

1 Rachel Matteo-Boehm (SBN 195492)  
 2 rachel.matteo-boehm@hro.com  
 3 David Greene (SBN 160107)  
 4 david.greene@hro.com  
 5 Leila C. Knox (SBN 245999)  
 6 leila.knox@hro.com  
 7 HOLME ROBERTS & OWEN LLP  
 8 560 Mission Street, Suite 250  
 9 San Francisco, CA 94105-2994  
 10 Telephone: (415) 268-2000  
 11 Facsimile: (415) 268-1999

12 Attorneys for Plaintiff  
 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. CV11-08083 R (MANx)

**COURTHOUSE NEWS SERVICE'S  
 RESPONSES TO DEFENDANT'S  
 EVIDENTIARY OBJECTIONS TO  
 THE DECLARATIONS OF  
 WILLIAM GIRDNER AND  
 CHRISTOPHER MARSHALL**

Date: Nov. 21, 2011  
 Time: 10:00 am  
 Courtroom: G-8 (2<sup>nd</sup> Floor)  
 Judge: The Hon. Manuel L. Real

1 Plaintiff Courthouse News Service (“Courthouse News”) hereby submits the  
 2 following responses to Defendant Michael Planet’s evidentiary objections to the  
 3 September 27, 2011, Declaration of William Girdner and September 28, 2011,  
 4 Declaration of Christopher Marshall, which Courthouse News submitted in support of  
 5 its motion for a preliminary injunction.

6 While Defendant’s objections are without merit, as described further below, it  
 7 should be noted that the Court has discretion to consider otherwise inadmissible  
 8 evidence for purposes of deciding whether to issue a preliminary injunction. *See Flynt*  
 9 *Distrib. Co., Inc. v. Harvey*, 734 F.2d 1389, 1394 (9th Cir. 1984) (“The trial court may  
 10 give even inadmissible evidence some weight, when to do so serves the purpose of  
 11 preventing irreparable harm before trial.”); *Puricle, Inc. v. Church & Dwight Co.*, 568  
 12 F. Supp. 2d 1144, 1147 (C.D. Cal. 2008) (“The exigencies of preliminary relief often  
 13 prevent the movant from procuring supporting evidence in a form that would meet  
 14 Rule 56(e)’s requirement of evidence admissible at trial.”) (citation omitted)).

15 Accordingly, even if the Court should find that any of the challenged evidence  
 16 in the Girdner and Marshall declarations is inadmissible, the Court should nonetheless  
 17 exercise its discretion to consider those declarations and all supporting exhibits in  
 18 their entirety to prevent the irreparable harm described in Courthouse News’ motion.

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 20 **RESPONSES TO DEFENDANT’S OBJECTIONS TO THE DECLARATION**  
 21 **OF WILLIAM GIRDNER**

Evidence	Objections	Response
Girdner Decl., Exh. 3	Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal	<b>Not hearsay:</b> Exhibit 3 is not hearsay because it is not an out-of-court statement, but rather reflects Mr. Girdner’s own understanding and observations regarding media access procedures in state and federal

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	Knowledge (FRE 602).	<p>courts across the country, which was prepared at his direction and based on his knowledge and experience. <i>See, e.g.</i>, Girdner Decl., ¶¶ 1-4, 13-22.</p> <p><b>Foundation:</b> Exhibit 3 has adequate foundation because Mr. Girdner’s declaration establishes both (1) the document is in fact what it is represented to be, that is, a summary of media access procedures prepared at Mr. Girdner’s direction, and (2) it reflects information within his personal knowledge based on twenty-one years of experience covering civil litigation, visiting courts, conferring with court officials, and supervising reporters and editors. <i>See, e.g.</i>, Girdner Decl., ¶¶ 1-4, 13-22. FRE 1006 is inapplicable because Exhibit 3 reflects Mr. Girdner’s personal understanding of media access procedures and it is not a summary of other more voluminous writings.</p> <p><b>Personal knowledge:</b> As described above and detailed in Mr. Girdner’s declaration (<i>see</i> Girdner Decl., ¶¶ 1-4, 13-22), he has extensive personal knowledge concerning media access procedures in state and federal courts across the country. He has reported on civil litigation for the past twenty-one years since he founded Courthouse News. He has</p>
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		personally visited many state and federal courts. He has engaged in discussions with court officials about access policies and procedures. He also supervises reporters and editors around the country, who visit courthouses to review new civil complaints on a daily basis.
Girdner Decl., ¶ 13	Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602).	<p><b>Not hearsay:</b> The challenged statement in paragraph 13 is not hearsay because it is not an out-of-court statement, but rather reflects Mr. Girdner’s own observations and experiences regarding media access to complaints based on his extensive experience and personal knowledge from covering civil litigation, visiting courts, conferring with court officials, and supervising other reporters and editors. <i>See, e.g.,</i> Girdner Decl., ¶¶ 1-4, 13-22.</p> <p><b>Foundation:</b> Mr. Girdner’s declaration provides the foundation for the challenged statement in paragraph 13, which is based on his personal knowledge, experience, and observations from his twenty-one years of covering civil litigation, visiting courts, conferring with court officials, and supervising other reporters and editors. <i>See, e.g.,</i> Girdner Decl., ¶¶ 1-4, 13-22. FRE 1006</p>

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		<p>is inapplicable because paragraph 13 reflects Mr. Girdner’s personal understanding of media access procedures and it is not a summary of other more voluminous writings. <b>Personal knowledge:</b> As described above and detailed in Mr. Girdner’s declaration (<i>see</i> Girdner Decl., ¶¶ 1-4, 13-22), he has extensive personal knowledge concerning media access procedures in state and federal courts across the country. He has reported on civil litigation for the past twenty-one years since he founded Courthouse News. He has personally visited many state and federal courts. He has engaged in discussions with court officials about access policies and procedures. He also supervises reporters and editors around the country, who visit courthouses to review new civil complaints on a daily basis.</p>
<p>Girdner Decl., ¶¶ 14-16</p>	<p>Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602).</p>	<p><b>Not hearsay:</b> Paragraphs 14-16 are not hearsay because they are not out-of-court statements, but rather reflect Mr. Girdner’s own observations and experiences regarding media access to complaints based on his extensive experience and personal knowledge from covering civil litigation, visiting courts, conferring with court officials, and</p>

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		<p>supervising other reporters and editors. <i>See, e.g., Girdner Decl., ¶¶ 1-4, 13-22.</i></p> <p><b>Foundation:</b> Mr. Girdner’s declaration provides the foundation for paragraphs 14-16, which are based on his personal knowledge, experience, and observations from his twenty-one years of covering civil litigation, visiting courts, conferring with court officials, and supervising other reporters and editors. <i>See, e.g., Girdner Decl., ¶¶ 1-4, 13-22.</i> FRE 1006 is inapplicable because paragraphs 14-16 reflect Mr. Girdner’s personal understanding of media access procedures and it is not a summary of other more voluminous writings.</p> <p><b>Personal knowledge:</b> As described above and detailed in Mr. Girdner’s declaration (<i>see Girdner Decl., ¶¶ 1-4, 13-22</i>), he has extensive personal knowledge concerning media access procedures in state and federal courts across the country. He has reported on civil litigation for the past twenty-one years since he founded Courthouse News. He has personally visited many state and federal courts. He has engaged in discussions with court officials about access policies and procedures. He also supervises reporters and editors around the country, who visit courthouses to review new civil complaints</p>
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		on a daily basis.
<p>1</p> <p>2 Girdner</p> <p>3 Decl., ¶ 17</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>Best Evidence</p> <p>Rule (FRE 1002).</p>	<p><b>Not within FRE 1002:</b> FRE 1002 is inapplicable because Defendant is challenging Mr. Girdner’s statements as to the availability of complaints included in Exhibit 4 (which are based on his personal knowledge of the processes and procedures used by Courthouse News to prepare its reports) and not the contents of Exhibit 4 itself. <i>See U.S. v. Gonzales-Benitez</i>, 537 F.2d 1051, 1053-54 (9th Cir. 1976) (FRE 1002 “does not set up an order of preferred admissibility, which must be followed to prove any fact. It is, rather, a rule applicable only when one seeks to prove the contents of documents. ...”). Moreover, “FRE 1002 does not prevent the parties from relying on other evidence, such as declarations ... to describe or characterize the document.” <i>K&amp;N Eng’g, Inc. v. Spectre Performance</i>, 2011 U.S. Dist. LEXIS 107681, at *4-5 &amp; n.3 (C.D. Cal. Sept. 20, 2011).</p>
<p>23 Girdner</p> <p>24 Decl., ¶ 18</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>	<p>Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal</p>	<p><b>Not hearsay:</b> Paragraph 18 is not hearsay because it is not an out-of-court statement, but rather reflects Mr. Girdner’s own observations and experiences regarding media access to complaints based on his extensive</p>

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	<p>Knowledge (FRE 602); Improper Opinion Testimony (FRE 701).</p>	<p>experience and personal knowledge from covering civil litigation, visiting courts, conferring with court officials, and supervising other reporters and editors. <i>See, e.g., Girdner Decl., ¶¶ 1-4, 13-22.</i></p> <p><b>Foundation:</b> Mr. Girdner’s declaration provides the foundation for the statements in paragraph 13, which is based on his personal knowledge, experience, and observations from his twenty-one years of covering civil litigation, visiting courts, conferring with court officials, and supervising other reporters and editors. <i>See, e.g., Girdner Decl., ¶¶ 1-4, 13-22.</i> FRE 1006 is inapplicable because paragraph 18 reflects Mr. Girdner’s personal understanding of media access procedures and it is not a summary of other more voluminous writings.</p> <p><b>Personal knowledge:</b> As described above and detailed in Mr. Girdner’s declaration (<i>see Girdner Decl., ¶¶ 1-4, 13-22</i>), he has extensive personal knowledge concerning media access procedures in state and federal courts across the country. He has reported on civil litigation for the past twenty-one years since he founded Courthouse News. He has personally visited many state and federal courts. He has engaged in discussions with</p>
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		<p>court officials about access policies and procedures. He also supervises reporters and editors around the country, who visit courthouses to review new civil complaints on a daily basis.</p> <p><b>Not improper opinion:</b> Paragraph 18 is not improper opinion but rather reflects Mr. Girdner’s perceptions and observations from twenty-one years of experience covering civil litigation, visiting courts, conferring with court officials, and supervising other reporters and editors. <i>See, e.g.</i>, Girdner Decl., ¶¶ 1-4, 13-22. Alternatively, Mr. Girdner’s statements are proper lay opinions under FRE 701 because his statements are rationally based on his personal perceptions, observations, experiences. <i>See id.</i> Mr. Girdner’s statements also help provide a clear understanding of how his prior experiences with courts and media access procedures relate to the issue of lack of timely media access in the present case.</p>
<p>Girdner Decl., ¶ 19</p>	<p>Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal</p>	<p><b>Not hearsay:</b> The challenged statements regarding reasons for denying same-day access are not hearsay because they are not being offered for the truth of the matters stated but rather to show what Courthouse</p>

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	<p>Knowledge (FRE 602); Irrelevant (FRE 402).</p>	<p>News has been told by courts which, like Ventura County, refuse to provide timely access to complaints. The remaining statements in paragraph 19 are not hearsay because they reflect Mr. Girdner's own observations and experiences regarding media access to complaints based on his extensive professional experience and personal knowledge. <i>See, e.g.</i>, Girdner Decl., ¶¶ 1-4, 13-22.</p> <p><b>Foundation:</b> Mr. Girdner's declaration provides the foundation for the statements in paragraph 19, which is based on his personal knowledge, experience, and observations from his twenty-one years of covering civil litigation, visiting courts, conferring with court officials, and supervising other reporters and editors. <i>See, e.g.</i>, Girdner Decl., ¶¶ 1-4, 13-22. FRE 1006 is inapplicable because paragraph 19 reflects Mr. Girdner's personal understanding of media access procedures and it is not a summary of other more voluminous writings.</p> <p><b>Personal knowledge:</b> As described above and detailed in Mr. Girdner's declaration (<i>see</i> Girdner Decl., ¶¶ 1-4, 13-22), he has extensive personal knowledge concerning media access procedures in state and federal</p>
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		<p>courts across the country. Mr. Girdner has reported on civil litigation for the past twenty-one years since he founded Courthouse News. He has personally visited many state and federal courts. He has engaged in discussions with court officials about access policies and procedures. He also supervises reporters and editors around the country, who visit courthouses to review new civil complaints on a daily basis.</p> <p><b>Relevance:</b> Paragraph 19 demonstrates that, despite reasons identical to those proffered by Defendant for not being able to provide same-day access, courts have managed to provide same-day access to new civil complaints. This, in turn, goes to the fact that same-day access in the present case is similarly achievable notwithstanding Defendant’s arguments against such access.</p>
<p>Girdner Decl., ¶ 20</p>	<p>Hearsay (FRE 802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE 602).</p>	<p><b>Not hearsay:</b> Paragraph 20 is not hearsay because it is not an out-of-court statements, but rather reflects Mr. Girdner’s own observations and experiences regarding media access to complaints based on his extensive experience and personal knowledge from covering civil litigation, visiting courts, conferring with court officials, and</p>

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		<p>supervising other reporters and editors. <i>See, e.g., Girdner Decl., ¶¶ 1-4, 13-22.</i></p> <p><b>Foundation:</b> Mr. Girdner’s declaration provides the foundation for the statements in paragraph 20, which is based on his personal knowledge, experience, and observations from his twenty-one years of covering civil litigation, visiting courts, conferring with court officials, and supervising other reporters and editors. <i>See, e.g., Girdner Decl., ¶¶ 1-4, 13-22.</i></p> <p><b>Personal knowledge:</b> As described above and detailed in Mr. Girdner’s declaration (<i>see Girdner Decl., ¶¶ 1-4, 13-22</i>), he has extensive personal knowledge concerning media access procedures in state and federal courts across the country. He has reported on civil litigation for the past twenty-one years since he founded Courthouse News. He has personally visited many state and federal courts. He has engaged in discussions with court officials about access policies and procedures. He also supervises reporters and editors around the country, who visit courthouses to review new civil complaints on a daily basis.</p>
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<p>1 Girdner 2 Decl., ¶ 21 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</p>	<p>Hearsay (FRE 802); Lacks Foundation (FRE 104, FRE 1006); Lacks Personal Knowledge (FRE 602); Improper Opinion Testimony (FRE 701)</p>	<p><b>Not hearsay:</b> Paragraph 21 is not hearsay because it is not an out-of-court statement, but rather reflects Mr. Girdner’s own observations and experiences regarding media access to complaints based on his extensive experience and personal knowledge from covering civil litigation, visiting courts, conferring with court officials, and supervising other reporters and editors. <i>See, e.g.,</i> Girdner Decl., ¶¶ 1-4, 13-22.</p> <p><b>Foundation:</b> Mr. Girdner’s declaration provides the foundation for the statements in paragraph 21, which is based on his personal knowledge, experience, and observations from his twenty-one years of covering civil litigation, visiting courts, conferring with court officials, and supervising other reporters and editors. <i>See, e.g.,</i> Girdner Decl., ¶¶ 1-4, 13-22. FRE 1006 is inapplicable because paragraph 21 reflects Mr. Girdner’s personal understanding of media access procedures and it is not a summary of other more voluminous writings.</p> <p><b>Personal knowledge:</b> As described above and detailed in Mr. Girdner’s declaration (<i>see</i> Girdner Decl., ¶¶ 1-4, 13-22), he has extensive personal knowledge concerning media access procedures in state and federal</p>
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		<p>courts across the country. Mr. Girdner has reported on civil litigation for the past twenty-one years since he founded Courthouse News. He has personally visited many state and federal courts. He has engaged in discussions with court officials about access policies and procedures. He also supervises reporters and editors around the country, who visit courthouses to review new civil complaints on a daily basis.</p> <p><b>Not improper opinion:</b> Paragraph 21 is not improper opinion but rather reflects Mr. Girdner’s perceptions and observations from twenty-one years of covering civil litigation, visiting courts, conferring with court officials, and supervising other reporters and editors. <i>See, e.g.,</i> Girdner Decl., ¶¶ 1-4, 13-22. Alternatively, Mr. Girdner’s statements are proper lay opinions under FRE 701 because his statements are rationally based on his personal perceptions, observations, experiences. <i>See id.</i> Mr. Girdner’s statements also help provide a clear understanding of how his prior experiences with courts and media access procedures relate to the issue of lack of timely media access in the present case.</p>
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<p>1 Girdner 2 Decl., ¶ 22 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</p>	<p>Hearsay (FRE 802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE 602); Improper Opinion Testimony (FRE 701).</p>	<p><b>Not hearsay:</b> Paragraph 22 is not hearsay because it is not an out-of-court statement, but rather reflects Mr. Girdner’s own observations and experiences regarding media access to complaints based on his extensive experience and personal knowledge from covering civil litigation, visiting courts, conferring with court officials, and supervising other reporters and editors. <i>See, e.g.,</i> Girdner Decl., ¶¶ 1-4, 13-22.</p> <p><b>Foundation:</b> Mr. Girdner’s declaration provides the foundation for the statements in paragraph 22, which is based on his personal knowledge, experience, and observations from his twenty-one years of covering civil litigation, visiting courts, conferring with court officials, and supervising other reporters and editors. <i>See, e.g.,</i> Girdner Decl., ¶¶ 1-4, 13-22.</p> <p><b>Personal knowledge:</b> As described above and detailed in Mr. Girdner’s declaration (<i>see</i> Girdner Decl., ¶¶ 1-4, 13-22), he has extensive personal knowledge concerning media access procedures in state and federal courts across the country. He has reported on civil litigation for the past twenty-one years since he founded Courthouse News. He has personally visited many state and federal</p>
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		<p>courts. He has engaged in discussions with court officials about access policies and procedures. He also supervises reporters and editors around the country, who visit courthouses to review new civil complaints on a daily basis.</p> <p><b>Not improper opinion:</b> Paragraph 22 is not improper opinion but rather reflects Mr. Girdner’s perceptions and observations from twenty-one years of experience covering civil litigation, visiting courts, conferring with court officials, and supervising other reporters and editors. <i>See, e.g.</i>, Girdner Decl., ¶¶ 1-4, 13-22. Alternatively, Mr. Girdner’s statements are proper lay opinions under FRE 701 because his statements are rationally based on his personal perceptions, observations, experiences. <i>See id.</i> Mr. Girdner’s statements also help provide a clear understanding of how his prior experiences with courts and media access procedures relate to the issue of lack of timely media access in the present case.</p>
<p>Girdner Decl., ¶ 23</p>	<p>Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006);</p>	<p><b>Not hearsay:</b> Paragraph 23 is not hearsay because it is not an out-of-court statement, but rather reflects Mr. Girdner’s own observations and experiences based on his</p>



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	<p>Lacks Personal Knowledge (FRE 602).</p>	<p>personal involvement in and supervision of efforts to obtain timely access to complaints at Ventura Superior. <i>See, e.g.</i>, Girdner Decl., ¶¶ 23-27.</p> <p><b>Foundation:</b> Mr. Girdner’s declaration provides the foundation for the statements in paragraph 23, which are based on his personal knowledge, experience, and observations from his twenty-one years of covering civil litigation as well as his personal involvement in and supervision of efforts to obtain timely access to complaints at Ventura Superior. <i>See, e.g.</i>, Girdner Decl., ¶¶ 23-27. FRE 1006 is inapplicable because paragraph 23 reflects Mr. Girdner’s personal understanding of media access procedures as well as the attempts that were made to obtain timely access to complaints at Ventura Superior. It is therefore not a summary of other more voluminous writings within the scope of FRE 1006.</p> <p><b>Personal knowledge:</b> As described above and detailed in Mr. Girdner’s declaration (<i>see</i> Girdner Decl., ¶¶ 23-27), he was personally involved in Courthouse News’ efforts to obtain timely access to new civil complaints at Ventura Superior. Mr. Girdner instructed Mr. Marshall in his efforts to resolve the</p>
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		<p>dispute with the clerk’s office, to no avail. Mr. Girdner directed Courthouse News’ counsel to raise Courthouse News’ concerns with Defendant, which resulted in a temporary improvement in access to complaints. When access again deteriorated, Mr. Girdner instructed Mr. Marshall to try once again working with the clerk’s office, which proved unsuccessful. Mr. Girdner directed counsel to contact Defendant two further times regarding Courthouse News’ concerns. Mr. Girdner therefore has extensive personal knowledge of Courthouse News’ attempts to work cooperatively with Defendant.</p>
<p>Girdner Decl., ¶ 28 [sic] [Appears to be Girdner Decl., ¶ 24]</p>	<p>Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602); Best Evidence Rule (FRE 1002).</p>	<p><b>Not hearsay:</b> The challenged statements in paragraph 24 are not hearsay because they are not out-of-court statements, but rather reflect Mr. Girdner’s recollections of the efforts that were made to work cooperatively with the clerk’s office to obtain timely access to complaints, based on his personal involvement in and supervision of same. <i>See, e.g.,</i> Girdner Decl., ¶¶ 23-27.</p> <p><b>Foundation:</b> Mr. Girdner’s declaration provides the foundation for the statements in paragraph 24, which is based on his personal</p>

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		<p>involvement in and supervision of efforts to obtain timely access to complaints at Ventura Superior. <i>See, e.g.</i>, Girdner Decl., ¶¶ 23-27. FRE 1006 is inapplicable because paragraph 24 reflects Mr. Girdner’s personal understanding of the attempts that were made to obtain timely access to complaints at Ventura Superior and it is not a summary of other more voluminous writings.</p> <p><b>Personal knowledge:</b> As described above and detailed in Mr. Girdner’s declaration (<i>see</i> Girdner Decl., ¶¶ 23-27), he was personally involved in Courthouse News’ efforts to obtain timely access to new civil complaints at Ventura Superior. Mr. Girdner instructed Mr. Marshall in his efforts to resolve the dispute with the clerk’s office, to no avail. Mr. Girdner directed counsel to raise Courthouse News’ concerns with Defendant, which resulted in a temporary improvement in access to complaints. When access again deteriorated, Mr. Girdner instructed Mr. Marshall to try once again working with the clerk’s office, which proved unsuccessful. Mr. Girdner directed counsel to contact Defendant two further times regarding Courthouse News’ concerns. Mr. Girdner therefore has extensive personal knowledge</p>
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		<p>of Courthouse News’ attempts to work cooperatively with the clerk’s office of Ventura Superior.</p> <p><b>Not within FRE 1002:</b> FRE 1002 is inapplicable because Defendant is not challenging the contents of Exhibit 5 but only Mr. Girdner’s statements regarding Exhibit 5. <i>See Gonzales-Benitez</i>, 537 F.2d at 1053-54. Moreover, “FRE 1002 does not prevent the parties from relying on other evidence, such as declarations ... to describe or characterize the document.” <i>K&amp;N Eng’g, Inc.</i>, 2011 U.S. Dist. LEXIS 107681, at *4-5 &amp; n.3.</p>
<p>Girdner Decl., ¶ 25</p>	<p>Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602); Best Evidence Rule (FRE 1002).</p>	<p><b>Not hearsay:</b> Paragraph 25 is not hearsay because it does not contain out-of-court statements, but rather reflects Mr. Girdner’s recollections of the efforts that were made to work cooperatively with the clerk’s office to obtain timely access to complaints, based on his personal involvement in and supervision of the same. <i>See, e.g.</i>, Girdner Decl., ¶¶ 23-27.</p> <p><b>Foundation:</b> Mr. Girdner’s declaration provides the foundation for the statements in paragraph 25, which is based on his personal knowledge, experience, and observations from his twenty-one years of covering civil</p>

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		<p>litigation as well as his personal involvement in and supervision of efforts to obtain timely access to complaints at Ventura Superior. <i>See, e.g.</i>, Girdner Decl., ¶¶ 23-27. FRE 1006 is inapplicable because paragraph 25 reflects Mr. Girdner’s personal understanding of media access procedures as well as the attempts that were made to obtain timely access to complaints at Ventura Superior. It is therefore not a summary of other more voluminous writings within the scope of FRE 1006.</p> <p><b>Personal knowledge:</b> As described above and detailed in Mr. Girdner’s declaration (<i>see</i> Girdner Decl., ¶¶ 23-27), he was personally involved in Courthouse News’ efforts to obtain timely access to new civil complaints at Ventura Superior. Mr. Girdner instructed Mr. Marshall in his efforts to resolve the dispute with the clerk’s office, to no avail. Mr. Girdner directed counsel to raise Courthouse News’ concerns with Defendant, which resulted in a temporary improvement in access to complaints. When access again deteriorated, Mr. Girdner instructed Mr. Marshall to try once again working with the clerk’s office, which proved unsuccessful. Mr. Girdner directed counsel to contact</p>
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		<p>Defendant two further times regarding Courthouse News’ concerns. Mr. Girdner therefore has extensive personal knowledge of Courthouse News’ attempts to work cooperatively with the clerk’s office of Ventura Superior.</p> <p><b>Not within FRE 1002:</b> FRE 1002 is inapplicable because Defendant is not challenging the contents of Exhibit 6 but only Mr. Girdner’s statements regarding Exhibit 6. <i>See Gonzales-Benitez</i>, 537 F.2d at 1053-54. Moreover, “FRE 1002 does not prevent the parties from relying on other evidence, such as declarations ... to describe or characterize the document.” <i>K&amp;N Eng’g, Inc.</i>, 2011 U.S. Dist. LEXIS 107681, at *4-5 &amp; n.3.</p>
<p>Girdner Decl., ¶ 27</p>	<p>Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602); Best Evidence Rule (FRE 1002).</p>	<p><b>Not hearsay:</b> The challenged statements in paragraph 27 are not hearsay because they are not out-of-court statements, but rather reflect Mr. Girdner’s recollections of the efforts that were made to work cooperatively with the clerk’s office to obtain timely access to complaints, based on his personal involvement in and supervision of same. <i>See, e.g., Girdner Decl.</i>, ¶¶ 23-27.</p> <p><b>Foundation:</b> Mr. Girdner’s declaration provides the foundation for the statements in</p>

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		<p>paragraph 27, which is based on his personal knowledge, experience, and observations from his twenty-one years of covering civil litigation as well as his personal involvement in and supervision of efforts to obtain timely access to complaints at Ventura Superior. <i>See, e.g.</i>, Girdner Decl., ¶¶ 23-27. FRE 1006 is inapplicable because paragraph 27 reflects Mr. Girdner’s personal understanding of media access procedures as well as the attempts that were made to obtain timely access to complaints at Ventura Superior. It is therefore not a summary of other more voluminous writings within the scope of FRE 1006.</p> <p><b>Personal knowledge:</b> As described above and detailed in Mr. Girdner’s declaration (<i>see</i> Girdner Decl., ¶¶ 23-27), he was personally involved in Courthouse News’ efforts to obtain timely access to new civil complaints at Ventura Superior. Mr. Girdner instructed Mr. Marshall in his efforts to resolve the dispute with the clerk’s office, to no avail. Mr. Girdner directed counsel to raise Courthouse News’ concerns with Defendant, which resulted in a temporary improvement in access to complaints. When access again deteriorated, Mr. Girdner instructed Mr.</p>
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		<p>Marshall to try once again working with the clerk’s office, which proved unsuccessful. Mr. Girdner directed counsel to contact Defendant two further times regarding Courthouse News’ concerns. Mr. Girdner therefore has extensive personal knowledge of Courthouse News’ attempts to work cooperatively with the clerk’s office of Ventura Superior.</p> <p><b>Not within FRE 1002:</b> FRE 1002 is inapplicable because Defendant is not challenging the contents of Exhibit 8 but only Mr. Girdner’s statements regarding Exhibit 8. <i>See Gonzales-Benitez</i>, 537 F.2d at 1053-54. Moreover, “FRE 1002 does not prevent the parties from relying on other evidence, such as declarations ... to describe or characterize the document.” <i>K&amp;N Eng’g, Inc.</i>, 2011 U.S. Dist. LEXIS 107681, at *4-5 &amp; n.3.</p>
<p>Girdner Decl., ¶ 28</p>	<p>Hearsay (FRE 802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE 602); Irrelevant (FRE 402);</p>	<p><b>Not hearsay:</b> Paragraph 28 is not hearsay because it does not contain an out-of-court statement, but rather reflects Mr. Girdner’s personal knowledge and perceptions based on twenty-one years of experience both as a reporter and running a nationwide legal news service. <i>See, e.g.</i>, Girdner Decl., ¶¶ 1-12, 28-32.</p>



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	<p>Improper Opinion Testimony (FRE 701).</p>	<p><b>Foundation:</b> Mr. Girdner’s declaration provides the foundation for the statements in paragraph 28, which are based on his personal knowledge, experience, and observations from his twenty-one years of both covering civil litigation as a reporter and running a nationwide legal news service with thousands of subscribers, including lawyers, law firms, media organizations, academic institutions, and libraries. <i>See, e.g.</i>, Girdner Decl., ¶¶ 1-12.</p> <p><b>Personal knowledge:</b> As described above and detailed in Mr. Girdner’s declaration (<i>see</i> Girdner Decl., ¶¶ 1-12, 28-32), he founded Courthouse News, served as a reporter, expanded its coverage, and built the publication into a nationwide legal news service with 3,000 subscribers and a heavily trafficked website. He therefore has personal knowledge regarding the harmful implications from delays in accessing complaints, both from the perspective of a journalist trying to provide timely coverage of news and from the perspective of an editor trying to provide his subscribers with current information.</p> <p><b>Relevance:</b> Paragraph 28 conveys facts, based on Mr. Girdner’s personal knowledge</p>
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		<p>and experience, that bear directly upon the irreparable harm that Courthouse News is experiencing due to Defendant’s [practice of not allowing Courthouse News’ reporter to access new complaints until after they have been fully processed, thus resulting in a denial of same-day access.</p> <p><b>Not improper opinion:</b> Paragraph 28 is not improper opinion but rather reflects Mr. Girdner’s personal knowledge, experience, and observations from his twenty-one years of both covering civil litigation as a reporter and running a nationwide legal news service with thousands of subscribers. <i>See, e.g.</i>, Girdner Decl., ¶¶ 1-12, 28-32. Alternatively, Mr. Girdner’s statements are proper lay opinions under FRE 701 because his statements are rationally based on his personal perceptions, observations, experiences. <i>See id.</i> Mr. Girdner’s statements also help to illustrate, based on his experience, the harms resulting from a lack of timely media access, as in the present case.</p>
<p>Girdner Decl., ¶ 29</p>	<p>Irrelevant (FRE 402).</p>	<p><b>Relevance:</b> Paragraph 29 conveys facts, based on Mr. Girdner’s personal knowledge and experience, that bear directly upon the harms arising from Defendant’s practice of</p>

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		<p>not allowing Courthouse News’ reporter to access new complaints until after they have been fully processed, thus resulting in a denial of same-day access. In addition to preventing members of the news media from covering new civil complaints, impeding the timely dissemination of news, and preventing Courthouse News from providing its subscribers with current information, Defendant’s delays are harming the public’s ability to obtain timely access to court proceedings.</p>
<p>Girdner Decl., ¶ 30</p>	<p>Irrelevant (FRE 402); Improper Opinion Testimony (FRE 701).</p>	<p><b>Relevance:</b> Paragraph 30 conveys facts, based on Mr. Girdner’s personal knowledge and experience, that bear directly upon the harms arising from Defendant’s practice of not allowing Courthouse News’ reporter to access new complaints until after they have been fully processed, thus resulting in a denial of same-day access. In addition to preventing journalists from covering new complaints, impeding the timely dissemination of news, and preventing Courthouse News from providing its subscribers with current information, Defendant’s delays are harming the public’s ability to obtain timely information on</p>

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		<p>important current events.</p> <p><b>Not improper opinion:</b> Paragraph 30 is not improper opinion but rather reflects Mr. Girdner’s personal knowledge, experience, and observations from his twenty-one years of both covering civil litigation as a reporter and running a nationwide legal news service with thousands of subscribers. <i>See, e.g.,</i> Girdner Decl., ¶¶ 1-12, 28-32. Alternatively, Mr. Girdner’s statements are proper lay opinions under FRE 701 because his statements are rationally based on his personal perceptions, observations, experiences. <i>See id.</i> Mr. Girdner’s statements also help to illustrate, based on his experience, the harms resulting from a lack of timely media access, as in the present case.</p>
Girdner Decl., ¶ 31	Irrelevant (FRE 402); Improper Opinion Testimony (FRE 701).	<p><b>Relevance:</b> Paragraph 31 conveys facts, based on Mr. Girdner’s personal knowledge and experience, that illustrate the nature of the harms that arise from Defendant’s practice of not allowing Courthouse News’ reporter to access new complaints until after they have been fully processed, thus resulting in a denial of same-day access. In addition to preventing journalists from covering new complaints, impeding the timely</p>

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		<p>dissemination of news, and preventing Courthouse News from providing its subscribers with current information, Defendant’s delays are harming the public’s ability to obtain timely information on important current events.</p> <p><b>Not improper opinion:</b> Paragraph 31 is not improper opinion but rather reflects Mr. Girdner’s personal knowledge, experience, and observations from his twenty-one years of both covering civil litigation as a reporter and running a nationwide legal news service with thousands of subscribers. <i>See, e.g.,</i> Girdner Decl., ¶¶ 1-12, 28-32. Alternatively, Mr. Girdner’s statements are proper lay opinions under FRE 701 because his statements are rationally based on his personal perceptions, observations and experiences. <i>See id.</i> Mr. Girdner’s statements also help to illustrate, based on his experience, the harms resulting from a lack of timely media access, as in the present case.</p>
<p>Girdner Decl., ¶ 32</p>	<p>Irrelevant (FRE 402); Improper Opinion Testimony (FRE 701).</p>	<p><b>Relevance:</b> Paragraph 32 conveys facts, based on Mr. Girdner’s personal knowledge and experience, that illustrate the nature of the harms that arise from Defendant’s practice of not allowing Courthouse News’</p>

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		<p>reporter to access new complaints until after they have been fully processed, thus resulting in a denial of same-day access. In addition to preventing journalists from covering new complaints, impeding the timely dissemination of news, and preventing Courthouse News from providing its subscribers with current information, Defendant's delays are harming the public's ability to obtain timely information on important current events.</p> <p><b>Not improper opinion:</b> Paragraph 32 is not improper opinion but rather reflects Mr. Girdner's personal knowledge, experience, and observations from his twenty-one years of both covering civil litigation as a reporter and running a nationwide legal news service with thousands of subscribers. <i>See, e.g.</i>, Girdner Decl., ¶¶ 1-12, 28-32. Alternatively, Mr. Girdner's statements are proper lay opinions under FRE 701 because his statements are rationally based on his personal perceptions, observations, experiences. <i>See id.</i> Mr. Girdner's statements also help to illustrate, based on his experience, the harms resulting from a lack of timely media access, as in the present case.</p>
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**RESPONSES TO DEFENDANT’S OBJECTIONS TO THE DECLARATION  
OF CHRISTOPHER MARSHALL**

Evidence	Objections	Response
Marshall Decl., ¶ 3	Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE 602); Improper Opinion Testimony (FRE 701).	<p><b>Foundation and Personal knowledge:</b> Mr. Marshall’s declaration provides the foundation for the challenged statements in paragraph 3, which are based on his personal knowledge, experience, and observations from working as a reporter covering state and federal courts since 2006 and as bureau chief supervising reporters in California and Nevada since 2007. <i>See</i> Marshall Decl., ¶¶ 2-6. In addition to reporting on new complaints filed in the U.S. District Court for the Northern District of California, Mr. Marshall routinely visits many other state and federal courts that are under his supervision and has kept apprised of the courts’ respective access policies and procedures. <i>Id.</i> As a long-time employee and current bureau chief for Courthouse News, he has personal knowledge of how the term “same-day access” is used within the company. <i>See id.</i></p> <p><b>Not improper opinion:</b> The challenged statements in paragraph 3 are not improper opinions but rather reflect Mr. Marshall’s</p>

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		<p>personal knowledge and observations as a reporter covering state and federal courts and as a bureau chief supervising reporters in California and Nevada. <i>See, e.g.</i>, Marshall Decl., ¶¶ 2-6. Alternatively, Mr. Marshall’s statements are proper lay opinions under FRE 701 because his statements are rationally based on his perceptions, observations and experiences. <i>See id.</i> Mr. Marshall’s statements also help demonstrate that same-day access is a routine, traditional and common practice among the many courts with which he has experience. In that respect, Mr. Marshall is not providing legal conclusions but simply relating his personal experiences.</p>
Marshall Decl., ¶ 4	Hearsay (FRE 802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE 602).	<p><b>Not hearsay:</b> The challenged statements in paragraph 4 are not hearsay because they do not contain out-of-court statements, but rather reflect Mr. Marshall’s own observations and experiences regarding media access to complaints based on his extensive experience and personal knowledge from reporting on civil litigation and from visiting courts in connection with his role supervising other reporters. <i>See, e.g.</i>, Marshall Decl., ¶¶ 2-7.</p> <p><b>Foundation and Personal knowledge:</b> Mr.</p>



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		<p>Marshall’s declaration provides the foundation for the challenged statements in paragraph 4, which are based on his personal knowledge, experience, and observations from working as a reporter covering state and federal courts since 2006 and as bureau chief supervising reporters in California and Nevada since 2007. <i>See</i> Marshall Decl., ¶¶ 2-6. In addition to reporting on new complaints filed in the U.S. District Court for the Northern District of California, he routinely visits many state and federal courts that are under his supervision, which include the District Courts for the U.S. District Court for the Northern District of California, and has kept apprised of the courts’ respective access policies and procedures. <i>Id.</i></p>
<p>Marshall Decl., ¶¶ 5-7</p>	<p>Hearsay (FRE 802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE 602).</p>	<p><b>Not hearsay:</b> Paragraphs 5-7 are not hearsay because they do not contain out-of-court statements, but rather reflect Mr. Marshall’s own observations and experiences regarding media access to complaints based on his extensive experience and personal knowledge from reporting on civil litigation and from visiting courts in connection with his role supervising other reporters. <i>See, e.g.,</i> Marshall Decl., ¶¶ 2-7.</p>

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		<p><b>Foundation and Personal knowledge:</b> Mr. Marshall’s declaration provides the foundation for the challenged statements in paragraphs 5-7, which are based on his personal knowledge, experience, and observations from working as a reporter covering state and federal courts since 2006 and as bureau chief supervising reporters in California and Nevada since 2007. <i>Id.</i> He routinely visits many state and federal courts that are under his supervision, which include courts in California and Nevada, and has kept apprised of the courts’ respective access policies and procedures. <i>Id.</i> With respect to Ms. Krolak’s work in particular, Mr. Marshall has been her supervisor since 2007 and therefore has personal knowledge of her role, her responsibilities, her job performance, and her new litigation reports. <i>Id.</i> ¶¶ 7-8.</p>
<p>Marshall Decl., ¶¶ 8-10</p>	<p>Hearsay (FRE 802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE 602).</p>	<p><b>Not hearsay:</b> Paragraph 8 is not hearsay because it does not contain any out-of-court statement, but rather reflects Mr. Marshall’s own understanding of media access policies and procedures at Ventura Superior during the time period indicated. Paragraphs 9-10 are also not hearsay because the statements are not being offered for the truth of the</p>

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		<p>matters asserted but rather to show that Mr. Marshall received the information and followed up on it with personnel in the clerk’s office, to no avail, which necessitated further follow up by Courthouse News with Defendant. <i>See</i> Marshall Decl., ¶¶ 8-11.</p> <p><b>Foundation and Personal knowledge:</b> Mr. Marshall’s declaration provides the foundation for the challenged statements, which are based on his personal knowledge, experience, and observations from working as a reporter covering state and federal courts since 2006 and as bureau chief supervising reporters in California and Nevada since 2007. <i>Id.</i> He routinely visits many state and federal courts that are under his supervision, which include courts in California and Nevada, and has kept apprised of the courts’ respective access policies and procedures. <i>Id.</i> With respect to Ms. Krolak’s work in particular, Mr. Marshall has been her supervisor since 2007 and therefore has personal knowledge of her role, her responsibilities, her job performance, and her new litigation reports.</p>
<p>Marshall Decl., ¶ 11</p>	<p>Hearsay (FRE 802); Lacks</p>	<p><b>Not hearsay:</b> Paragraph 11 is not hearsay because it does not contain any out-of-court</p>

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	<p>Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602); Best Evidence Rule (FRE 1002).</p>	<p>statement that is being offered for its truth but rather reflects Mr. Marshall’s personal knowledge of Courthouse News’ attempts to work cooperatively with the clerk’s office of Ventura Superior.</p> <p><b>Foundation and Personal knowledge:</b> As bureau chief, Mr. Marshall had hands-on, personal involvement in Courthouse News’ efforts to obtain timely access to new civil complaints at Ventura Superior. He attempted at various times to resolve access issues with personnel in the clerk’s office, and participated in meetings to discuss potential solutions. Marshall Decl., ¶¶ 9-14. Mr. Marshall also received and/or authored copies of correspondence on this issue, including Exhibits 1-7 to his declaration. Mr. Marshall therefore has extensive personal knowledge – and was kept apprised – of Courthouse News’ attempts to work cooperatively with the clerk’s office of Ventura Superior. <i>Id.</i> FRE 1006 is inapplicable because paragraph 11 reflects Mr. Marshall’s personal knowledge regarding efforts to resolve access issues. It is therefore not a summary of other more voluminous writings within the scope of FRE 1006.</p> <p><b>Not within FRE 1002:</b> FRE 1002 is</p>
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		<p>inapplicable because Defendant is not challenging the contents of Exhibit 1 but only Mr. Marshall’s statements regarding Exhibit 1. <i>See Gonzales-Benitez</i>, 537 F.2d at 1053-54. Moreover, “FRE 1002 does not prevent the parties from relying on other evidence, such as declarations ... to describe or characterize the document.” <i>K&amp;N Eng’g, Inc.</i>, 2011 U.S. Dist. LEXIS 107681, at *4-5 &amp; n.3.</p>
<p>Marshall Decl., ¶ 12</p>	<p>Best Evidence Rule (FRE 1002).</p>	<p><b>Not within FRE 1002:</b> FRE 1002 is inapplicable because Defendant is not challenging the contents of Exhibit 2 but only Mr. Marshall’s statements regarding Exhibit 2. <i>See Gonzales-Benitez</i>, 537 F.2d at 1053-54. Moreover, “FRE 1002 does not prevent the parties from relying on other evidence, such as declarations ... to describe or characterize the document.” <i>K&amp;N Eng’g, Inc.</i>, 2011 U.S. Dist. LEXIS 107681, at *4-5 &amp; n.3.</p>
<p>Marshall Decl., ¶ 13</p>	<p>Hearsay (FRE 802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE</p>	<p><b>Not hearsay:</b> The challenged statement in paragraph 13 is not hearsay because it does not reflect an out-of-court statement but rather Mr. Marshall’s personal knowledge of Ms. Krolak’s schedule based on his role as her supervisor. <i>See Marshall Decl.</i>, ¶¶ 7-8.</p>

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	602); Irrelevant (FRE 402).	<b>Foundation and Personal knowledge:</b> Mr. Marshall has been Ms. Krolak’s supervisor since 2007 and has personal knowledge of her role, responsibilities, and job performance. He receives regular reports from Ms. Krolak regarding her visits to Ventura Superior, and is therefore knowledgeable as to her schedule. <i>Id.</i> <b>Relevance:</b> The challenged statement in paragraph 13 should be considered in the context of the remainder of the paragraph, which Defendant has not challenged. The paragraph in its entirety is relevant to Courthouse News’ unsuccessful efforts to obtain timely access to new civil complaints at Ventura Superior, including Mr. Marshall’s attempts to resolve access issues by meeting with relevant personnel and the alteration of Ms. Krolak’s schedule to try working around the limitations imposed by the clerk’s office.
Marshall Decl., ¶ 15	Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602).	<b>Not hearsay:</b> The challenged statements in paragraph 15 are not hearsay because they do not reflect out-of-court statements but rather show Mr. Marshall’s understanding of how media access policies and procedures at Ventura Superior were being implemented during this time period. These statements are

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		<p>also not hearsay because they are not being offered for their truth but rather to show that Mr. Marshall received the information, which prompted him to change Ms. Krolak’s schedule and to follow up again with personnel in the clerk’s office, to no avail. <i>See</i> Marshall Decl., ¶¶ 15-16.</p> <p><b>Foundation and Personal knowledge:</b> Mr. Marshall has been Ms. Krolak’s supervisor since 2007 and has personal knowledge of her role, responsibilities, and job performance. He receives regular reports from Ms. Krolak regarding her visits to Ventura Superior, and is therefore knowledgeable of her efforts to obtain same-day access to new civil complaints. <i>See id.</i> ¶¶ 7-8, 15. FRE 1006 is inapplicable because paragraph 15 reflects Mr. Marshall’s personal understanding of how media access policies and procedures at Ventura Superior were being implemented. It is therefore not a summary of other more voluminous writings within the scope of FRE 1006.</p>
<p>Marshall Decl., ¶ 17</p>	<p>Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006);</p>	<p><b>Not hearsay:</b> The challenged statement in paragraph 17 is not hearsay because it is not an out-of-court statement but rather Mr. Marshall’s understanding as to the number of</p>

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	Lacks Personal Knowledge (FRE 602).	new unlimited complaints filed each day. <i>See</i> Marshall Decl., ¶ 17. <b>Foundation and Personal knowledge:</b> Mr. Marshall has been Ms. Krolak’s supervisor since 2007 and receives regular reports from her regarding her visits to Ventura Superior. <i>See id.</i> ¶¶ 7-8. Mr. Marshall also has been involved in Courthouse News’ efforts to obtain timely access to new civil complaints at Ventura Superior and has personally discussed issues concerning access to new civil complaints with personnel in the clerk’s office. <i>See id.</i> ¶¶ 13, 16, 17. FRE 1006 is inapplicable because paragraph 17 reflects Mr. Marshall’s personal understanding of how media access policies and procedures at Ventura Superior were being implemented. It is therefore not a summary of other more voluminous writings within the scope of FRE 1006.
Marshall Decl., ¶ 18	Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602).	<b>Not hearsay:</b> Paragraph 18 is not hearsay because it does not contain any out-of-court statements but rather describes Mr. Marshall’s actions and his personal observations regarding Courthouse News’ inability to obtain timely access to new civil complaints.



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		<p><b>Foundation and Personal knowledge:</b> As bureau chief, Mr. Marshall had hands-on, personal involvement in Courthouse News’ efforts to obtain timely access to new civil complaints at Ventura Superior. He attempted at various times to resolve access issues with personnel in the clerk’s office, and participated in meetings to discuss potential solutions. Marshall Decl., ¶¶ 9-14, 16-17. Paragraph 18 describes additional actions taken by Mr. Marshall to determine if efforts to resolve the access problems were having any success, and reflects his personal views that those efforts were not in fact improving access but rather worsening the delays. <i>Id.</i> ¶ 18. FRE 1006 is inapplicable because paragraph 18 reflects Mr. Marshall’s personal knowledge regarding efforts to resolve access issues. It is therefore not a summary of other more voluminous writings within the scope of FRE 1006.</p>
<p>Marshall Decl., ¶ 19</p>	<p>Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE</p>	<p><b>Not hearsay:</b> The challenged statements in paragraph 19 are not hearsay because they do not reflect out-of-court statements that are being offered for their truth but rather Mr. Marshall’s personal knowledge of Courthouse News’ attempts to work cooperatively with</p>

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	602); Best Evidence Rule (FRE 1002).	the clerk’s office of Ventura Superior. <b>Foundation and Personal knowledge:</b> As bureau chief, Mr. Marshall had hands-on, personal involvement in Courthouse News’ efforts to obtain timely access to new civil complaints at Ventura Superior. He attempted at various times to resolve access issues with personnel in the clerk’s office, and participated in meetings to discuss potential solutions. Marshall Decl., ¶¶ 9-14. Mr. Marshall also received and/or authored copies of correspondence on this issue, including Exhibits 1-7 to his declaration. Mr. Marshall therefore has extensive personal knowledge – and was kept apprised – of Courthouse News’ attempts to work cooperatively with the clerk’s office of Ventura Superior. <i>Id.</i> FRE 1006 is inapplicable because paragraph 19 reflects Mr. Marshall’s personal knowledge regarding efforts to resolve access issues. It is therefore not a summary of other more voluminous writings within the scope of FRE 1006. <b>Not within FRE 1002:</b> FRE 1002 is inapplicable because Defendant is not challenging the contents of Exhibit 5 but only Mr. Marshall’s statements regarding Exhibit 5. <i>See Gonzales-Benitez</i> , 537 F.2d at 1053-
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		54. Moreover, “FRE 1002 does not prevent the parties from relying on other evidence, such as declarations ... to describe or characterize the document.” <i>K&amp;N Eng’g, Inc.</i> , 2011 U.S. Dist. LEXIS 107681, at *4-5 & n.3.
Marshall Decl., ¶ 20	Hearsay (FRE 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602); Best Evidence Rule (FRE 1002).	<b>Not hearsay:</b> Paragraph 20 is not hearsay because it does not contain any out-of-court statements that are being offered for their truth but rather reflects Mr. Marshall’s personal knowledge of Courthouse News’ attempts to work cooperatively with the clerk’s office of Ventura Superior. To the extent paragraph 20 references a statement made by Defendant, it is a party admission and not hearsay. <b>Foundation and Personal knowledge:</b> As bureau chief, Mr. Marshall had hands-on, personal involvement in Courthouse News’ efforts to obtain timely access to new civil complaints at Ventura Superior. He attempted at various times to resolve access issues with personnel in the clerk’s office, and participated in meetings to discuss potential solutions. Marshall Decl., ¶¶ 9-14. Mr. Marshall also received and/or authored copies of correspondence on this issue,

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		<p>including Exhibits 1-7 to his declaration. Mr. Marshall therefore has extensive personal knowledge – and was kept apprised – of Courthouse News’ attempts to work cooperatively with the clerk’s office of Ventura Superior. <i>Id.</i> Because he currently serves as bureau chief with responsibility for courts that include Ventura Superior, he has personal knowledge and experience with Courthouse News’ ongoing inability to obtain same-day access to new civil complaints filed there. FRE 1006 is inapplicable because paragraph 20 reflects Mr. Marshall’s personal knowledge regarding efforts to resolve access issues. It is therefore not a summary of other more voluminous writings within the scope of FRE 1006.</p> <p><b>Not within FRE 1002:</b> FRE 1002 is inapplicable because Defendant is not challenging the contents of Exhibit 7 but only Mr. Marshall’s statements regarding Exhibit 7. <i>See Gonzales-Benitez</i>, 537 F.2d at 1053-54. Moreover, “FRE 1002 does not prevent the parties from relying on other evidence, such as declarations ... to describe or characterize the document.” <i>K&amp;N Eng’g, Inc.</i>, 2011 U.S. Dist. LEXIS 107681, at *4-5 &amp; n.3.</p>
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1 Date: November 7, 2011

HOLME ROBERTS & OWEN LLP  
RACHEL MATTEO-BOEHM  
DAVID GREENE  
LEILA KNOX

4 By: /s/ Rachel Matteo-Boehm  
5 Rachel Matteo-Boehm  
6 Attorneys for Plaintiff  
7 COURTHOUSE NEWS SERVICE  
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