

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, California 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
10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

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

**DEFENDANT’S OBJECTIONS
TO EVIDENCE IN:**

**(1) DECLARATION OF
WILLIAM GIRDNER IN
SUPPORT OF MOTION OF
COURTHOUSE NEWS SERVICE
FOR PRELIMINARY
INJUNCTION; AND**

**(2) DECLARATION
CHRISTOPHER MARSHALL IN
SUPPORT OF MOTION OF
COURTHOUSE NEWS SERVICE
FOR PRELIMINARY
INJUNCTION**

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

Defendant Michael D. Planet, in his official capacity as Executive Officer and Clerk of the Superior Court of California, County of Ventura (the “Ventura Superior Court”), hereby objects to the following evidence presented by Plaintiff Courthouse News Service (“CNS”) in connection with CNS’s Motion for Preliminary Injunction, which is set for hearing on November 21, 2011, at 10:00 a.m., before this Court.

I. OBJECTIONS TO THE DECLARATION OF WILLIAM GIRDNER IN SUPPORT OF MOTION OF COURTHOUSE NEWS SERVICES FOR PRELIMINARY INJUNCTION

Evidence and Text/Description Of Material Objected To	Ventura Superior Court’s Objection(s)
<u>Declaration of William Girdner in Support of Motion of Courthouse News Service for Preliminary Injunction (“Girdner Decl.”)</u> , <u>Exhibit 3</u> : Exhibit 3, prepared by CNS, purports to be a summary of media access procedures used in state and federal courts across the nation (the “Access Summary”).	<u>Objection(s)</u> : Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602). This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible. <i>See Paddack v. Dave Christensen, Inc.</i> , 745 F.2d 1254, 1259 (9th Cir. 1984) (ruling that a summary based on both inadmissible and admissible hearsay should not be admitted: “(Citation) ‘Where summary proof is offered,

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	ordinarily it amounts to 'evidence,' particularly where the underlying material was not itself admitted or was not as a practical matter examinable by the jury. In such cases, it is especially important to insure that the summary <i>rests entirely</i> upon admissible evidence.'").
<p><u>Girdner Decl. ¶ 13</u>: "I have observed that when a reporter visits a court every day, it has been traditional for courts to provide that reporter with access to the large majority of the complaints filed earlier that same day.</p>	<p><u>Objection(s)</u>: Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602).</p> <p>The evidence, offered to summarize courts' media access procedures, is objected to on the grounds that it is inadmissible hearsay and CNS has not proved preliminary and foundational facts sufficient to make the proffered evidence admissible.</p>
<p><u>Girdner Decl. ¶¶ 14 – 16</u>: Mr. Girdner summarizes the courts' media access procedures as reflected in CNS's Access Summary.</p>	<p><u>Objection(s)</u>: Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602).</p> <p>The evidence, offered to summarize</p>

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	<p>courts' media access procedures, is objected to on the grounds that it is inadmissible hearsay and CNS has not proved preliminary and foundational facts sufficient to make the proffered evidence admissible. <i>See Paddack v. Dave Christensen, Inc.</i>, 745 F.2d 1254, 1259 (9th Cir. 1984).</p>
<p><u>Girdner Decl. ¶ 17</u>: "As reflected in both of these reports, the large majority of new complaints filed in these courts were made available to Courthouse News' reporter on the same day of filing."</p>	<p><u>Objection(s)</u>: Best Evidence Rule (FRE 1002).</p> <p>Mr. Girdner's testimony purports to describe the contents of writings, namely CNS's litigation reports for both the United States District Court for the Central District of California and the Superior Court for the County of Los Angeles, attached as Exhibit 4 to the Girdner Declaration, the terms of which speak for themselves. Moreover, the testimony mischaracterizes the contents of the documents. Specifically, the litigation reports merely reflect the date of the</p>

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	<p>litigation reports and the dates of the complaints' filing. The litigation reports do not reflect a comparison of how many new complaints filed in these courts were made available to CNS on the same day of filing because not all complaints are reflected in the litigation reports. (See Girdner Decl. ¶ 8 (“(N)ot all complaints are significant enough to merit coverage – decisions as to which receive coverage are made by the individual reporters and editors.”).) Because it is unknown how many complaints CNS has decided to report on upon unilaterally deeming such material newsworthy, it is not possible to ascertain from the litigation reports if a majority of complaints filed in the courts are made available to CNS the same day of filing.</p>
<p><u>Girdner Decl. ¶ 18</u>: “The variety and effectiveness of the procedures for providing same-day access that have been</p>	<p><u>Objection(s)</u>: Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge</p>

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<p>implemented in so many state and federal courts has convinced me that access is largely a matter of will, and any individual clerk's office can provide prompt access to newly filed complaints if those running the clerk's office have the will to do so."</p>	<p>(FRE 602); Improper Opinion Testimony (FRE 701).</p> <p>This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible. <i>See Paddack v. Dave Christensen, Inc.</i>, 745 F.2d 1254, 1259 (9th Cir. 1984).</p> <p>To the extent Mr. Girdner (who does not appear to have any experience processing complaints or even working in a court) is offering his opinion regarding the ability of state and federal courts to provide same day access to newly filed complaints, this is improper opinion testimony of a lay witness.</p>
<p><u>Girdner Decl. ¶ 19</u>: "Traditionally, and as demonstrated by the examples above, courts have provided same-day access after initial intake tasks, for example accepting the filing fee, assigning a case number, and/or noting the first-named plaintiffs and</p>	<p><u>Objection(s)</u>: Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602); Irrelevant (FRE 402).</p> <p>This evidence is objected to on the grounds that it is inadmissible</p>

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<p>defendants on an intake log, but well before full processing. In most instances where we encounter resistance by clerk's offices to providing same-day access, the reason given is as follows: First, we are told that the court will not allow anyone to see the complaint until <i>after</i> staffers in the clerks' office have completed an array of administrative procedures associated with the clerk's office processing of a new complaint, which over the years has encompassed an ever-growing list of tasks. Next, we are told that due to budget constraints and accompanying staffing shortages, these tasks cannot always be completed quickly, with the end result that, as is the case in Ventura County, the press is not permitted to see new complaints until days or even weeks after they have been filed."</p>	<p>hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible. <i>See Paddack v. Dave Christensen, Inc.</i>, 745 F.2d 1254, 1259 (9th Cir. 1984). Mr. Girdner's statements—which appear to explain what other courts have said to CNS about the procedures those courts use to process complaints—are irrelevant to the issue in this case, which is whether CNS has a constitutional right to same-day access of newly filed unlimited civil complaints in Ventura Superior Court.</p>
<p><u>Girdner Decl. ¶ 20</u>: "The tasks associated with the processing of a new complaint vary from court to court, but can include, for example, imputing information about the new complaint into the new California Case</p>	<p><u>Objection(s)</u>: Hearsay (FRE 802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE 602). This evidence is objected to on the grounds that it is inadmissible</p>

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Management System or another electronic case management system, checking the complaint to make sure it complies with applicable court rules, 'quality control,' and/or putting new complaints into file folders."	hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible.
<p><u>Girdner Decl. ¶ 21</u>: "Based on my experience covering civil litigation during the past twenty-one years, including but not limited to my own in-person visits to many state and federal courts, telephone discussions with officials from state and federal courts, and my activities in supervising Courthouse News' reporters and editors, I have observed that it is entirely possible, where the clerk's office has the will to do so, to provide prompt media access while still attending to processing in a similarly prompt manner. New complaints are not being actively worked on all the time. Reporters can review the new complaints not being actively worked on, return them, and then review any remaining complaints that were being worked on at the time of their initial request. As reflected</p>	<p><u>Objection(s)</u>: Hearsay (FRE 802); Lacks Foundation (FRE 104, FRE 1006); Lacks Personal Knowledge (FRE 602); Improper Opinion Testimony (FRE 701)</p> <p>This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible. <i>See Paddack v. Dave Christensen, Inc.</i>, 745 F.2d 1254, 1259 (9th Cir. 1984).</p> <p>To the extent Mr. Girdner is offering his opinion regarding the ability of state and federal courts to provide same day access to newly filed complaints, this is improper opinion testimony of a lay witness.</p>

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<p>elsewhere in this declaration and in the Access Summary, it is both common and traditional for courts to provide credentialed reporters with access in this manner, before the clerk's office has completed all of the administrative tasks associated with the processing of new complaints. To make sure that new complaints are accounted for, clerk's offices often couple such review with procedures such as requiring reporters to provide collateral such as a driver's license or setting aside a secure area for the media to review the day's new complaints."</p>	
<p><u>Girdner Decl. ¶ 22</u>: "Based on my experience on working with other courts, it is apparent to me that providing same-day media access to newly filed civil complaints – fundamentally, the simple act of letting reporters see the new complaints that, because they are newly-filed, are already centrally located in the intake area – is as simple as opening a door. It need not involve any extra expense or staff time beyond the <i>de minimis</i> effort of handing a stack of complaints to a reporter, and even</p>	<p><u>Objection(s)</u>: Hearsay (FRE 802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE 602); Improper Opinion Testimony (FRE 701).</p> <p>This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible.</p> <p>To the extent Mr. Girdner is offering</p>

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that <i>de minimis</i> effort is eliminated if the reporter is simply allowed to go behind the counter to pick up a stack of complaints to review, as reporters do at the San Francisco Division of the U.S. District Court for the Northern District of California and in several other courts.”	his opinion regarding the ability of state and federal courts to provide same day access to newly filed complaints, this is improper opinion testimony of a lay witness.
<u>Girdner Decl. ¶ 23</u> : “Despite this traditional practice of providing reporters who visit the court every day with same-day access to new complaints, and despite Courthouse News’ efforts to work cooperatively with the clerk’s office of the Ventura County Superior Court to come up with mutually-agreeable procedures to allow its reporter to obtain the same timely access to new complaints at Ventura Superior, the clerk’s office of the Ventura County Superior Court has refused to do so.”	<u>Objection(s)</u> : Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602). This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible.
<u>Girdner Decl. ¶ 28</u> : “Accordingly, at my direction, by letter dated April 29, 2009, Courthouse News’ counsel wrote to Court Executive Officer Michael Planet to bring to his attention Courthouse News’ concerns about access to new complaints at the	<u>Objection(s)</u> : Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602); Best Evidence Rule (FRE 1002). This evidence is objected to on the

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<p>Ventura County Superior Court, including problems with the timeliness of that access, and to suggest an in-person meeting to discuss the matter further. A true and correct copy of that letter is attached as Exhibit 5. This letter led to procedures being implemented by the clerk's office that, at least temporarily, provided Courthouse News with reasonably timely access to that court's new civil unlimited complaints."</p>	<p>grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible.</p> <p>Mr. Girdner's testimony purports to describe the contents of writings, namely a letter attached as Exhibit 5 to the Girdner Declaration, the terms of which speak for themselves.</p>
<p><u>Girdner Decl. ¶ 25</u>: "In November 2010, Courthouse News moved from twice a week to daily coverage of the Ventura County Superior Court. At about the same time, I instructed Mr. Marshall to once again try to work with the court to resolve the access delays. After those efforts proved unsuccessful, at my direction, Courthouse News' counsel once again wrote to Mr. Planet to request that its reporter have same-day access to new civil complaints as is common and traditional in other courts where a reporter visits on a daily basis, and provide information as to the procedures</p>	<p><u>Objection(s)</u>: Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602); Best Evidence Rule (FRE 1002).</p> <p>This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible.</p> <p>Mr. Girdner's testimony purports to describe the contents of writings, namely a letter attached as Exhibit 6</p>

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<p>used by other courts to provide such access. A true and correct copy of that letter is attached as Exhibit 6”</p>	<p>to the Girdner Declaration, the terms of which speak for themselves.</p>
<p><u>Girdner Decl. ¶ 27</u>: “At my direction, Courthouse News’ counsel responded by letter to Mr. Planet dated August 2, 2011, a true and correct copy of which is attached as Exhibit 8. That letter noted that other courts provide same-day access to new complaints before those complaints have been fully processed, and that press access only results in increased costs where the court imposes the requirement of complete processing before providing access.”</p>	<p><u>Objection(s)</u>: Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602); Best Evidence Rule (FRE 1002).</p> <p>This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible.</p> <p>Mr. Girdner’s testimony purports to describe the contents of writings, namely a letter attached as Exhibit 8 to the Girdner Declaration, the terms of which speak for themselves.</p>

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<p><u>Girdner Decl. ¶ 28</u>: “In the course of running Courthouse News for the last twenty-one years, I have observed that delays in access to new civil complaints present a range of problems. Delay means that the public does not know and cannot know who and why a person or entity is being hailed into the courts, a powerful institution of government, because the action is hidden from view. In purely practical terms, delay makes it extremely difficult for journalists to cover new civil complaints because with each passing day, those complaints begin to move from the intake area to different parts of the courthouse and a reporter must chase down complaints one by one just to find out what is alleged in those complaints. Delay also means that information about new complaints comes out only in bits and pieces, through a court posting limited docket information, messengers who recognize an important action, or plaintiffs who, because of the delay, are given the power to manipulate the news because a</p>	<p><u>Objection(s)</u>: Hearsay (FRE 802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE 602); Irrelevant (FRE 402); Improper Opinion Testimony (FRE 701). This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible. Mr. Girdner’s statements are also improper opinion testimony of a lay witness and contain inadmissible legal conclusions. <i>See DePinto v. Providen Sec. Life Ins. Co.</i>, 374 F.2d 50, 55 (9th Cir. 1967) (ruling inadmissible statements in affidavits consisting of opinion by non-experts on the ultimate issue of fact the trial court must resolve).</p>

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<p>public filing has not been made public. And delay causes subscribers to question why we are reporting on stale events, thus damaging the worth of our publications.”</p>	
<p><u>Girdner Decl. ¶ 29</u>: “When I started out in journalism, I was taught to write a ‘second day lead’ on stories that were not from that day, generally by emphasizing reaction to the original news. More than anything, it was a device to cover the fact that we were a day late.”</p>	<p><u>Objection(s)</u>: Irrelevant (FRE 402). Mr. Girdner’s statements are irrelevant to the issue in this case, which is whether CNS has a constitutional right to same-day access of newly filed unlimited civil complaints in Ventura Superior Court.</p>
<p><u>Girdner Decl. ¶ 30</u>: “Articulating to state court officials what it is that makes timely access so important is difficult because it seems to me so obvious, so innate, that information is interesting and grabs the public’s attention while it is fresh. The power and personal impact of information is at its highest point in the actual moment that it is happening. Every day, every week that passes, events fade further into the shades of the past. Time takes away the vibrancy and immediacy of events as they move, hour by</p>	<p><u>Objection(s)</u>: Irrelevant (FRE 402); Improper Opinion Testimony (FRE 701). Mr. Girdner’s statements are irrelevant to the issue in this case, which is whether CNS has a constitutional right to same-day access of newly filed unlimited civil complaints in Ventura Superior Court. Mr. Girdner’s statements are also improper opinion testimony of a lay</p>

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<p>hour, day by day, into the realm of what was, soon to be recent history and then history.”</p>	<p>witness and contain inadmissible legal conclusions. <i>See DePinto v. Providen Sec. Life Ins. Co.</i>, 374 F.2d 50, 55 (9th Cir. 1967).</p>
<p><u>Girdner Decl. ¶ 31</u>: “To illustrate, a reader of news looks for the most recent football scores, the latest swing in the stock market, or, on the political front, the fate of the most recent dictator to be toppled. Even a day’s delay diminishes the power and relevance of the news. In the case of a new civil legal action, I call it the gong of war. Recent actions such as Apple’s battle against Samsung over iPhones, or the U.S. Justice Department’s challenge to the merger of AT&T and T-Mobile signal enormous legal contests. While not all new civil cases have such broad significance, they are often of great importance to the parties and their lawyers, as well as to other businesses and individuals who business operations or matters of a personal nature may be affected by the lawsuit. Delay of the kind we are seeing in Ventura County is contrary to</p>	<p><u>Objection(s)</u>: Irrelevant (FRE 402); Improper Opinion Testimony (FRE 701). Mr. Girdner’s statements are irrelevant to the issue in this case, which is whether CNS has a constitutional right to same-day access of newly filed unlimited civil complaints in Ventura Superior Court. Mr. Girdner’s statements are improper opinion testimony of a lay witness and contain inadmissible legal conclusions. <i>See DePinto v. Providen Sec. Life Ins. Co.</i>, 374 F.2d 50, 55 (9th Cir. 1967).</p>

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<p>basic principles of open government and contrary to the interest of the public, in all its variations and subsets, in knowing that a legal battle has begun.”</p>	
<p><u>Girdner Decl. ¶ 32</u>: “Working as a journalist, I have observed courts where newspapers sent reporters to review and report on new civil complaints but then abandoned the coverage when new filings were no longer available on a same-day basis. In other words, where access to a new complaint is delayed, it is far less likely that the existence of that lawsuit will ever come to the attention of interested members of the public. The converse is also true. Where a court provides prompt and open access to new actions, at the Los Angeles Superior Court, for example, reporters flock to the source of news.”</p>	<p><u>Objection(s)</u>: Irrelevant (FRE 402). Improper Opinion Testimony (FRE 701). Mr. Girdner’s statements are irrelevant to the issue in this case, which is whether CNS has a constitutional right to same-day access of newly filed unlimited civil complaints in Ventura Superior Court. Mr. Girdner’s statements are also improper opinion testimony of a lay witness and contain inadmissible legal conclusions. See <i>DePinto v. Providen Sec. Life Ins. Co.</i>, 374 F.2d 50, 55 (9th Cir. 1967).</p>

II. OBJECTIONS TO THE DECLARATION OF CHRISTOPHER MARSHALL IN SUPPORT OF MOTION OF COURTHOUSE NEWS SERVICES FOR PRELIMINARY INJUNCTION

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<p><u>Declaration of Christopher Marshall in Support of Motion of Courthouse News Service for Preliminary Injunction</u> (“Marshall Decl.”), ¶ 3:</p> <p>“In both state and federal courts, it is both traditional and common to provide reporters who visit every day with access to the civil complaints filed earlier that day. Courthouse News frequently refers to this traditional and timely access as ‘same-day access.’ This access has traditionally and continues to be provided regardless of whether the day’s new complaints have been fully processed at the time of the reporter’s visit to the court.”</p>	<p><u>Objection(s):</u> Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE 602); Improper Opinion Testimony (FRE 701).</p> <p>This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible.</p> <p>Moreover, Mr. Marshall’s statements are improper opinion testimony of a lay witness and contain inadmissible legal conclusions. <i>See DePinto v. Providen Sec. Life Ins. Co.</i>, 374 F.2d 50, 55 (9th Cir. 1967).</p>
<p><u>Marshall Decl. ¶ 4:</u> “At the San Jose Division of the U.S. District Court for the Northern District of California, which is one of the courts under my supervision, reporters go behind the court to review a list of all new civil complaints filed earlier that day, and then obtain complaints</p>	<p><u>Objection(s):</u> Hearsay (FRE 802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE 602).</p> <p>This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts</p>

Evidence and Text/Description Of Material Objected To	Ventura Superior Court's Objection(s)
<p>directly from individual clerks' desks. Reporters can then review and scan any newsworthy complaints before returning them to the clerks' desks."</p>	<p>sufficient to make the proffered evidence admissible.</p>
<p><u>Marshall Decl. ¶¶ 5-7:</u> Mr. Marshall purports to summarize other courts' media access procedures.</p>	<p><u>Objection(s):</u> Hearsay (FRE 802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE 602). This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible.</p>
<p><u>Marshall Decl. ¶¶ 8-10:</u> Mr. Marshall purports to summarize Ventura Superior Court's media access procedures based Mr. Marshall's conversations with Julianna Krolak, a CNS reporter.</p>	<p><u>Objection(s):</u> Hearsay (FRE 802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE 602). This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible.</p>
<p><u>Marshall Decl. ¶ 11:</u> "By letter dated April</p>	<p><u>Objection(s):</u> Hearsay (FRE 802);</p>

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<p>29, 2009, Courthouse News' counsel wrote to Court Executive Officer Michael Planet to bring these concerns to his attention, outline some possible solutions and suggest an in-person meeting to discuss the matter further. . . . It is my understanding that after this letter was sent, Mr. Planet and Cheryl Kanatzar, the Deputy Executive Officer, had a telephone conversation with Courthouse News' counsel in which they discussed the matter further."</p>	<p>Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602); Best Evidence Rule (FRE 1002).</p> <p>This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible.</p> <p>Furthermore, Mr. Marshall's testimony also purports to describe the contents of writings, namely a letter attached as Exhibit 1 to the Marshall Declaration, the terms of which speak for themselves.</p>
<p><u>Marshall Decl. ¶ 12</u>: "By letter dated May 13, 2009, the court sent a written response to our counsel's letter. In that letter, Ms. Kanatzar explained that the court had implemented a new electronic case management system . . . and that it had since changed the numbering system of the court's files. Instead of each case type having a separately sequentially numbered</p>	<p><u>Objection(s)</u>: Best Evidence Rule (FRE 1002).</p> <p>Mr. Marshall's testimony purports to describe the contents of writings, namely a letter attached as Exhibit 2 to the Marshall Declaration, the terms of which speak for themselves.</p>

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<p>system, a single sequential numbering system now covered many case types, including limited civil, unlimited civil, small claims, mental health, and probate. Thus, Ms. Kanatzar wrote, it would no longer be possible for the court to simply provide reporters with a block of sequentially numbered cases without first verifying the case types. However, Ms. Kanatzar suggested that certain other changes might be possible that would facilitate Ms. Krolak's review of unlimited civil filings."</p>	
<p><u>Marshall Decl. ¶ 13</u>: "... Around this same time, Ms. Krolak began visiting the clerk's office twice each week, instead of only once a week as she had previously been doing."</p>	<p><u>Objection(s)</u>: Hearsay (FRE 802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE 602); Irrelevant (FRE 402).</p> <p>This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible.</p> <p>The statement is also irrelevant to the issue in this case, which is whether</p>

Evidence and Text/Description Of Material Objected To	Ventura Superior Court's Objection(s)
	CNS has a constitutional right to same-day access of newly filed complaints in the Ventura Superior Court.
<p><u>Marshall Decl. ¶ 15</u>: “Based on my discussions with Ms. Krolak, my conclusion was that staffers in the clerk’s office were waiting until newly filed complaints were fully processed before placing them in the media bin The deterioration of the media bin procedure also led to a backlog of newly filed unlimited civil jurisdiction complaints that Ms. Krolak needed to review, and she therefore had to request numerous individual complaints as part of her daily reporting activities. On many of her visits, she found that she had to request up to twenty-five complaints (her limit for cases that were not contained in the media bin) in order to see the entire flow of newly filed unlimited civil jurisdiction complaints, standing in a new and lengthy line for each group of five complaints she wished to review. Even with respect to</p>	<p><u>Objection(s)</u>: Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602).</p> <p>This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible.</p>

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those twenty-five additional complaints she requested, many were not available. Delays in access ranged for the most part from one to three calendar days, but were sometimes significantly longer.”	
<u>Marshall Decl. ¶ 17</u> : “It is my understanding from Ms. Krolak that approximately fifteen new unlimited complaints are filed with the court each day”	<u>Objection(s)</u> : Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602). This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible.
<u>Marshall Decl. ¶ 18</u> : “Working with Ms. Krolak, for the next three months, I monitored the availability of new unlimited civil complaints to determine what effect, if any, the new procedures would have in terms of delays in access. Unfortunately, things went from bad to worse, with same-day access to new complaints a rare occurrence and delays in access ranging from between one day and	<u>Objection(s)</u> : Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602). This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible.

Evidence and Text/Description Of Material Objected To	Ventura Superior Court's Objection(s)
several weeks after filing.”	
<p><u>Marshall Decl. ¶ 19</u>: “Having gotten nowhere in my attempts to resolve these delays in access on my own, Courthouse News’ counsel wrote to Mr. Planet on June 20, 2011, once again requesting that Courthouse News’ report be given timely access to new unlimited civil filings and suggesting possible ways in which this could be accomplished.”</p>	<p><u>Objection(s)</u>: Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602); Best Evidence Rule (FRE 1002).</p> <p>This evidence is objected to on the grounds that it is inadmissible hearsay and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible.</p> <p>Moreover, Mr. Marshall’s testimony purports to describe the contents of writings, namely a letter attached as Exhibit 5 to the Marshall Declaration, the terms of which speak for themselves.</p>
<p><u>Marshall Decl. ¶ 20</u>: “By letter dated August 2, 2011, Courthouse News’ counsel respectfully registered its disagreement with Mr. Planet’s assertion that public access to new complaints could not be provided until after the complaints had been processed and that delaying</p>	<p><u>Objection(s)</u>: Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602); Best Evidence Rule (FRE 1002).</p> <p>This evidence is objected to on the grounds that it is inadmissible hearsay</p>

Evidence and Text/Description Of Material Objected To	Ventura Superior Court's Objection(s)
public access to new unlimited civil complaints was thus necessitated by budget difficulties that were delaying processing. . . . In the meantime, the delays in access are continuing.”	and CNS has not proved the preliminary and foundational facts sufficient to make the proffered evidence admissible. Moreover, Mr. Marshall’s testimony purports to describe the contents of writings, namely a letter attached as Exhibit 7 to the Marshall Declaration, the terms of which speak for themselves.

At the hearing on CNS’s Motion for Preliminary Injunction, Ventura Superior Court will respectfully request the Court to sustain the foregoing objections and to strike the evidence referred to above.

Dated: October 31, 2011

Respectfully submitted,

JONES DAY

By: /s/ Robert A. Naeve

Robert A. Naeve

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

LAI-3152518