<p>Access procedures: Court staff places newly filed complaints in a media bin for press review only after they have been docketed and entered into the court's case management system. The court requires mandatory e-filing for construction defect cases, which are only available through LexisNexis's paid website or on a terminal at the courthouse.</p>
<p>Complaint availability: Of cases reported by Courthouse News, about 10% are available on the same day they are filed. Approximately half of the complaints – 45% – are at least one court day old, and the remaining 45% are delayed anywhere from two court days to three weeks.</p>
<p>Efforts to resolve delays: Since 1996, Courthouse News' editor has worked with officials at the court to improve access. After seven letters from the editor to court officials, and as many in return, as well as three meetings between court officials and Courthouse News' attorney at the time, Robert Longstreth, the court clerk agreed in 2006 to implement a pilot project whereby newly filed complaints would be placed in a designated "media bin," thereby giving members of the news media earlier – though rarely same-day – access to newly filed unlimited jurisdiction civil complaints. In 2008, just two days before Mr. Longstreth was to be enrobed as a San Diego County Superior Court judge, the clerk wrote to Courthouse News to announce that the pilot project was discontinued. Courthouse News' editor sent a lengthy letter in response, with a copy to the presiding judge, pointing out that timely access to newly filed complaints is the norm at other major courts across the country. The media bin was subsequently reinstated, although complaints are seldom placed in the bin on a same-day basis.</p>

SUPERIOR COURT
OF THE STATE
OF CALIFORNIA
ACCESS TO
NEWLY FILED
CIVIL COMPLAINTS

PREPARED BY COURTHOUSE NEWS SERVICE



REPORT CARD DETAIL

San Francisco County Superior Court

Description

Access procedures: Per the court's written protocol, news reporters are allowed behind the counter to review unlimited numbers of new filings after providing a driver's license and filling out a temporary name tag. If reporters come into the clerk's office before 3 p.m., they may view new cases that have been filed up until that time. Between 3 and 4:30 p.m., the filings are placed in a media box, which is available to news reporters for viewing in the records department, whether or not those cases have been entered into the computer system or otherwise processed. A copy machine that was provided to the court by Courthouse News is available for all members of the news media to make copies of filings of interest.

Complaint availability: Same-day access is generally between 80 and 100% during any given week at this court. A recent tracking exercise showed that of complaints reported by Courthouse News, 85% were filed on the same day they were provided to the reporter.

Efforts to resolve delays: Although the court's access procedures have remained essentially the same for many years, in late 2009, the court revoked its prior practice of allowing Courthouse News' reporter to remain behind the counter for a half-hour after the court stopped accepting new filings, but while court personnel were still working in the area. This prior practice had allowed Courthouse News sufficient time to review the later-filed complaints, which were often not made available until shortly before closing, and its revocation resulted in significant access delays. In December 2009, Courthouse News met with court officials in an effort to address the matter. Following this meeting, the situation improved somewhat. Still, court officials declined to reinstate the former policy of allowing Courthouse News to remain in the records area for a half-hour after closing, the result of which has been that Courthouse News often does not see late-filed complaints until either right before its reporter must leave the premises, leaving virtually no time to report on the complaint, or the day after filing.

SUPERIOR COURT
OF THE STATE
OF CALIFORNIA
ACCESS TO
NEWLY FILED
CIVIL COMPLAINTS

PREPARED BY COURTHOUSE NEWS SERVICE



REPORT CARD DETAIL

San Mateo County Superior Court

Description
<p>Access procedures: Courthouse News' reporter accesses and downloads newly filed complaints from the court's online access system. Although complaints are also available in paper form at the courthouse, the delays in accessing complaints in this manner are even longer.</p>
<p>Complaint availability: Of cases reported from the online system, approximately 30% are three court days old, 10% are four days old, 20% are one week old, and 40% are more than one week old. The delays for accessing complaints in person are worse, since complaints are posted online before court staff makes the paper complaints accessible for review at the court.</p>
<p>Efforts to resolve delays: Courthouse News has attempted to work with court officials in 2007, 2008 and 2009 to resolve delays in access to complaints, but none of these efforts has resulted in any lasting improvements.</p>

SUPERIOR COURT
OF THE STATE
OF CALIFORNIA
ACCESS TO
NEWLY FILED
CIVIL COMPLAINTS

PREPARED BY COURTHOUSE NEWS SERVICE



REPORT CARD DETAIL

Santa Barbara County Superior Court

Description
<p>Access procedures: Courthouse News’ reporter is not permitted to request access to any complaints until case information appears on a docket sheet that is available in the records room or on the court’s online system, both of which typically take several days. Once the record of a new case appears in either of these places, the reporter asks to see the complaint.</p>
<p>Complaint availability: Of complaints that Courthouse News reports, approximately 15% are five court days old, 15% are six days old, 30% are one week old, 30% are between one and two weeks old, and 10% are two weeks old or older.</p>
<p>Efforts to resolve delays: Courthouse News worked with the court in 2004 to resolve delays in access that appeared to stem from the court’s policy of only permitting reporters to review complaints that had been fully processed. Court officials responded favorably, investigating the cause of the delays and putting procedures in place that would ensure that staff retrieves all complaints filed since the reporter’s last visit. Unfortunately, access once again deteriorated in 2009, apparently due to the court’s return to its practice of processing cases before making them available for review. Since Courthouse News recently began covering this court on a daily basis, it is attempting to work with court officials to develop procedures for same-day access to newly filed complaints. One of Courthouse News’ editors recently spoke with a supervisor at the court, who was unwilling to consider procedural changes that would make same-day access possible. Courthouse News will continue to attempt to work with court officials to resolve the current delays.</p>

SUPERIOR COURT
 OF THE STATE
 OF CALIFORNIA
 ACCESS TO
 NEWLY FILED
 CIVIL COMPLAINTS

PREPARED BY COURTHOUSE NEWS SERVICE

SCORE B-

REPORT CARD DETAIL

Solano County Superior Court

Description
<p>Frequency of visits: Daily</p> <p>Access procedures: Courthouse News' reporter must review case information on the court's computer and then request specific files from court staff, listing each file on a separate piece of paper. There is an official limit of 10 cases per day that the reporter can access, although this limit is not always enforced. Often, the reporter requests her permitted 10 cases, but is only given one or two cases in return.</p> <p>Complaint availability: Of cases reported by Courthouse News, about 70% are one to three court days old; about 10% are four to six days old; and almost 20% are a week or more old.</p> <p>Efforts to resolve delays: Courthouse News successfully worked with officials in 2005 to resolve delays in access that appeared to be connected with the court's policy of immediately transferring files to the judges after docketing for disqualification purposes. However, access has since dropped off, and Courthouse News has not yet initiated a new round of discussions about the current access delays.</p>

SUPERIOR COURT
OF THE STATE
OF CALIFORNIA
ACCESS TO
NEWLY FILED
CIVIL COMPLAINTS

PREPARED BY COURTHOUSE NEWS SERVICE

SCORE B-

REPORT CARD DETAIL

Sonoma County Superior Court

Description

Access procedures: The court has set up a media bin where clerks deposit newly filed complaints for press review, and has designated two court staffers to make sure reporters see all the newly filed actions on the day after they are filed, regardless of whether they have been fully processed. Unfortunately, access has declined recently due to the clerks' failure to place newly filed complaints in the media bin following minimal processing.

Complaint availability: Of complaints that Courthouse News reports, about 40% are one court day old, another 25% are between two and six court days old, and the remaining 35% are between one week and more than one month old.

Efforts to resolve delays: Courthouse News worked with court officials in 2008 and 2009 to resolve delays in access. Although Court officials were receptive to suggestions on improving media access to newly filed civil complaints, and instituted the media bin solution in mid-2009, this solution has been short-lived as court staff have not been consistent in following the new procedures. Courthouse News is continuing to work with court officials in an effort to improve access.

SUPERIOR COURT
OF THE STATE
OF CALIFORNIA
ACCESS TO
NEWLY FILED
CIVIL COMPLAINTS

PREPARED BY COURTHOUSE NEWS SERVICE



REPORT CARD DETAIL

Ventura County Superior Court (Main Courthouse)

Description

Access procedures: Pursuant to an arrangement worked out between court officials and Courthouse News in 2009, newly filed civil complaints are supposed to be placed in a media bin for review after only minimal processing. However, the newest complaints that are placed in this bin are at least two court days old, while the majority of complaints are not available until one to two weeks after they are filed, and Courthouse News' reporter cannot access some complaints until more than a month after they are filed. To compound matters, the court will only permit Courthouse News' reporter to review 25 complaints per day beyond what is available in the media bin, and will only allow five complaints to be checked out at a time.

Complaint availability: Courthouse News never sees complaints on the same day they are filed at the Ventura Courthouse. Of the complaints filed in Ventura that Courthouse News reports on, about 40% are one day to one week old, another 40% are one to two weeks old, and the remaining 20% are two weeks to nearly four months old.

Efforts to resolve delays: Courthouse News worked with court officials in 2009 to set up the current media bin procedure, as well as establish a process by which the reporter could request in advance any cases that were unavailable during the previous visit. Although at first it seemed to be working well, access deteriorated due to the court staff not placing all newly filed complaints in the bin. Courthouse News has recently engaged court staff in another round of discussions in an effort to improve access.

SUPERIOR COURT
OF THE STATE
OF CALIFORNIA
ACCESS TO
NEWLY FILED
CIVIL COMPLAINTS

PREPARED BY COURTHOUSE NEWS SERVICE