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11		
	UNITED STATES I	
12	CENTRAL DISTRIC WESTERN	
13	WESTERIA	
14	Courthouse News Service,	CASE NO. CV11-08083 R (MANx)
15		COURTHOUSE NEWS SERVICE'S
16	Plaintiff,	RESPONSES TO DEFENDANT'S
17	v.	EVIDENTIARY OBJECTIONS TO
18	Michael D. Planet, in his official capacity	THE DECLARATIONS OF
19	as Court Executive Officer/Clerk of the	WILLIAM GIRDNER AND CHRISTOPHER MARSHALL
20	Ventura County Superior Court.	
	Defendant.	Date: Nov. 21, 2011
21		Time: $10:00 \text{ am}$
22		Courtroom: G-8 (2 nd Floor) Judge: The Hon. Manuel L. Real
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	COURTHOUSE NEWS' RESPONSES TO DEF.'S EVIDEM OBJECTIONS TO GIRDNER AND MARSHALL DECLAR	
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Plaintiff Courthouse News Service ("Courthouse News") hereby submits the following responses to Defendant Michael Planet's evidentiary objections to the September 27, 2011, Declaration of William Girdner and September 28, 2011, Declaration of Christopher Marshall, which Courthouse News submitted in support of its motion for a preliminary injunction.

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

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

RESPONSES TO DEFENDANT'S OBJECTIONS TO THE DECLARATION OF WILLIAM GIRDNER

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

Knowledge (FRE	courts across the country, which was prepare
602).	at his direction and based on his knowledge
	and experience. See, e.g., Girdner Decl., ¶¶
	1-4, 13-22.
	Foundation: 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) i
	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. See, e.g.,
	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.
	Personal knowledge: As described above
	and detailed in Mr. Girdner's declaration (see
	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 or
	civil litigation for the past twenty-one years
	since he founded Courthouse News. He has

1			personally visited many state and federal
2			courts. He has engaged in discussions with
3			court officials about access policies and
4			procedures. He also supervises reporters and
5			editors around the country, who visit
6			courthouses to review new civil complaints
7			on a daily basis.
8	Girdner	Hearsay (FRE	Not hearsay: The challenged statement in
9	Decl., ¶ 13	802); Lacks	paragraph 13 is not hearsay because it is not
10		Foundation (FRE	an out-of-court statement, but rather reflects
11		104; FRE 1006);	Mr. Girdner's own observations and
12		Lacks Personal	experiences regarding media access to
13		Knowledge (FRE	complaints based on his extensive experience
14		602).	and personal knowledge from covering civil
15			litigation, visiting courts, conferring with
16			court officials, and supervising other reporters
17			and editors. See, e.g., Girdner Decl., ¶¶ 1-4,
18			13-22.
19			Foundation: Mr. Girdner's declaration
20			provides the foundation for the challenged
21			statement in paragraph 13, which is based on
22			his personal knowledge, experience, and
23			observations from his twenty-one years of
24			covering civil litigation, visiting courts,
25			conferring with court officials, and
26			supervising other reporters and editors. See,
27			<i>e.g.</i> , Girdner Decl., ¶¶ 1-4, 13-22. FRE 1006
28			

1				is inapplicable because paragraph 13 reflects
2				Mr. Girdner's personal understanding of
3				media access procedures and it is not a
4				summary of other more voluminous writings.
5				Personal knowledge: As described above
6				and detailed in Mr. Girdner's declaration (see
7				Girdner Decl., ¶¶ 1-4, 13-22), he has
8				extensive personal knowledge concerning
9				media access procedures in state and federal
10				courts across the country. He has reported on
11				civil litigation for the past twenty-one years
12				since he founded Courthouse News. He has
13				personally visited many state and federal
14				courts. He has engaged in discussions with
15				court officials about access policies and
16				procedures. He also supervises reporters and
17				editors around the country, who visit
18				courthouses to review new civil complaints
19				on a daily basis.
20		Girdner	Hearsay (FRE	Not hearsay: Paragraphs 14-16 are not
21		Decl., ¶¶ 14-	802); Lacks	hearsay because they are not out-of-court
22		16	Foundation (FRE	statements, but rather reflect Mr. Girdner's
23			104; FRE 1006);	own observations and experiences regarding
24			Lacks Personal	media access to complaints based on his
25			Knowledge (FRE	extensive experience and personal knowledge
26			602).	from covering civil litigation, visiting courts,
27				conferring with court officials, and
28				
	$\left \frac{1}{C} \right $	OURTHOUSE NEWS	' RESPONSES TO DEF.'S I	5 EVIDENTIARY Case No. CV11-08083R (MANx)
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supervising other reporters and editors. See,
<i>e.g.</i> , Girdner Decl., ¶¶ 1-4, 13-22.
Foundation: 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. See,
<i>e.g.</i> , Girdner Decl., ¶¶ 1-4, 13-22. 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
Personal knowledge: As described above
and detailed in Mr. Girdner's declaration (see
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 or
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
6 ESPONSES TO DEF.'S EVIDENTIARY Case No. CV11-08083R (MAN

		on a daily basis
		on a daily basis.
Girdner	Best Evidence	Not within FRE 1002 : FRE 1002 is
Decl., ¶ 17	Rule (FRE 1002).	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. See U.S. v. Gonzales-Benitez, 537 F.2
		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 o
		documents"). Moreover, "FRE 1002 doe
		not prevent the parties from relying on other
		evidence, such as declarations to describe
		or characterize the document." K&N Eng'g,
		Inc. v. Spectre Performance, 2011 U.S. Dist
		LEXIS 107681, at *4-5 & n.3 (C.D. Cal.
		Sept. 20, 2011).
Girdner	Hearsay (FRE	Not hearsay: Paragraph 18 is not hearsay
Decl., ¶ 18	802); Lacks	because it is not an out-of-court statement,
	Foundation (FRE	but rather reflects Mr. Girdner's own
	104; FRE 1006);	observations and experiences regarding med
	Lacks Personal	access to complaints based on his extensive

	Knowledge (FRE	experience and personal knowledge from
2	602); Improper	covering civil litigation, visiting courts,
3	Opinion	conferring with court officials, and
4	Testimony (FRE	supervising other reporters and editors. See,
5	701).	<i>e.g.</i> , Girdner Decl., ¶¶ 1-4, 13-22.
5		Foundation: Mr. Girdner's declaration
7		provides the foundation for the statements in
3		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
2		court officials, and supervising other reporters
3		and editors. See, e.g., Girdner Decl., ¶¶ 1-4,
4		13-22. FRE 1006 is inapplicable because
5		paragraph 18 reflects Mr. Girdner's personal
5		understanding of media access procedures
7		and it is not a summary of other more
3		voluminous writings.
)		Personal knowledge: As described above
)		and detailed in Mr. Girdner's declaration (see
		Girdner Decl., ¶¶ 1-4, 13-22), he has
2		extensive personal knowledge concerning
3		media access procedures in state and federal
1		courts across the country. He has reported on
5		civil litigation for the past twenty-one years
5		since he founded Courthouse News. He has
7		personally visited many state and federal
3		courts. He has engaged in discussions with
COUNTROLS	E NEWS' RESPONSES TO DEF.'S	8 EVIDENTIARY Case No. CV11-08083R (MAN

OBJECTIONS TO GIRDNER AND MARSHALL DECLARATIONS

1			court officials about access policies and
2			procedures. He also supervises reporters and
3			editors around the country, who visit
4			courthouses to review new civil complaints
5			on a daily basis.
6			Not improper opinion: Paragraph 18 is not
7			improper opinion but rather reflects Mr.
8			Girdner's perceptions and observations from
9			twenty-one years of experience covering civil
10			litigation, visiting courts, conferring with
11			court officials, and supervising other reporters
12			and editors. See, e.g., Girdner Decl., ¶¶ 1-4,
13			13-22. Alternatively, Mr. Girdner's
14			statements are proper lay opinions under FRE
15			701 because his statements are rationally
16			based on his personal perceptions,
17			observations, experiences. See id. Mr.
18			Girdner's statements also help provide a clear
19			understanding of how his prior experiences
20			with courts and media access procedures
21			relate to the issue of lack of timely media
22			access in the present case.
23	Girdner	Hearsay (FRE	Not hearsay: The challenged statements
24	Decl., ¶ 19	802); Lacks	regarding reasons for denying same-day
25		Foundation (FRE	access are not hearsay because they are not
26		104; FRE 1006);	being offered for the truth of the matters
27		Lacks Personal	stated but rather to show what Courthouse
28			

	Knowledge (FRE	News has been told by courts which, like
	602); Irrelevant	Ventura County, refuse to provide timely
	(FRE 402).	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. See, e.g., Girdner Decl., ¶¶ 1-4,
		13-22.
		Foundation: 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 reporter
		and editors. See, e.g., 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.
		Personal knowledge: As described above
		and detailed in Mr. Girdner's declaration (see
		Girdner Decl., ¶¶ 1-4, 13-22), he has
		extensive personal knowledge concerning
		media access procedures in state and federal
	I	10 EVIDENTIARY Case No. CV11-08083R (MAN

1				courts across the country. Mr. Girdner has
2				reported on civil litigation for the past
3				twenty-one years since he founded
4				Courthouse News. He has personally visited
5				many state and federal courts. He has
6				engaged in discussions with court officials
7				about access policies and procedures. He also
8				supervises reporters and editors around the
9				country, who visit courthouses to review new
10				civil complaints on a daily basis.
11				Relevance: Paragraph 19 demonstrates that,
12				despite reasons identical to those proffered by
13				Defendant for not being able to provide same-
14				day access, courts have managed to provide
15				same-day access to new civil complaints.
16				This, in turn, goes to the fact that same-day
17				access in the present case is similarly
18				achievable notwithstanding Defendant's
19				arguments against such access.
20		Girdner	Hearsay (FRE	Not hearsay: Paragraph 20 is not hearsay
21		Decl., ¶ 20	802); Lacks	because it is not an out-of-court statements,
22			Foundation (FRE	but rather reflects Mr. Girdner's own
23			104); Lacks	observations and experiences regarding media
24			Personal	access to complaints based on his extensive
25			Knowledge (FRE	experience and personal knowledge from
26			602).	covering civil litigation, visiting courts,
27				conferring with court officials, and
28				
	$\left \frac{1}{C} \right $	OURTHOUSE NEW	S' RESPONSES TO DEF.'S I	11EVIDENTIARYCase No. CV11-08083R (MANx)
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1	supervising other reporters and editors. See,
2	<i>e.g.</i> , Girdner Decl., ¶¶ 1-4, 13-22.
3	Foundation: Mr. Girdner's declaration
4	provides the foundation for the statements in
5	paragraph 20, which is based on his personal
6	knowledge, experience, and observations
7	from his twenty-one years of covering civil
8	litigation, visiting courts, conferring with
9	court officials, and supervising other reporters
10	and editors. See, e.g., Girdner Decl., ¶¶ 1-4,
11	13-22.
12	Personal knowledge: As described above
13	and detailed in Mr. Girdner's declaration (see
14	Girdner Decl., ¶¶ 1-4, 13-22), he has
15	extensive personal knowledge concerning
16	media access procedures in state and federal
17	courts across the country. He has reported on
18	civil litigation for the past twenty-one years
19	since he founded Courthouse News. He has
20	personally visited many state and federal
21	courts. He has engaged in discussions with
22	court officials about access policies and
23	procedures. He also supervises reporters and
24	editors around the country, who visit
25	courthouses to review new civil complaints
26	on a daily basis.
27	

Circlnor	Lorgen (EDE	Not hoorson: Deveryonh 21 is not hearson
Girdner	Hearsay (FRE	Not hearsay: Paragraph 21 is not hearsay
Decl., ¶ 21	802); Lacks	because it is not an out-of-court statement,
	Foundation (FRE	but rather reflects Mr. Girdner's own
	104, FRE 1006);	observations and experiences regarding medi
	Lacks Personal	access to complaints based on his extensive
	Knowledge (FRE	experience and personal knowledge from
	602); Improper	covering civil litigation, visiting courts,
	Opinion	conferring with court officials, and
	Testimony (FRE	supervising other reporters and editors. See,
	701)	<i>e.g.</i> , Girdner Decl., ¶¶ 1-4, 13-22.
		Foundation: 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 reporter
		and editors. See, e.g., 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.
		Personal knowledge: As described above
		and detailed in Mr. Girdner's declaration (see
		Girdner Decl., ¶¶ 1-4, 13-22), he has
		extensive personal knowledge concerning
		media access procedures in state and federal
L	/S' RESPONSES TO DEF.'S	13

1	courts across the country. Mr. Girdner has
2	reported on civil litigation for the past
3	twenty-one years since he founded
4	Courthouse News. He has personally visited
5	many state and federal courts. He has
6	engaged in discussions with court officials
7	about access policies and procedures. He also
8	supervises reporters and editors around the
9	country, who visit courthouses to review new
10	civil complaints on a daily basis.
11	Not improper opinion: Paragraph 21 is not
12	improper opinion but rather reflects Mr.
13	Girdner's perceptions and observations from
14	twenty-one years of covering civil litigation,
15	visiting courts, conferring with court officials,
16	and supervising other reporters and editors.
17	See, e.g., Girdner Decl., ¶¶ 1-4, 13-22.
18	Alternatively, Mr. Girdner's statements are
19	proper lay opinions under FRE 701 because
20	his statements are rationally based on his
21	personal perceptions, observations,
22	experiences. See id. Mr. Girdner's
23	statements also help provide a clear
24	understanding of how his prior experiences
25	with courts and media access procedures
26	relate to the issue of lack of timely media
27	access in the present case.
28	

OBJECTIONS TO GIRDNER AND MARSHALL DECLARATIONS

Case No. CV11-08083R (MANx)

Girdner	Hearsay (FRE	Not hearsay: Paragraph 22 is not hearsay
Decl., ¶ 22	802); Lacks	because it is not an out-of-court statement,
	Foundation (FRE	but rather reflects Mr. Girdner's own
	104); Lacks	observations and experiences regarding med
	Personal	access to complaints based on his extensive
	Knowledge (FRE	experience and personal knowledge from
	602); Improper	covering civil litigation, visiting courts,
	Opinion	conferring with court officials, and
	Testimony (FRE	supervising other reporters and editors. See,
	701).	<i>e.g.</i> , Girdner Decl., ¶¶ 1-4, 13-22.
		Foundation: 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 reporte
		and editors. See, e.g., Girdner Decl., ¶¶ 1-4,
		13-22.
		Personal knowledge: As described above
		and detailed in Mr. Girdner's declaration (se
		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 o
		civil litigation for the past twenty-one years
		since he founded Courthouse News. He has
		personally visited many state and federal
	WS' RESPONSES TO DEF.'S	15 EVIDENTIARY Case No. CV11-08083R (MA

1			courts. He has engaged in discussions with
2			court officials about access policies and
3			procedures. He also supervises reporters and
4			editors around the country, who visit
5			courthouses to review new civil complaints
6			on a daily basis.
7			Not improper opinion: Paragraph 22 is not
8			improper opinion but rather reflects Mr.
9			Girdner's perceptions and observations from
10			twenty-one years of experience covering civil
11			litigation, visiting courts, conferring with
12			court officials, and supervising other reporters
13			and editors. See, e.g., Girdner Decl., ¶¶ 1-4,
14			13-22. Alternatively, Mr. Girdner's
15			statements are proper lay opinions under FRE
16			701 because his statements are rationally
17			based on his personal perceptions,
18			observations, experiences. See id. Mr.
19			Girdner's statements also help provide a clear
20			understanding of how his prior experiences
21			with courts and media access procedures
22			relate to the issue of lack of timely media
23			access in the present case.
24	Girdner	Hearsay (FRE	Not hearsay: Paragraph 23 is not hearsay
25	Decl., ¶ 23	802); Lacks	because it is not an out-of-court statement,
26		Foundation (FRE	but rather reflects Mr. Girdner's own
27		104; FRE 1006);	observations and experiences based on his
28			
	1		16

Lacks Personal	personal involvement in and supervision of
Knowledge (FRE	efforts to obtain timely access to complaints
602).	at Ventura Superior. See, e.g., Girdner Decl.
	¶¶ 23-27.
	Foundation: Mr. Girdner's declaration
	provides the foundation for the statements in
	paragraph 23, which are based on his person
	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 1000
	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 FRI
	1006.
	Personal knowledge: As described above
	and detailed in Mr. Girdner's declaration (se
	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

1			dispute with the clerk's office, to no avail.
2			Mr. Girdner directed Courthouse News'
3			counsel to raise Courthouse News' concerns
4			with Defendant, which resulted in a
5			temporary improvement in access to
6			complaints. When access again deteriorated,
7			Mr. Girdner instructed Mr. Marshall to try
8			once again working with the clerk's office,
9			which proved unsuccessful. Mr. Girdner
10			directed counsel to contact Defendant two
11			further times regarding Courthouse News'
12			concerns. Mr. Girdner therefore has
13			extensive personal knowledge of Courthouse
14			News' attempts to work cooperatively with
15			Defendant.
16	Girdner	Hearsay (FRE	Not hearsay: The challenged statements in
17	Decl., ¶ 28	802); Lacks	paragraph 24 are not hearsay because they are
18	[sic]	Foundation (FRE	not out-of-court statements, but rather reflect
19	[Appears to	104; FRE 1006);	Mr. Girdner's recollections of the efforts that
20	be Girdner	Lacks Personal	were made to work cooperatively with the
21	Decl., ¶ 24]	Knowledge (FRE	clerk's office to obtain timely access to
22		602); Best	complaints, based on his personal
23		Evidence Rule	involvement in and supervision of same. See,
24		(FRE 1002).	<i>e.g.</i> , Girdner Decl., ¶¶ 23-27.
25			Foundation: Mr. Girdner's declaration
	1 1		provides the foundation for the statements in
26			provides the foundation for the statements in
26 27			paragraph 24, which is based on his personal

1	involvement in and supervision of efforts to
2	obtain timely access to complaints at Ventura
3	Superior. See, e.g., Girdner Decl., ¶¶ 23-27.
4	FRE 1006 is inapplicable because paragraph
5	24 reflects Mr. Girdner's personal
6	understanding of the attempts that were made
7	to obtain timely access to complaints at
8	Ventura Superior and it is not a summary of
9	other more voluminous writings.
0	Personal knowledge: As described above
1	and detailed in Mr. Girdner's declaration (see
2	Girdner Decl., ¶¶ 23-27), he was personally
3	involved in Courthouse News' efforts to
4	obtain timely access to new civil complaints
5	at Ventura Superior. Mr. Girdner instructed
6	Mr. Marshall in his efforts to resolve the
7	dispute with the clerk's office, to no avail.
8	Mr. Girdner directed counsel to raise
9	Courthouse News' concerns with Defendant,
0	which resulted in a temporary improvement
1	in access to complaints. When access again
2	deteriorated, Mr. Girdner instructed Mr.
3	Marshall to try once again working with the
4	clerk's office, which proved unsuccessful.
5	Mr. Girdner directed counsel to contact
6	Defendant two further times regarding
7	Courthouse News' concerns. Mr. Girdner
8	therefore has extensive personal knowledge
COURTHOUSE NEWS' RESPONS	19SES TO DEF.'S EVIDENTIARYCase No. CV11-08083R (MANx)

1			of Courthouse News' attempts to work
2			cooperatively with the clerk's office of
3			Ventura Superior.
4			Not within FRE 1002 : FRE 1002 is
5			inapplicable because Defendant is not
6			challenging the contents of Exhibit 5 but only
7			Mr. Girdner's statements regarding Exhibit 5.
8			See Gonzales-Benitez, 537 F.2d at 1053-54.
9			Moreover, "FRE 1002 does not prevent the
10			parties from relying on other evidence, such
11			as declarations to describe or characterize
12			the document." K&N Eng'g, Inc., 2011 U.S.
13			Dist. LEXIS 107681, at *4-5 & n.3.
14	Girdner	Hearsay (FRE	Not hearsay: Paragraph 25 is not hearsay
15	Decl., ¶ 25	802); Lacks	because it does not contain out-of-court
16		Foundation (FRE	statements, but rather reflects Mr. Girdner's
17		104; FRE 1006);	recollections of the efforts that were made to
18		Lacks Personal	work cooperatively with the clerk's office to
19		Knowledge (FRE	obtain timely access to complaints, based on
20		602); Best	his personal involvement in and supervision
21		Evidence Rule	of the same. See, e.g., Girdner Decl., ¶¶ 23-
22		(FRE 1002).	27.
23			Foundation: Mr. Girdner's declaration
24			provides the foundation for the statements in
25			paragraph 25, which is based on his personal
26			knowledge, experience, and observations
27			from his twenty-one years of covering civil
28			

litigation as well as his personal involvement
in and supervision of efforts to obtain timely
access to complaints at Ventura Superior.
See, e.g., 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.
Personal knowledge: As described above
and detailed in Mr. Girdner's declaration (see
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
21

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		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.
		Not within FRE 1002 : FRE 1002 is
		inapplicable because Defendant is not
		challenging the contents of Exhibit 6 but only
		Mr. Girdner's statements regarding Exhibit 6.
		See Gonzales-Benitez, 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." K&N Eng'g, Inc., 2011 U.S.
		Dist. LEXIS 107681, at *4-5 & n.3.
Girdner	Hearsay (FRE	Not hearsay: The challenged statements in
Decl., ¶ 27	802); Lacks	paragraph 27 are not hearsay because they are
	Foundation (FRE	not out-of-court statements, but rather reflect
	104; FRE 1006);	Mr. Girdner's recollections of the efforts that
	Lacks Personal	were made to work cooperatively with the
	Knowledge (FRE	clerk's office to obtain timely access to
	602); Best	complaints, based on his personal
	Evidence Rule	involvement in and supervision of same. See,
	(FRE 1002).	<i>e.g.</i> , Girdner Decl., ¶¶ 23-27.
		Foundation: Mr. Girdner's declaration
		provides the foundation for the statements in
		Decl., ¶ 27 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602); Best Evidence Rule

hich is based on his personal brience, and observations one years of covering civil as his personal involvement on of efforts to obtain timely ints at Ventura Superior. In Decl., ¶¶ 23-27. FRE 1006 ecause paragraph 27 reflects rsonal understanding of ocedures as well as the re made to obtain timely ints at Ventura Superior. It
one years of covering civil as his personal involvement on of efforts to obtain timely ints at Ventura Superior. r Decl., ¶¶ 23-27. FRE 1006 ecause paragraph 27 reflects rsonal understanding of ocedures as well as the re made to obtain timely
as his personal involvement on of efforts to obtain timely ints at Ventura Superior. The Decl., ¶¶ 23-27. FRE 1006 ecause paragraph 27 reflects risonal understanding of ocedures as well as the re made to obtain timely
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summary of other more
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edge: As described above
Ir. Girdner's declaration (see
23-27), he was personally
thouse News' efforts to
cess to new civil complaints
ior. Mr. Girdner instructed
his efforts to resolve the
clerk's office, to no avail.
cted counsel to raise
s' concerns with Defendant,
s' concerns with Defendant, a temporary improvement
a temporary improvement
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1			Marshall to try once again working with the
2			clerk's office, which proved unsuccessful.
3			Mr. Girdner directed counsel to contact
4			Defendant two further times regarding
5			Courthouse News' concerns. Mr. Girdner
6			therefore has extensive personal knowledge
7			of Courthouse News' attempts to work
8			cooperatively with the clerk's office of
9			Ventura Superior.
10			Not within FRE 1002: FRE 1002 is
11			inapplicable because Defendant is not
12			challenging the contents of Exhibit 8 but only
13			Mr. Girdner's statements regarding Exhibit 8.
14			See Gonzales-Benitez, 537 F.2d at 1053-54.
15			Moreover, "FRE 1002 does not prevent the
16			parties from relying on other evidence, such
17			as declarations to describe or characterize
18			the document." K&N Eng'g, Inc., 2011 U.S.
19			Dist. LEXIS 107681, at *4-5 & n.3.
20	Girdner	Hearsay (FRE	Not hearsay: Paragraph 28 is not hearsay
21	Decl., ¶ 28	802); Lacks	because it does not contain an out-of-court
22		Foundation (FRE	statement, but rather reflects Mr. Girdner's
23		104); Lacks	personal knowledge and perceptions based on
24		Personal	twenty-one years of experience both as a
25		Knowledge (FRE	reporter and running a nationwide legal news
26		602); Irrelevant	service. See, e.g., Girdner Decl., ¶¶ 1-12, 28-
27		(FRE 402);	32.
28			
		/S' RESPONSES TO DEF.'S	24 EVIDENTIARY Case No. CV11-08083R (MANx

Improper Opinion	Foundation: Mr. Girdner's declaration
Testimony (FRE	provides the foundation for the statements in
701).	paragraph 28, which are based on his persona
	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. See, e.g., Girdner Decl., ¶¶ 1-
	12.
	Personal knowledge: As described above
	and detailed in Mr. Girdner's declaration (see
	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.
	Relevance: Paragraph 28 conveys facts,
	based on Mr. Girdner's personal knowledge
	25

1			and experience, that bear directly upon the
2			irreparable harm that Courthouse News is
3			experiencing due to Defendant's [practice of
4			not allowing Courthouse News' reporter to
5			access new complaints until after they have
6			been fully processed, thus resulting in a
7			denial of same-day access.
8			Not improper opinion: Paragraph 28 is not
9			improper opinion but rather reflects Mr.
10			Girdner's personal knowledge, experience,
11			and observations from his twenty-one years
12			of both covering civil litigation as a reporter
13			and running a nationwide legal news service
14			with thousands of subscribers. See, e.g.,
15			Girdner Decl., ¶¶ 1-12, 28-32. Alternatively,
16			Mr. Girdner's statements are proper lay
17			opinions under FRE 701 because his
18			statements are rationally based on his
19			personal perceptions, observations,
20			experiences. See id. Mr. Girdner's
21			statements also help to illustrate, based on his
22			experience, the harms resulting from a lack of
23			timely media access, as in the present case.
24	Girdner	Irrelevant (FRE	Relevance: Paragraph 29 conveys facts,
25	Decl., ¶ 29	402).	based on Mr. Girdner's personal knowledge
26			and experience, that bear directly upon the
27			harms arising from Defendant's practice of
28			

1			not allowing Courthouse News' reporter to
2			access new complaints until after they have
3			been fully processed, thus resulting in a
4			denial of same-day access. In addition to
5			preventing members of the news media from
6			covering new civil complaints, impeding the
7			timely dissemination of news, and preventing
8			Courthouse News from providing its
9			subscribers with current information,
10			Defendant's delays are harming the public's
11			ability to obtain timely access to court
12			proceedings.
13	Girdner	Irrelevant (FRE	Relevance: Paragraph 30 conveys facts,
14	Decl., ¶ 30	402); Improper	based on Mr. Girdner's personal knowledge
15		Opinion	and experience, that bear directly upon the
16		Tastimony (EDE	harma arising from Defendant's prestice of
16		Testimony (FRE	harms arising from Defendant's practice of
10		701).	not allowing Courthouse News' reporter to
17			not allowing Courthouse News' reporter to
17 18			not allowing Courthouse News' reporter to access new complaints until after they have
17 18 19			not allowing Courthouse News' reporter to access new complaints until after they have been fully processed, thus resulting in a
17 18 19 20			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
17 18 19 20 21			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
 17 18 19 20 21 22 			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
 17 18 19 20 21 22 23 			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
 17 18 19 20 21 22 23 24 			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
 17 18 19 20 21 22 23 24 25 			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,

1				important current events.
2				Not improper opinion : Paragraph 30 is not
3				improper opinion but rather reflects Mr.
4				Girdner's personal knowledge, experience,
5				and observations from his twenty-one years
6				of both covering civil litigation as a reporter
7				and running a nationwide legal news service
8				with thousands of subscribers. See, e.g.,
9				Girdner Decl., ¶¶ 1-12, 28-32. Alternatively,
10				Mr. Girdner's statements are proper lay
11				opinions under FRE 701 because his
12				statements are rationally based on his
13				personal perceptions, observations,
14				experiences. See id. Mr. Girdner's
15				statements also help to illustrate, based on his
16				experience, the harms resulting from a lack of
17				timely media access, as in the present case.
18	G	irdner	Irrelevant (FRE	Relevance: Paragraph 31 conveys facts,
19	D	ecl., ¶ 31	402); Improper	based on Mr. Girdner's personal knowledge
20			Opinion	and experience, that illustrate the nature of
21			Testimony (FRE	the harms that arise from Defendant's
22			701).	practice of not allowing Courthouse News'
23				reporter to access new complaints until after
24				they have been fully processed, thus resulting
25				in a denial of same-day access. In addition to
26				preventing journalists from covering new
27				complaints, impeding the timely
28				20
				28

			dissemination of news, and preventing
11			Courthouse News from providing its
3			subscribers with current information,
4			Defendant's delays are harming the public's
5			ability to obtain timely information on
6			important current events.
7			Not improper opinion: Paragraph 31 is not
8			improper opinion but rather reflects Mr.
9			Girdner's personal knowledge, experience,
0			and observations from his twenty-one years
1			of both covering civil litigation as a reporter
2			and running a nationwide legal news service
3			with thousands of subscribers. See, e.g.,
4			Girdner Decl., ¶¶ 1-12, 28-32. Alternatively,
5			Mr. Girdner's statements are proper lay
6			opinions under FRE 701 because his
7			statements are rationally based on his
8			personal perceptions, observations and
9			experiences. See id. Mr. Girdner's
о			statements also help to illustrate, based on his
1			experience, the harms resulting from a lack of
2			timely media access, as in the present case.
3	Girdner	Irrelevant (FRE	Relevance: Paragraph 32 conveys facts,
1	Decl., ¶ 32	402); Improper	based on Mr. Girdner's personal knowledge
5		Opinion	and experience, that illustrate the nature of
6		Testimony (FRE	the harms that arise from Defendant's
7		701).	practice of not allowing Courthouse News'
8			
	OUDTIOUSE NEW	S' RESPONSES TO DEF.'S	29 EVIDENTIARY Case No. CV11-08083R (MAN

1		reporter to access new complaints until after
2		they have been fully processed, thus resulting
3		in a denial of same-day access. In addition to
4		preventing journalists from covering new
5		complaints, impeding the timely
6		dissemination of news, and preventing
7		Courthouse News from providing its
8		subscribers with current information,
9		Defendant's delays are harming the public's
10		ability to obtain timely information on
11		important current events.
12		Not improper opinion : Paragraph 32 is not
13		improper opinion but rather reflects Mr.
14		Girdner's personal knowledge, experience,
15		and observations from his twenty-one years
16		of both covering civil litigation as a reporter
17		and running a nationwide legal news service
18		with thousands of subscribers. See, e.g.,
19		Girdner Decl., ¶¶ 1-12, 28-32. Alternatively,
20		Mr. Girdner's statements are proper lay
21		opinions under FRE 701 because his
22		statements are rationally based on his
23		personal perceptions, observations,
24		experiences. See id. Mr. Girdner's
25		statements also help to illustrate, based on his
26		experience, the harms resulting from a lack of
27		timely media access, as in the present case.
	1	

2		OF CHRIST	OPHER MARSHALL
3			
4	Evidence	Objections	Response
5	Marshall	Lacks Foundation	Foundation and Personal knowledge: Mr.
6	Decl., ¶ 3	(FRE 104); Lacks	Marshall's declaration provides the
7		Personal	foundation for the challenged statements in
8		Knowledge (FRE	paragraph 3, which are based on his personal
9		602); Improper	knowledge, experience, and observations
10		Opinion	from working as a reporter covering state and
11		Testimony (FRE	federal courts since 2006 and as bureau chief
12		701).	supervising reporters in California and
13			Nevada since 2007. See Marshall Decl., ¶¶ 2-
14			6. In addition to reporting on new complaints
15			filed in the U.S. District Court for the
16			Northern District of California, Mr. Marshall
17			routinely visits many other state and federal
18			courts that are under his supervision and has
19			kept apprised of the courts' respective access
20			policies and procedures. <i>Id.</i> As a long-time
21			employee and current bureau chief for
22			Courthouse News, he has personal knowledge
23			of how the term "same-day access" is used
24			within the company. See id.
25			Not improper opinion: The challenged
26			statements in paragraph 3 are not improper
27			opinions but rather reflect Mr. Marshall's
28			

RESPONSES TO DEFENDANT'S OBJECTIONS TO THE DECLARATION

COURTHOUSE NEWS' RESPONSES TO DEF.'S EVIDENTIARY OBJECTIONS TO GIRDNER AND MARSHALL DECLARATIONS

1			personal knowledge and observations as a
2			reporter covering state and federal courts and
3			as a bureau chief supervising reporters in
4			California and Nevada. See, e.g., Marshall
5			Decl., ¶¶ 2-6. Alternatively, Mr. Marshall's
6			statements are proper lay opinions under FRE
7			701 because his statements are rationally
8			based on his perceptions, observations and
9			experiences. See id. Mr. Marshall's
10			statements also help demonstrate that same-
11			day access is a routine, traditional and
12			common practice among the many courts
13			with which he has experience. In that respect,
14			Mr. Marshall is not providing legal
15			conclusions but simply relating his personal
16			
10			experiences.
17	Marshall	Hearsay (FRE	experiences. Not hearsay: The challenged statements in
	Marshall Decl., ¶ 4	Hearsay (FRE 802); Lacks	
17		-	Not hearsay: The challenged statements in
17 18		802); Lacks	Not hearsay : The challenged statements in paragraph 4 are not hearsay because they do
17 18 19		802); Lacks Foundation (FRE	Not hearsay: The challenged statements in paragraph 4 are not hearsay because they do not contain out-of-court statements, but rather
17 18 19 20		802); Lacks Foundation (FRE 104); Lacks	Not hearsay: 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
17 18 19 20 21		802); Lacks Foundation (FRE 104); Lacks Personal	Not hearsay: 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
 17 18 19 20 21 22 		802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE	Not hearsay: 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
 17 18 19 20 21 22 23 		802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE	Not hearsay: 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
 17 18 19 20 21 22 23 24 		802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE	Not hearsay: 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
 17 18 19 20 21 22 23 24 25 		802); Lacks Foundation (FRE 104); Lacks Personal Knowledge (FRE	Not hearsay: 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

		1	
1			Marshall's declaration provides the
2			foundation for the challenged statements in
3			paragraph 4, which are based on his personal
4			knowledge, experience, and observations
5			from working as a reporter covering state and
6			federal courts since 2006 and as bureau chief
7			supervising reporters in California and
8			Nevada since 2007. See Marshall Decl., ¶¶ 2-
9			6. In addition to reporting on new complaints
10			filed in the U.S. District Court for the
11			Northern District of California, he routinely
12			visits many state and federal courts that are
13			under his supervision, which include the
14			District Courts for the U.S. District Court for
15			the Northern District of California, and has
16			kept apprised of the courts' respective access
17			policies and procedures. Id.
18	Marshall	Hearsay (FRE	Not hearsay: Paragraphs 5-7 are not hearsay
19	Decl., ¶¶ 5-7	802); Lacks	because they do not contain out-of-court
20		Foundation (FRE	statements, but rather reflect Mr. Marshall's
21		104); Lacks	own observations and experiences regarding
22		Personal	media access to complaints based on his
23		Knowledge (FRE	extensive experience and personal knowledge
24		602).	from reporting on civil litigation and from
25			visiting courts in connection with his role
26			supervising other reporters. See, e.g.,
27			Marshall Decl., ¶¶ 2-7.
28			
-	COURTHOUSE NEW	S' RESPONSES TO DEF.'S	33 EVIDENTIARY Case No. CV11-08083R (MANx

			Foundation and Personal knowledge : 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. Id. He
			routinely visits many state and federal courts
			that are under his supervision, which include
			courts in California and Nevada, and has kep
			apprised of the courts' respective access
			policies and procedures. Id. With respect to
			Ms. Krolak's work in particular, Mr. Marsha
			has been her supervisor since 2007 and
			therefore has personal knowledge of her role
			her responsibilities, her job performance, and
			her new litigation reports. Id. ¶¶ 7-8.
Ma	arshall	Hearsay (FRE	Not hearsay: Paragraph 8 is not hearsay
De	cl., ¶¶ 8-10	802); Lacks	because it does not contain any out-of-court
		Foundation (FRE	statement, but rather reflects Mr. Marshall's
		104); Lacks	own understanding of media access policies
		Personal	and procedures at Ventura Superior during
		Knowledge (FRE	the time period indicated. Paragraphs 9-10
		602).	are also not hearsay because the statements
			are not being offered for the truth of the
	THOUSE NEWS	' RESPONSES TO DEF.'S I	34 EVIDENTIARY Case No. CV11-08083R (MAN

1			matters asserted but rather to show that Mr.
2			Marshall received the information and
3			followed up on it with personnel in the clerk's
4			office, to no avail, which necessitated further
5			follow up by Courthouse News with
6			Defendant. See Marshall Decl., ¶¶ 8-11.
7			Foundation and Personal knowledge: Mr.
8			Marshall's declaration provides the
9			foundation for the challenged statements,
10			which are based on his personal knowledge,
11			experience, and observations from working as
12			a reporter covering state and federal courts
13			since 2006 and as bureau chief supervising
14			reporters in California and Nevada since
15			2007. Id. He routinely visits many state and
16			federal courts that are under his supervision,
17			which include courts in California and
18			Nevada, and has kept apprised of the courts'
19			respective access policies and procedures. Id.
20			With respect to Ms. Krolak's work in
21			particular, Mr. Marshall has been her
22			supervisor since 2007 and therefore has
23			personal knowledge of her role, her
24			responsibilities, her job performance, and her
25			new litigation reports.
26	Marshall	Hearsay (FRE	Not hearsay: Paragraph 11 is not hearsay
27	Decl., ¶ 11	802); Lacks	because it does not contain any out-of-court
28			

28

35 COURTHOUSE NEWS' RESPONSES TO DEF.'S EVIDENTIARY OBJECTIONS TO GIRDNER AND MARSHALL DECLARATIONS

Case No. CV11-08083R (MANx)

Foundation (FRE	statement that is being offered for its truth but
104; FRE 1006);	rather reflects Mr. Marshall's personal
Lacks Personal	knowledge of Courthouse News' attempts to
Knowledge (FRE	work cooperatively with the clerk's office of
602); Best	Ventura Superior.
Evidence Rule	Foundation and Personal knowledge: As
(FRE 1002).	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 Exhibits1-7 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. Id. 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.
	Not within FRE 1002 : FRE 1002 is
	36

1			inapplicable because Defendant is not
2			challenging the contents of Exhibit 1 but only
3			Mr. Marshall's statements regarding Exhibit
4			1. See Gonzales-Benitez, 537 F.2d at 1053-
5			54. Moreover, "FRE 1002 does not prevent
6			the parties from relying on other evidence,
7			such as declarations to describe or
8			characterize the document." K&N Eng'g,
9			Inc., 2011 U.S. Dist. LEXIS 107681, at *4-5
10			& n.3.
11	Marshall	Best Evidence	Not within FRE 1002 : FRE 1002 is
12	Decl., ¶ 12	Rule (FRE 1002).	inapplicable because Defendant is not
13			challenging the contents of Exhibit 2 but only
14			Mr. Marshall's statements regarding Exhibit
15			2. See Gonzales-Benitez, 537 F.2d at 1053-
16			54. Moreover, "FRE 1002 does not prevent
17			the parties from relying on other evidence,
18			such as declarations to describe or
19			characterize the document." K&N Eng'g,
20			Inc., 2011 U.S. Dist. LEXIS 107681, at *4-5
21			& n.3.
22	Marshall	Hearsay (FRE	Not hearsay: The challenged statement in
23	Decl., ¶ 13	802); Lacks	paragraph 13 is not hearsay because it does
24		Foundation (FRE	not reflect an out-of-court statement but
25		104); Lacks	rather Mr. Marshall's personal knowledge of
26		Personal	Ms. Krolak's schedule based on his role as
27		Knowledge (FRE	her supervisor. See Marshall Decl., ¶¶ 7-8.
28			
			37

1		602); Irrelevant	Foundation and Personal knowledge: Mr.
2		(FRE 402).	Marshall has been Ms. Krolak's supervisor
3			since 2007 and has personal knowledge of her
4			role, responsibilities, and job performance.
5			He receives regular reports from Ms. Krolak
6			regarding her visits to Ventura Superior, and
7			is therefore knowledgeable as to her schedule.
8			Id.
9			Relevance: The challenged statement in
10			paragraph 13 should be considered in the
11			context of the remainder of the paragraph,
12			which Defendant has not challenged. The
13			paragraph in its entirety is relevant to
14			Courthouse News' unsuccessful efforts to
15			obtain timely access to new civil complaints
16			at Ventura Superior, including Mr. Marshall's
17			attempts to resolve access issues by meeting
18			with relevant personnel and the alteration of
19			Ms. Krolak's schedule to try working around
20			the limitations imposed by the clerk's office.
21	Marshall	Hearsay (FRE	Not hearsay: The challenged statements in
22	Decl., ¶ 15	802); Lacks	paragraph 15 are not hearsay because they do
23		Foundation (FRE	not reflect out-of-court statements but rather
24		104; FRE 1006);	show Mr. Marshall's understanding of how
25		Lacks Personal	media access policies and procedures at
26		Knowledge (FRE	Ventura Superior were being implemented
27		602).	during this time period. These statements are
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	1		20

1			also not hearsay because they are not being
2			offered for their truth but rather to show that
3			Mr. Marshall received the information, which
4			prompted him to change Ms. Krolak's
5			schedule and to follow up again with
6			personnel in the clerk's office, to no avail.
7			See Marshall Decl., ¶¶ 15-16.
8			Foundation and Personal knowledge: Mr.
9			Marshall has been Ms. Krolak's supervisor
10			since 2007 and has personal knowledge of her
11			role, responsibilities, and job performance.
12			He receives regular reports from Ms. Krolak
13			regarding her visits to Ventura Superior, and
14			is therefore knowledgeable of her efforts to
15			obtain same-day access to new civil
16			complaints. See id. ¶¶ 7-8, 15. FRE 1006 is
17			inapplicable because paragraph 15 reflects
18			Mr. Marshall's personal understanding of
19			how media access policies and procedures at
20			Ventura Superior were being implemented. It
21			is therefore not a summary of other more
22			voluminous writings within the scope of FRE
23			1006.
24	Marshall	Hearsay (FRE	Not hearsay: The challenged statement in
25	Decl., ¶ 17	802); Lacks	paragraph 17 is not hearsay because it is not
26		Foundation (FRE	an out-of-court statement but rather Mr.
27		104; FRE 1006);	Marshall's understanding as to the number of
28			

1		Lacks Personal	new unlimited complaints filed each day. See
2		Knowledge (FRE	Marshall Decl., ¶ 17.
3		602).	Foundation and Personal knowledge: Mr.
4			Marshall has been Ms. Krolak's supervisor
5			since 2007 and receives regular reports from
6			her regarding her visits to Ventura Superior.
7			See id. ¶¶ 7-8. Mr. Marshall also has been
8			involved in Courthouse News' efforts to
9			obtain timely access to new civil complaints
10			at Ventura Superior and has personally
11			discussed issues concerning access to new
12			civil complaints with personnel in the clerk's
13			office. See id. ¶¶ 13, 16, 17. FRE 1006 is
14			inapplicable because paragraph 17 reflects
15			Mr. Marshall's personal understanding of
16			how media access policies and procedures at
17			Ventura Superior were being implemented. It
18			is therefore not a summary of other more
19			voluminous writings within the scope of FRE
20			1006.
21	Marshall	Hearsay (FRE	Not hearsay: Paragraph 18 is not hearsay
22	Decl., ¶ 18	802); Lacks	because it does not contain any out-of-court
23		Foundation (FRE	statements but rather describes Mr.
24		104; FRE 1006);	Marshall's actions and his personal
25		Lacks Personal	observations regarding Courthouse News'
26		Knowledge (FRE	inability to obtain timely access to new civil
27		602).	complaints.
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	COURTHOUSE NEW	S' RESPONSES TO DEF.'S	40 EVIDENTIARY Case No. CV11-08083R (MANx)
	OBJECTIONS TO GIRDNER AND MARSHALL DECLARATIONS		
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1			Foundation and Personal knowledge: As
2			bureau chief, Mr. Marshall had hands-on,
3			personal involvement in Courthouse News'
4			efforts to obtain timely access to new civil
5			complaints at Ventura Superior. He
6			attempted at various times to resolve access
7			issues with personnel in the clerk's office,
8			and participated in meetings to discuss
9			potential solutions. Marshall Decl., ¶¶ 9-14,
10			16-17. Paragraph 18 describes additional
11			actions taken by Mr. Marshall to determine if
12			efforts to resolve the access problems were
13			having any success, and reflects his personal
14			views that those efforts were not in fact
15			improving access but rather worsening the
16			delays. Id. ¶ 18. FRE 1006 is inapplicable
17			because paragraph 18 reflects Mr. Marshall's
18			personal knowledge regarding efforts to
19			resolve access issues. It is therefore not a
20			summary of other more voluminous writings
21			within the scope of FRE 1006.
22	Marshall	Hearsay (FRE	Not hearsay: The challenged statements in
23	Decl., ¶ 19	802); Lacks	paragraph 19 are not hearsay because they do
24		Foundation (FRE	not reflect out-of-court statements that are
25		104; FRE 1006);	being offered for their truth but rather Mr.
26		Lacks Personal	Marshall's personal knowledge of Courthouse
27		Knowledge (FRE	News' attempts to work cooperatively with
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	602); Best	the clerk's office of Ventura Superior.
,	Evidence Rule	Foundation and Personal knowledge: As
	(FRE 1002).	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. M
		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. Id. FRE 1006 is
		inapplicable because paragraph 19 reflects
		Mr. Marshall's personal knowledge regardin
		efforts to resolve access issues. It is therefor
		not a summary of other more voluminous
		writings within the scope of FRE 1006.
		Not within FRE 1002: FRE 1002 is
		inapplicable because Defendant is not
		challenging the contents of Exhibit 5 but only
		Mr. Marshall's statements regarding Exhibit
		5. See Gonzales-Benitez, 537 F.2d at 1053-
	JSE NEWS' RESPONSES TO DEF.'	42 S EVIDENTIARY Case No. CV11-08083R (MA)

		54. Moreover, "FRE 1002 does not prevent
		the parties from relying on other evidence,
		such as declarations to describe or
		characterize the document." K&N Eng'g,
		Inc., 2011 U.S. Dist. LEXIS 107681, at *4-5
		& n.3.
Marshall	Hearsay (FRE	Not hearsay: Paragraph 20 is not hearsay
Decl., ¶ 20	802); Lacks	because it does not contain any out-of-court
	Foundation (FRE	statements that are being offered for their
	104; FRE 1006);	truth but rather reflects Mr. Marshall's
	Lacks Personal	personal knowledge of Courthouse News'
	Knowledge (FRE	attempts to work cooperatively with the
	602); Best	clerk's office of Ventura Superior. To the
	Evidence Rule	extent paragraph 20 references a statement
	(FRE 1002).	made by Defendant, it is a party admission
		and not hearsay.
		Foundation and Personal knowledge: 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,
		Decl., ¶ 20 802); Lacks Foundation (FRE 104; FRE 1006); Lacks Personal Knowledge (FRE 602); Best Evidence Rule

Case No. CV11-08083R (MANx)

1	including Exhibits 1-7 to his declaration. Mr.		
2	Marshall therefore has extensive personal		
3	knowledge – and was kept apprised – of		
4	Courthouse News' attempts to work		
5	cooperatively with the clerk's office of		
6	Ventura Superior. Id. Because he currently		
7	serves as bureau chief with responsibility for		
8	courts that include Ventura Superior, he has		
9	personal knowledge and experience with		
10	Courthouse News' ongoing inability to obtain		
11	same-day access to new civil complaints filed		
12	there. FRE 1006 is inapplicable because		
13	paragraph 20 reflects Mr. Marshall's personal		
14	knowledge regarding efforts to resolve access		
15	issues. It is therefore not a summary of other		
16	more voluminous writings within the scope of		
17	FRE 1006.		
18	Not within FRE 1002 : FRE 1002 is		
19	inapplicable because Defendant is not		
20	challenging the contents of Exhibit 7 but only		
21	Mr. Marshall's statements regarding Exhibit		
22	7. See Gonzales-Benitez, 537 F.2d at 1053-		
23	54. Moreover, "FRE 1002 does not prevent		
24	the parties from relying on other evidence,		
25	such as declarations to describe or		
26	characterize the document." K&N Eng'g,		
27	Inc., 2011 U.S. Dist. LEXIS 107681, at *4-5		
28	& n.3.		
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	COURTHOUSE NEWS' RESPONSES TO DEF.'S EVIDENTIARY Case No. CV11-08083R (MANx)		

OBJECTIONS TO GIRDNER AND MARSHALL DECLARATIONS

1 2	Date: November 7, 2011	HOLME ROBERTS & OWEN LLP RACHEL MATTEO-BOEHM DAVID GREENE
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	COURTHOUSE NEWS' RESPONSES TO DE OBJECTIONS TO GIRDNER AND MARSHA	F.'S EVIDENTIARY Case No. CV11-08083R (MAN