

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  
 19 Plaintiff,

20 v.

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

24 Defendant.

CASE NO. CV11-08083 R (MANx)

**OBJECTIONS OF PLAINTIFF  
 COURTHOUSE NEWS SERVICE TO  
 THE DECLARATIONS OF JULIE  
 CAMACHO, CHERYL KANATZAR,  
 ROBERT SHERMAN AND KAREN  
 DALTON-KOCH SUBMITTED BY  
 DEFENDANT IN OPPOSITION TO  
 COURTHOUSE NEWS' MOTION  
 FOR A PRELIMINARY  
 INJUNCTION**

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 evidentiary objections to the declarations of Julie Camacho, Cheryl  
 3 Kanatzar, Robert Sherman and Karen Dalton-Koch, submitted by Defendant Michael  
 4 Planet (“Planet” or “Defendant”) in opposition to Courthouse News’ motion for a  
 5 preliminary injunction.

6  
 7 **I. OBJECTIONS TO THE DECLARATION OF JULIE CAMACHO**

<b><u>MATERIAL OBJECTED TO</u></b>	<b><u>OBJECTION AND GROUNDS</u></b>
<p>9 <u>Declaration of Julie Camacho in</u>            10 <u>Support of Defendant’s Opposition to</u>            11 <u>Plaintiff’s Motion for Preliminary</u>            12 <u>Injunction (“Camacho Decl.”), ¶ 4: “I</u>            13 conducted my own independent            14 analysis of the new unlimited general            15 civil complaints that were filed by the            16 Ventura Superior Court at the Hall of            17 Justice courthouse between August 8,            18 2011, and September 2, 2011. ... In            19 general, my analysis showed exactly            20 the opposite of what CNS claims. The            21 overwhelming bulk (more than 75%) of            22 new complaints were received,            23 processed and sent to the Media Bin on            24 the same or next day.”</p>	<p>25 <b>Hearsay (FRE 802); Not Subject to Any</b>            26 <b>Exception (FRE 803).</b> This evidence            27 comprises, relates, or is based upon an out-            of-court statement offered to prove the truth            of the matter asserted and is therefore            inadmissible as hearsay. FRE 801, 802. It            is not subject to either the business or            public records exceptions because it lacks            any indicia of trustworthiness. FRE 803(6),            (8)(C). It is untrustworthy because Ms.            Camacho made her analysis underlying the            evidence during the course of litigation,            more than two months after the events in            question, and without her or her            subordinate specifically confirming the            physical location of any complaints. <i>See</i>  <i>Sullivan v. Dollar Tree Stores, Inc.</i>, 623            F.3d 770, 778 (9th Cir. 2010) (listing bias            and untimeliness as factors indicating</p>

1  
2  
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

untrustworthiness); *Olender v. United States*, 210 F.2d 795, 801 (9th Cir. 1954) (“reports based upon general investigations and upon information gleaned second hand from random sources must be excluded”). Moreover, no evidence is offered corroborating the underlying record or showing it was made with firsthand knowledge or actually indicated what it purported to reflect; it should therefore be excluded. *United States v. Chu Kong Yin*, 935 F.2d 990, 998-999 (9th Cir. 1991) (public records inadmissible where government failed to show record was prepared by persons with firsthand knowledge).

**Lacks Foundation (FRE 104(b)); Lacks Personal Knowledge (FRE 602).** The evidence is inadmissible because Ms. Camacho lacks any foundation for or personal knowledge of the assertions made, specifically whether she personally witnessed any complaints being placed in the Media Bin. *Kemp v. Balboa*, 23 F.3d 211, 213 (8th Cir. 1994) (error to allow witness to testify to events described in medical records where she had no personal knowledge of said events).

1  
2  
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

**Irrelevant (FRE 402); Insufficiently Probative (FRE 403).** The evidence is irrelevant and inadmissible because it does not show that the particular complaint was placed in the media bin on a particular date; rather it only shows that those complaints ought to have been placed in the Media Bin. FRE 402. Absent some correlation between the matter asserted and the actual location history of any complaint, the evidence is insufficiently probative to be admissible. FRE 403.

**Improper Opinion Testimony (FRE 701).** The evidence is inadmissible as improper lay opinion testimony because Ms. Camacho offers an opinion not rationally based on her own personal perception, and thus is not helpful to a clear understanding of her testimony or the determination of a fact in issue. FRE 701(a), (b).

**Unsubstantiated Summary (FRE 1006).** The evidence is inadmissible because Defendant has not provided Courthouse News with an opportunity to examine the underlying writings or recordings.

1 Camacho Decl., ¶ 7 & Exh. B: “For  
2 each new unlimited general civil  
3 complaint, I reviewed the CCMS  
4 Records Management—Location  
5 History screen for the matter. That  
6 screen shows the location of the case  
7 file at any particular point in time  
8 following its processing date. For  
9 example, the attached screen shot  
10 shows the Location History page for  
11 *City National Bank v. Star Marketing*  
12 *& Media Inc.*, one of the unlimited  
13 general civil complaints filed on  
14 August 8, 2011: [image] A full-page  
15 copy of this screen shot of the Location  
16 History page *for City National*  
17 *Bank v. Star Marketing & Media Inc.* is  
18 attached hereto as Exhibit B.”

**Hearsay (FRE 802); Not Subject to Any  
Exception (FRE 803).** This evidence  
comprises, relates, or is based upon an out-  
of-court statement offered to prove the truth  
of the matter asserted and is therefore  
inadmissible as hearsay. FRE 801, 802. It  
is not subject to either the business or  
public records exceptions because it lacks  
any indicia of trustworthiness. FRE 803(6),  
(8)(C). It is untrustworthy because Ms.  
Camacho made her analysis underlying the  
evidence during the course of litigation,  
more than two months after the events in  
question, and without her or her  
subordinate specifically confirming the  
physical location of any complaints. *See*  
*Sullivan*, 623 F.3d at 778; *Olender*, 210  
F.2d at 801. Moreover, no evidence is  
offered corroborating the underlying record  
or showing it was made with firsthand  
knowledge or actually indicated what it  
purported to reflect; it should therefore be  
excluded. *Chu Kong Yin*, 935 F.2d at 998-  
999.

**Lacks Foundation (FRE 104(b)); Lacks  
Personal Knowledge (FRE 602).** The  
evidence is inadmissible because Ms.  
Camacho lacks any foundation for or

1  
2  
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

personal knowledge of the assertions made, specifically whether she personally witnessed any complaints being placed in the Media Bin. *Kemp*, 23 F.3d at 213. **Irrelevant (FRE 402); Insufficiently Probative (FRE 403).** The evidence is irrelevant and inadmissible because it does not show that the particular complaint in question was placed in the media bin on a particular date; rather it only shows that those complaints ought to have been placed in the Media Bin. FRE 402. Absent some correlation between the matter asserted and the actual location history of any complaint, the evidence is insufficiently probative to be admissible. FRE 403. Furthermore, the evidence purports to link the availability of a particular complaint to whether or not a complaint has been fully processed, but fails to establish why a complaint could not be made available before it is fully processed, and as such, is irrelevant.

1 Camacho Decl., ¶ 8: “The type-written  
2 notes at the bottom of the screen shot  
3 are notes I inputted as I evaluated the  
4 date on which each case was received,  
5 processed, and sent to the Media Bin.”

6  
7 Camacho Decl., ¶ 10: “The entries  
8 below the Case Header box reflect the  
9 Location History for that particular file  
10 on any given date after it has been  
11 processed and entered into CCMS.”  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Hearsay (FRE 802); Not Subject to Any Exception (FRE 803).** This evidence comprises, relates, or is based upon an out-of-court statement offered to prove the truth of the matter asserted and is therefore inadmissible as hearsay. FRE 801, 802. It is not subject to either the business or public records exceptions because it lacks any indicia of trustworthiness. FRE 803(6), (8)(C). It is untrustworthy because Ms. Camacho made her analysis underlying the evidence during the course of litigation, more than two months after the event in question, and without her or her subordinate specifically confirming the physical location of any complaints. *See Sullivan*, 623 F.3d at 778; *Olender*, 210 F.2d at 801. Moreover, no evidence is offered corroborating the underlying record or showing it was made with firsthand knowledge or actually indicated what it purported to reflect; it should therefore be excluded. *Chu Kong Yin*, 935 F.2d at 998-999.

**Lacks Foundation (FRE 104(b)); Lacks Personal Knowledge (FRE 602).** The evidence is inadmissible because Ms. Camacho lacks any foundation for or

1  
2  
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

personal knowledge of the assertions made, specifically whether she personally witnessed any complaints being placed in the Media Bin. *Kemp*, 23 F.3d at 213 (8th Cir. 1994) (error to allow witness to testify to events described in medical records where she had no personal knowledge of said events).

**Irrelevant (FRE 402); Insufficiently Probative (FRE 403).** The evidence is irrelevant and inadmissible because it does not show when a particular complaint was placed in the Media Bin; rather it only shows that those complaints ought to have been placed in the Media Bin. FRE 402. Absent some correlation between the matter asserted and the actual location history of any complaint, the evidence is insufficiently probative to be admissible. FRE 403. Furthermore, the evidence purports to link the availability of a particular complaint to whether or not a complaint has been fully processed, but fails to establish why a complaint could not be made available for review before it is fully processed, and as such, is irrelevant. FRE 402.



1 Camacho Decl., ¶ 11: “As the above  
2 screen shot shows, *City National Bank*  
3 *v. Star Marketing & Media Inc.* was  
4 received and filed on August 8, 2011.  
5 It was processed and sent to the Media  
6 Bin on August 8, 2011 — the same day  
7 it was received. In accordance with our  
8 standard practice, the file remained in  
9 the Media Bin in the Records  
10 Department for ten days and was then  
11 removed from the Media Bin and  
12 shelved in Records.”

**Hearsay (FRE 802); Not Subject to Any  
Exception (FRE 803).** This evidence  
comprises, relates, or is based upon an out-  
of-court statement offered to prove the truth  
of the matter asserted and is therefore  
inadmissible as hearsay. FRE 801, 802. It  
is not subject to either the business or  
public records exceptions because it lacks  
any indicia of trustworthiness. FRE 803(6),  
(8)(C). It is untrustworthy because Ms.  
Camacho made her analysis underlying the  
evidence during the course of litigation,  
more than two months after the event in  
question, and without her or her  
subordinate specifically confirming the  
physical location of any complaints. *See*  
*Sullivan*, 623 F.3d at 778; *Olender*, 210  
F.2d at 801. Moreover, no evidence is  
offered corroborating the underlying record  
or showing it was made with firsthand  
knowledge or actually indicated what it  
purported to reflect; it should therefore be  
excluded. *Chu Kong Yin*, 935 F.2d at 998-  
999.

**Lacks Foundation (FRE 104(b)); Lacks  
Personal Knowledge (FRE 602).** The  
evidence is inadmissible because Ms.  
Camacho lacks any foundation for or

1  
2  
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

personal knowledge of the assertions made, specifically whether she personally witnessed any complaints being placed in the Media Bin. *Kemp*, 23 F.3d at 213. **Irrelevant (FRE 402); Insufficiently Probative (FRE 403).** The evidence is irrelevant and inadmissible because it does not show that the particular complaint in question was placed in the media bin on a particular date; rather it only shows that those complaints ought to have been placed in the Media Bin. FRE 402. Absent some correlation between the matter asserted and the actual location history of any complaint, the evidence is insufficiently probative to be admissible. FRE 403. Furthermore, the evidence purports to link the availability of a particular complaint to whether or not a complaint has been fully processed, but fails to establish why a complaint could not be made available before it is fully processed, and as such, is irrelevant. FRE 402.

1 Camacho Decl., ¶ 12 & Exh. C: “For  
2 each case that was filed but not sent to  
3 the Media Bin on the same day, I  
4 reviewed the Case History screen in  
5 CCMS to determine when the file was  
6 processed. For example, the following  
7 screen shot shows the Location History  
8 page for *Power Gomez v. LaCouture*, a  
9 case that was received and deemed  
10 filed on August 8, 2011, but was not  
11 sent to the Media Bin until August 9,  
12 2011: [image] A full-page copy of this  
13 screen shot of the Location History  
14 page for *Power Gomez v. LaCouture* is  
15 attached hereto as Exhibit C.”

**Hearsay (FRE 802); Not Subject to Any  
Exception (FRE 803).** This evidence  
comprises, relates, or is based upon an out-  
of-court statement offered to prove the truth  
of the matter asserted and is therefore  
inadmissible as hearsay. FRE 801, 802. It  
is not subject to either the business or  
public records exceptions because it lacks  
any indicia of trustworthiness. FRE 803(6),  
(8)(C). It is untrustworthy because Ms.  
Camacho made her analysis underlying the  
evidence during the course of litigation,  
more than two months after the event in  
question, and without her or her  
subordinate specifically confirming the  
physical location of any complaints. *See*  
*Sullivan*, 623 F.3d at 778; *Olender*, 210  
F.2d at 801. Moreover, no evidence is  
offered corroborating the underlying record  
or showing it was made with firsthand  
knowledge or actually indicated what it  
purported to reflect; it should therefore be  
excluded. *Chu Kong Yin*, 935 F.2d at 998-  
999.

**Lacks Foundation (FRE 104(b)); Lacks  
Personal Knowledge (FRE 602).** The  
evidence is inadmissible because Ms.  
Camacho lacks any foundation for or

1  
2  
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>personal knowledge of the assertions made, specifically whether she personally witnessed any complaints being placed in the Media Bin. <i>Kemp</i>, 23 F.3d at 213. <b>Irrelevant (FRE 402); Insufficiently Probative (FRE 403).</b> The evidence is irrelevant and inadmissible because it does not show that the particular complaint in question was placed in the media bin on a particular date; rather it only shows that those complaints ought to have been placed in the Media Bin. FRE 402. Absent some correlation between the matter asserted and the actual location history of any complaint, the evidence is insufficiently probative to be admissible. FRE 403. Furthermore, the evidence purports to link the availability of a particular complaint to whether or not a complaint has been fully processed, but fails to establish why a complaint could not be made available before it is fully processed, and as such, is irrelevant. FRE 402.</p>
<p><u>Camacho Decl., ¶ 13 &amp; Exh. D:</u> “The Case History screen in the system shows even more detail, including each document that was processed along</p>	<p><b>Hearsay (FRE 802); Not Subject to Any Exception (FRE 803).</b> This evidence comprises, relates, or is based upon an out-of-court statement offered to prove the truth</p>

1 with the new complaint. Thus,  
2 for *Power Gomez v. LaCouture*, a  
3 complaint, declaration for court  
4 assignment, and civil case cover sheet  
5 were processed as part of the initial  
6 filing of the complaint. Because the  
7 complaint was received on August 8,  
8 all documents have a filed date of  
9 August 8 as well. However, by placing  
10 my cursor over the person icon on the  
11 screen I am able to determine that the  
12 documents were backdated. A small  
13 box opens up to show the actual date  
14 and time the documents were  
15 processed, not just the date they were  
16 deemed filed: [image] A full-page copy  
17 of this screen shot for *Power Gomez v.*  
18 *LaCouture* is attached hereto as Exhibit  
19 D.”

20  
21 Camacho Decl., ¶ 14: “All the  
22 documents for the *Power Gomez v.*  
23 *LaCouture* file were processed on  
24 August 9, 2011, at 8:16 a.m.—  
25 essentially the first thing the next  
26 morning after it was received. And as  
27 the prior screen shot shows, the file  
28 was sent to the Media Bin that same

of the matter asserted and is therefore  
inadmissible as hearsay. FRE 801, 802. It  
is not subject to either the business or  
public records exceptions because it lacks  
any indicia of trustworthiness. FRE 803(6),  
(8)(C). It is untrustworthy because Ms.  
Camacho made her analysis underlying the  
evidence during the course of litigation,  
more than two months after the event in  
question, and without her or her  
subordinate specifically confirming the  
physical location of any complaints. *See*  
*Sullivan*, 623 F.3d at 778; *Olender*, 210  
F.2d at 801. Moreover, no evidence is  
offered corroborating the underlying record  
or showing it was made with firsthand  
knowledge or actually indicated what it  
purported to reflect; it should therefore be  
excluded. *Chu Kong Yin*, 935 F.2d at 998-  
999.

**Lacks Foundation (FRE 104(b)); Lacks  
Personal Knowledge (FRE 602).** The  
evidence is inadmissible because Ms.  
Camacho lacks any foundation for or  
personal knowledge of the assertions made,  
specifically whether she personally  
witnessed this particular complaint being  
placed in the Media Bin. *Kemp*, 23 F.3d at

1 day.”

213.

**Irrelevant (FRE 402); Insufficiently Probative (FRE 403).** The evidence is irrelevant and inadmissible because it does not show that the particular complaint cited was placed in the media bin on a particular date; rather it only shows that those complaints ought to have been placed in the Media Bin. FRE 402. Absent some correlation between the matter asserted and the actual location history of any complaint, the evidence is insufficiently probative to be admissible. FRE 403. Furthermore, the evidence purports to link the availability of a particular complaint to whether or not a complaint has been fully processed, but fails to establish why a complaint could not be made available before it is fully processed, and as such, is irrelevant. FRE 402.

21 Camacho Decl., ¶¶ 15-21, relating Ms.  
22 Camacho’s analysis of all new  
23 unlimited general civil complaints filed  
24 on all court days between August 8,  
25 2011, and September 2, 2011:  
26 “15. I conducted an identical analysis  
27 for all new unlimited general civil

**Hearsay (FRE 802); Not Subject to Any Exception (FRE 803).** This evidence comprises, relates, or is based upon an out-of-court statement offered to prove the truth of the matter asserted and is therefore inadmissible as hearsay. FRE 801, 802. It is not subject to either the business or

1 complaints filed on all court days  
2 between August 8, 2011, and  
3 September 2, 2011. My analysis  
4 revealed that 147 new unlimited  
5 general civil complaints were filed by  
6 Ventura Superior Court during that  
7 time.

8 16. Of those 147 new unlimited  
9 general civil complaints, 47 of them  
10 were  
11 received, processed and placed in the  
12 Media Bin all on the same day.

13 17. Fifty-four (54) of them were  
14 received on one day and processed and  
15 placed in the Media Bin on the next  
16 day.

17 18. Another 18 of them were  
18 processed and placed in the Media Bin  
19 within two days of receipt.

20 19. Seventeen (17) of the 147 new  
21 unlimited general civil complaints  
22 needed to be directed to a judicial  
23 officer immediately, or were  
24 transferred in from a Superior Court in  
25 another county.

26 20. Seven (7) of them did not get  
27 placed in the Media Bin due to an  
28 inadvertent clerical error.

public records exceptions because it lacks  
any indicia of trustworthiness. FRE 803(6),  
(8)(C). It is untrustworthy because Ms.  
Camacho made her analysis underlying the  
evidence during the course of litigation,  
more than two months after the events in  
question, and without her or her  
subordinate specifically confirming the  
physical location of any complaints. *See*  
*Sullivan*, 623 F.3d at 778; *Olender*, 210  
F.2d at 801. Moreover, no evidence is  
offered corroborating the underlying record  
or showing it was made with firsthand  
knowledge or actually indicated what it  
purported to reflect; it should therefore be  
excluded. *Chu Kong Yin*, 935 F.2d at 998-  
999.

**Lacks Foundation (FRE 104(b)); Lacks  
Personal Knowledge (FRE 602).** The  
evidence is inadmissible because Ms.  
Camacho lacks any foundation for or  
personal knowledge of the assertions made,  
specifically whether she personally  
witnessed any complaints being placed in  
the Media Bin. *Kemp*, 23 F.3d at 213.  
**Irrelevant (FRE 402); Insufficiently  
Probative (FRE 403).** The evidence is  
irrelevant and inadmissible because it does

21. Of the remaining four (4) files, three filings were backdated five (5) days and one filing was backdated 10 days. These files had delays that were due either to being received and couriered from the Simi Valley branch, or from an anomaly in processing that cannot be tracked through CCMS or independently recalled by the CPAs who processed the filings. Given the hundreds of documents our CPAs must process by hand each day, this is not surprising. Those remaining files, however, did eventually make it to the Media Bin.”

not show when any complaints were placed in the Media Bin; rather it only shows that those complaints ought to have been placed in the Media Bin. FRE 402. Absent some correlation between the matter asserted and the actual location history of any complaint, the evidence is insufficiently probative to be admissible. FRE 403. Furthermore, the evidence purports to link the availability of a particular complaint to whether or not a complaint has been fully processed, but fails to establish why a complaint could not be made available before it is fully processed, and as such, is irrelevant. FRE 402. Furthermore, the evidence purports to link the availability of a particular complaint to whether or not a complaint has been fully processed, but fails to establish why a complaint could not be made available before it is fully processed, and as such, is irrelevant. FRE 402.

**Unsubstantiated Summary (FRE 1006).**  
The evidence is inadmissible because Defendant has not provided Plaintiff with an opportunity to examine the underlying writings or recordings.



1 Camacho Decl., ¶ 22: “I further  
2 understand that CNS has complained in  
3 the past about four specific case files  
4 and alleged delays of access to each  
5 ranging from eight to 13 days. I have  
6 researched those files through the  
7 information available in CCMS and  
8 have determined the following:

9 (a) *Estrada v. Rubio’s Restaurant, Inc.*,  
10 Case No. 56-2010-00387332: This case  
11 was received, processed into CCMS,  
12 and deemed filed all on December 20,  
13 2010, and then sent to the Media Bin  
14 that same day.

15 (b) *Berber v. Holiday Retirement*, Case  
16 No. 56-2010-00387945: This case was  
17 received and deemed filed on  
18 December 28, 2010, and was processed  
19 into CCMS on January 4, 2011. The  
20 file was sent to the Media Bin the same  
21 day it was processed. The delay in  
22 processing likely was due to the  
23 intervening New Year’s Holiday.

24 (c) *Harrison v. Rite Aide Corp.*, Case  
25 No. 56-2010-00387942: This case was  
26 received and deemed filed on  
27 December 28, 2010, and was processed  
28 into CCMS on January 4, 2011. The

**Hearsay (FRE 802); Not Subject to Any  
Exception (FRE 803).** This evidence  
comprises, relates, or is based upon an out-  
of-court statement offered to prove the truth  
of the matter asserted and is therefore  
inadmissible as hearsay. FRE 801, 802. It  
is not subject to either the business or  
public records exceptions because it lacks  
any indicia of trustworthiness. FRE 803(6),  
(8)(C). It is untrustworthy because Ms.  
Camacho made her analysis underlying the  
evidence during the course of litigation,  
months after the events in question, and  
without her or her subordinate specifically  
confirming the physical location of any  
complaints. *See Sullivan*, 623 F.3d at 778;  
*Olender*, 210 F.2d at 801. Moreover, no  
evidence is offered corroborating the  
underlying record or showing it was made  
with firsthand knowledge or actually  
indicated what it purported to reflect; it  
should therefore be excluded. *Chu Kong  
Yin*, 935 F.2d at 998-999.

**Lacks Foundation (FRE 104(b)); Lacks  
Personal Knowledge (FRE 602).** The  
evidence is inadmissible because Ms.  
Camacho lacks any foundation for or  
personal knowledge of the assertions made,

1 file was sent to the Media Bin the same  
2 day it was processed. The delay in  
3 processing likely was due to the  
4 intervening New Year's Holiday.  
5 (d) *Latham v. Bumbarger*, Case No.  
6 56-2011-00389425: This case was  
7 received, processed and deemed filed  
8 on January 12, 2011, and was  
9 immediately delivered to a judicial  
10 officer for review of a fee waiver that  
11 was presented with the complaint.”

specifically whether she personally  
witnessed any complaints being placed in  
the Media Bin. *Kemp*, 23 F.3d at 213.  
**Irrelevant (FRE 402); Insufficiently  
Probative (FRE 403).** The evidence is  
irrelevant and inadmissible because it does  
not show that any of the cited complaints  
were actually placed in the Media Bin on  
the date that Ms. Camacho claims they  
were placed in the media bin; rather it only  
shows that those complaints ought to have  
been placed in the Media Bin. FRE 402.  
Absent some correlation between the  
matter asserted and the actual location  
history of any complaint, the evidence is  
insufficiently probative to be admissible.  
FRE 403.  
**Unsubstantiated Summary (FRE 1006).**  
The evidence is inadmissible because  
Defendant has not provided Plaintiff with  
an opportunity to examine the underlying  
writings or recordings.

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23 Camacho Decl., ¶ 23: “None of these  
24 cases reflect the type of delay to access  
25 that CNS claims.”

**Hearsay (FRE 802); Not Subject to Any  
Exception (FRE 803).** This evidence  
comprises, relates, or is based upon an out-  
of-court statement offered to prove the truth  
of the matter asserted and is therefore

1  
2  
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

inadmissible as hearsay. FRE 801, 802. It is not subject to either the business or public records exceptions because it lacks any indicia of trustworthiness. FRE 803(6), (8)(C). It is untrustworthy because Ms. Camacho made her analysis underlying the evidence during the course of litigation, months after the event in question, and without her or her subordinate specifically confirming the physical location of any complaints. *See Sullivan*, 623 F.3d at 778; *Olender*, 210 F.2d at 801. Moreover, no evidence is offered corroborating the underlying record or showing it was made with firsthand knowledge or actually indicated what it purported to reflect; it should therefore be excluded. *Chu Kong Yin*, 935 F.2d at 998-999.

**Lacks Foundation (FRE 104(b)); Lacks Personal Knowledge (FRE 602).** The evidence is inadmissible because Ms. Camacho lacks any foundation for or personal knowledge of the assertions made, specifically whether she personally witnessed any complaints being placed in the Media Bin. *Kemp*, 23 F.3d at 213.  
**Irrelevant (FRE 402); Insufficiently Probative (FRE 403).** The evidence is

1  
2  
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

irrelevant and inadmissible because it does not show when any complaints were placed in the Media Bin; rather it purports only to show that those complaints ought to have been placed in the Media Bin. FRE 402. Absent some correlation between the matter asserted and the actual location history of any complaint, the evidence is insufficiently probative to be admissible. FRE 403.

**Improper Opinion Testimony (FRE 701).**

The evidence is inadmissible as improper lay opinion testimony because Ms. Camacho offers an opinion not rationally based on her own personal perception, and thus is not helpful to a clear understanding of her testimony or the determination of a fact in issue. FRE 701(a), (b).

**Unsubstantiated Summary (FRE 1006).**

The evidence is inadmissible because Defendant has not provided Plaintiff with an opportunity to examine the underlying writings or recordings.

1 **II. OBJECTIONS TO THE DECLARATION OF CHERYL KANATZAR**

<b><u>MATERIAL OBJECTED TO</u></b>	<b><u> GROUNDS FOR OBJECTION</u></b>
<p>2</p> <p>3 <u>Declaration of Cheryl Kanatzar</u></p> <p>4 (<u>“Kanatzar Decl.”</u>), ¶ 5: “[T]he CPAs in</p> <p>5 the civil clerks office are responsible for</p> <p>6 receiving, filing and processing in excess</p> <p>7 of 151,000 separate filings each year:</p> <p>8 2008 Civil Filings – 144,184</p> <p>9 2009 Civil Filings – 151,281</p> <p>10 2010 Civil Filings – 151,203”</p>	<p><b>Irrelevant (FRE 402).</b> The evidence is inadmissible as irrelevant to the legal issues posed by Courthouse News Service in connection with its preliminary injunction motion. Courthouse News does not dispute that the staff at Ventura Superior processes large amounts of court records, just as other courts do.</p>
<p>11 <u>Kanatzar Decl., ¶¶ 6-11, 29, 32 &amp; Exhs.</u></p> <p>12 <u>A, B:</u> Ms. Kanatzar reviews the Ventura</p> <p>13 Superior Court’s office staffing and</p> <p>14 caseload generally, and also cites the</p> <p>15 court’s current budget difficulties.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p>	<p><b>Irrelevant (FRE 402).</b> The evidence is inadmissible as irrelevant to the legal issues posed by Courthouse News Service in connection with its preliminary injunction motion. Courthouse News does not dispute that Ventura Superior is facing serious staffing and budget difficulties, and Courthouse News is not asking Defendant or his staff to process records any faster or spend more money to hire additional staff.</p>
<p>22 <u>Kanatzar Decl., ¶ 12 &amp; Exh. C:</u> “First,</p> <p>23 we reduced the public business hours for</p> <p>24 the clerk’s office effective July 1, 2009.</p> <p>25 As can be seen from this excerpt from</p> <p>26 the July 1, 2009 memorandum issued to</p> <p>27 all staff in the clerk’s office, which I</p> <p>28</p>	<p><b>Irrelevant (FRE 402).</b> The evidence is inadmissible as irrelevant to the legal issues posed by Courthouse News Service in connection with its preliminary injunction motion. Courthouse News does not dispute that Ventura Superior is</p>

1 approved, the public and telephone hours  
2 were reduced so that the doors to the  
3 clerk’s office would be closed at 4:00  
4 p.m., rather than 5:00 p.m.”

facing serious staffing and budget  
difficulties, and Courthouse News is not  
asking Defendant or his staff to process  
records any faster or spend more money  
to hire additional staff.

6 Kanatzar Decl., ¶¶ 13-17: Ms. Kanatzar  
7 reviews the various methods by which  
8 litigants can file new complaints at  
9 Ventura Superior.

**Irrelevant (FRE 402).** The evidence is  
inadmissible as irrelevant to the legal  
issues posed by Courthouse News Service  
in connection with its preliminary  
injunction motion.

13 Kanatzar Decl., ¶ 18: “As a practical  
14 matter, CNS’s reporter is the only  
15 ‘reporter’ who asks to see our new case  
16 files. The Superior Court only  
17 infrequently receives requests from other  
18 reporters for access to case files or new  
19 complaints. As is the case with CNS, we  
20 grant other reporters the same access we  
21 provide to members of the general  
22 public.”

**Irrelevant (FRE 402).** The evidence is  
inadmissible as irrelevant to the legal  
issues posed by Courthouse News Service  
in connection with its preliminary  
injunction motion.

23 Kanatzar Decl., ¶¶ 30-34: Ms. Kanatzar  
24 offers various reasons why she believes  
25 it is “not possible” to provide same-day  
26 access to newly-filed unlimited  
27 complaints

**Irrelevant (FRE 402).** The evidence is  
inadmissible as irrelevant to the legal  
issues posed by Courthouse News Service  
in connection with its preliminary  
injunction motion. The assertions set

1  
2  
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

forth in ¶¶ 30-34 do not address why it is “not possible” to provide same-day access to new civil unlimited complaints. Rather, they offer Ms. Kanatzar’s reasons for why the processing of new civil unlimited complaints may be delayed.

**III. OBJECTIONS TO THE DECLARATION OF ROBERT SHERMAN**

<b><u>MATERIAL OBJECTED TO</u></b>	<b><u> GROUNDS FOR OBJECTION</u></b>
<p><u>Declaration of Robert Sherman in Support of Defendant’s Opposition to Plaintiff’s Motion for Preliminary Injunction (“Sherman Decl.”), ¶¶ 2-15 &amp; Exhs. A and B: Mr. Sherman summarizes the shortfalls of revenue incumbent on Ventura Superior.</u></p>	<p><b>Irrelevant (FRE 402).</b> The evidence is inadmissible as irrelevant to the legal issues posed by Courthouse News Service in connection with its preliminary injunction motion. Courthouse News does not dispute that Ventura Superior is facing serious budget difficulties, and Courthouse News is not asking Defendant or his staff to process records any faster or spend more money to hire additional staff.</p>

1 **IV. OBJECTIONS TO THE DECLARATION OF KAREN DALTON-KOCH**

<b><u>MATERIAL OBJECTED TO</u></b>	<b><u>GROUND FOR OBJECTION</u></b>
<p>2 <u>Declaration of Karen Dalton-Koch in</u></p> <p>3 <u>Support of Defendant’s Opposition to</u></p> <p>4 <u>Plaintiff’s Motion for Preliminary</u></p> <p>5 <u>Injunction, Exhibit A:</u> (document entitled</p> <p>6 “Score: Report Card Detail”)</p>	<p>7 <b>Irrelevant (FRE 402); Lacks</b></p> <p>8 <b>Foundation (FRE 104(b)).</b></p> <p>9 Ms. Dalton-Koch’s exhibit, offered to</p> <p>10 dispute Courthouse News’ assertion that</p> <p>11 there is a tradition of timely access to new</p> <p>12 complaints, is irrelevant that proposition.</p> <p>13 FRE 401. The document was produced to</p> <p>14 document the recent deterioration of</p> <p>15 access at some courts; not as an historical</p> <p>16 overview of access.</p>

17 Date: November 7, 2011

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

18 By: /s/ Rachel Matteo-Boehm

19 Rachel Matteo-Boehm

20 Attorneys for Plaintiff

21 COURTHOUSE NEWS SERVICE