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9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA

11 COURTHOUSE NEWS SERVICE,

12 Plaintiff,

13 v.

14 MICHAEL PLANET, in his official
 15 capacity as court executive
 16 officer/clerk of the Ventura County
 Superior Court,

17 Defendant.

Case No. CV-11-08083-R(MANx)

Assigned for all purposes to
 Hon. Manuel L. Real

**DEFENDANT MICHAEL
 PLANET'S REQUEST FOR
 JUDICIAL NOTICE IN
 SUPPORT OF MOTION TO
 DISMISS**

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 19 As explained in VSC's Response To Plaintiff's Request For Judicial Notice,
 20 VSC does not object to CNS's request that this Court judicially notice the text of
 21 the state access statutes and rules attached to CNS's Request to Take Judicial
 22 Notice, ECF No. 67. VSC instead asked that this Court disregard CNS's erroneous
 23 legal conclusions regarding these authorities.

24 This Request for Judicial Notice supplements the record with copies of
 25 relevant state access statutes, rules and policy statements CNS failed to mention.
 26 VSC hereby respectfully requests that this Court judicially notice these authorities
 27 pursuant to Federal Rule of Evidence 201. *See generally Lamar v. Micou*, 114 U.S.
 28 218 (1885) ("Courts of the United States take judicial notice of the laws of any

1 state, whether depending on state statutes or judicial decisions”); *Daghlian v.*
 2 *DeVry Univ., Inc.*, No. CV 06-00994 MMM, 2007 U.S. Dist. LEXIS 97797, at *7
 3 n.9 (C.D. Cal. Dec. 10, 2007) (“Courts regularly take judicial notice of government
 4 agency websites and the information contained on them, treating official policies
 5 and records posted on the websites as public records”).

6 VSC asks that the Court reach its own conclusions as to what each of the
 7 cited states provides, but notes that none of them establishes, recognizes or even
 8 mentions a purported right of access to new complaints before they are processed,
 9 filed and entered in a court’s records and made available for public viewing, and
 10 that virtually all of them establish a right of “reasonable access” to filed judicial
 11 records.

<u>Ex.</u>	<u>State Statute or Rule</u>	<u>Summary Of Provisions</u>
1. 15	Alaska Court System, Office Of The Administrative Director, <i>Alaska Guidelines for Inspecting and Obtaining Copies of Public Records</i>	1. The Guidelines makes clear that Alaska does not recognize a right of <i>same-day access</i> to civil complaints. 2. Guideline V(B)(1) provides: “[A] case file must be made available for inspection to a member of the general public <i>within one working day</i> after the request is made.” However, “[i]f a case file is checked out of the clerk’s office, is being processed by the clerk’s office, or cannot be located,” the clerk’s office must respond “no later than <i>five working days</i> after the request is made,” and must indicate “whether the records are accessible to the public, and if so, when and where inspection may take place or copies may be obtained.” Guidelines V(B)(1), V(C) & V(D).
2. 27	Cal. Gov’t Code § 68150	1. The statute makes clear that California does not recognize a right of <i>same-day access</i> to civil complaints.

<u>Ex.</u>	<u>State Statute or Rule</u>	<u>Summary Of Provisions</u>
		2. Instead, Cal. Gov't Code § 68150(h) requires only that court records be made " <i>reasonably accessible.</i> "
3.	Cal. Rule of Court 2.500	1. The rule makes clear that California does not recognize a right of <i>same-day access</i> to civil complaints. 2. Instead, California Rule of Court 2.500(a) requires only that court records be made " <i>reasonably accessible.</i> "
4.	Cal. Rule of Court 2.250	1. California Rule of Court 2.250(B)(7) confirms that documents are not "officially filed" until they have been processed and reviewed, and entered into a court's records.
5.	Colo. Rev. Stat. § 24-72-303	1. The statute makes clear that Colorado does not recognize a right of <i>same-day access</i> to civil complaints. 2. The Colorado Criminal Justice Records Act, which permits the custodian of records " <i>three working days</i> " to make a record "available for inspection" if it is "is in active use or in storage[.]"
6.	Delaware Chancery Court Rule 5.1	1. The rule makes clear that Delaware does not recognize a right of <i>same-day access</i> to civil complaints. 2. The rule merely provides that court records "shall be available for public access" without placing <i>any</i> timing requirements upon the custodians of those records.
7.	Florida Rule of Judicial Administration 2.420	1. The rule makes clear that Florida does not recognize a right of <i>same-day access</i> to civil complaints. 2. Florida Rule of Judicial Administration 2.420(m) requires only that

<u>Ex.</u>	<u>State Statute or Rule</u>	<u>Summary Of Provisions</u>
		responses to requests for court records “be made in a <i>reasonable manner</i> .”
8.	Ga. Code § 50-18-71	<p>1. The statute makes clear that Georgia does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. The statute instead provides: “Agencies shall produce for inspection all records responsive to a request <i>within a reasonable amount of time</i> not to exceed <i>three business days</i> of receipt of a request.”</p>
9.	Hawaii Court Records Rule 10.4	<p>1. The rule makes clear that Hawaii does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. Hawaii Court Records Rules, Rule 10.4 requires that the Clerk shall make public records available “<i>within a reasonable time</i>, subject to the court’s . . . priority use of the record,” and only requires notice to the Requester if the record not been provided within <i>ten business days</i>.</p>
10.	Iowa Code § 22.2	<p>1. The statute makes clear that Iowa does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. This provision of the Iowa Code addresses public access to court records, and does not set forth any timing requirements, let alone mandate same day access to civil complaints.</p>
11.	Iowa Code § 22.4	<p>1. The statute makes clear that Iowa does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. This provision of the Iowa Code addresses the timing of public access to court records, and does not set forth <i>any</i></p>

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<u>Ex.</u>	<u>State Statute or Rule</u>	<u>Summary Of Provisions</u>
		specific requirements.
12.	Kan. Stat. § 45-218(d)	<p>1. The statute makes clear that Kansas does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. It expressly disclaims any same day access rights, and provides instead that “[e]ach request for access to a public record shall be acted upon as soon as possible, but not later than the end of the third business day following the date that the request is received.”</p>
13.	Ky. Stat. § 61.872	<p>1. The statute makes clear that Kentucky does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. Kentucky’s Open Records Act permits a three day window within which a custodian may provide a public record if the document is “<i>in active use.</i>”</p>
14.	La. Rev. Stat. § 44:33	<p>1. The statute makes clear that Louisiana does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. This provision of Louisiana’s Public Records Act expressly states that if the public record requested is not immediately available then the custodian has three business days within which to provide it.</p>
15.	Maine Administrative Order JB-05-20	<p>1. The order makes clear that Maine does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. In fact, it sets forth a specific timetable for responses to requests for “records related to cases”:</p> <p>1-5 names within 5 working days 6-10 names within 30 working days</p>

<u>Ex.</u>	<u>State Statute or Rule</u>	<u>Summary Of Provisions</u>
		<p><i>11-15 names within 45 working days</i> <i>16-20 names within 60 working days</i> <i>21+ names to be determined by the Clerk and/or Senior Service Center Associate</i></p>
16.	Maryland Rule of Procedure 16-1002(b)(i)	<p>1. The rule makes clear that Maryland does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. It provides that the records open to inspection include only those that have been “<i>docketed or recorded and indexed.</i>”</p>
17.	Massachusetts District Court Department of the Trial Court, <i>A Guide to Public Access, Sealing & Expungement</i> , § I(1)(6), available at http://www.mass.gov/courts/docs/courts-and-judges/courts/district-court/pubaccesscourtrecords.pdf	<p>1. The Guide makes clear that Massachusetts does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. It contains a pronouncement that “[t]he public’s presumptive right of access is <i>subject to reasonable limitations as to time and place</i> that clerk-magistrates may impose to avoid disrupting the orderly functioning of their offices or courtroom proceedings, to protect the physical security of court records, and to guarantee equal access to all inquirers.”</p>
18.	Michigan Trial Court Case File Management Standards § 1.1.6	<p>1. The standards make clear that Michigan does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. In fact, they set forth detailed procedures for providing public access to court records, and no mention is made of same-day access or any other time restriction.</p>
19.	Miss. Code § 25-61-5	<p>1. The statute makes clear that Mississippi does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. Mississippi’s Public Access Law</p>

<u>Ex.</u>	<u>State Statute or Rule</u>	<u>Summary Of Provisions</u>
		provides that access to documents must only be provided “in accordance with <i>reasonable written procedures adopted by the public body concerning the cost, time, place and method of access</i> [.]”
20.	Missouri Supreme Court Operating Rule 2.08	<p>1. The rule makes clear that Missouri does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. It provides that the custodian of records must respond to requests for records only “<i>as promptly as practical.</i>”</p>
21.	N.C. Gen. St. § 132-6(a)	<p>1. The statute makes clear that North Carolina does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. North Carolina’s Public Records Act only requires custodians of public records to permit documents to be inspected “<i>at reasonable times</i>” and to provide the documents “<i>as promptly as possible.</i>”</p>
22.	N.J. Stat. § 47:1A-5	<p>1. The statute makes clear that New Jersey does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. It provides that “[c]ourt records and administrative records are available only in the form in which they are maintained or indexed by the Judiciary,” which implies the records may be processed before any public right of access adheres.</p>
23.	Neb. Rev. Stat. § 84-712	<p>1. The statute makes clear that Nebraska does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. Nebraska’s Public Records Act, which provides the custodian of <i>records</i> four business days to respond to records</p>

<u>Ex.</u>	<u>State Statute or Rule</u>	<u>Summary Of Provisions</u>
		requests.
24.	Nebraska Rule of Court 1-809	<p>1. The rule makes clear that Nebraska does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. Instead, it permits the Court to respond to a “request for access to information” not on the same day as the request but instead merely “<i>within a reasonable time.</i>”</p>
25.	New Hampshire Task Force on Public Access to Court Records, <i>available at</i> http://www.courts.state.nh.us/press/2006/publicaccess.pdf	<p>1. The task force guide makes clear that New Hampshire does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. The report recommends the institution of a <i>ten day opportunity</i> for “affected persons” to request a limit on public access rights, including with respect to “pleading[s].”</p>
26.	New York Administrative Rule of the Unified Court System 124.6	<p>1. The rule makes clear that New York does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. It provides that a records access officer shall respond “within <i>five business days</i> of the receipt of a request for access to a record.”</p>
27.	North Dakota Supreme Court Administrative Rule 41	<p>1. The rule makes clear that North Dakota does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. Rule 41(3)(b)(2) provides that “[u]pon receiving a request for access to information, the clerk of court must respond as promptly as practical.”</p>
28.	Okla. Code, Title 51 § 24A.5(5)	<p>1. The statute makes clear that Oklahoma does not recognize a right of</p>

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<u>Ex.</u>	<u>State Statute or Rule</u>	<u>Summary Of Provisions</u>
		<p><i>same-day access</i> to civil complaints.</p> <p>2. It provides instead that: “A public body must provide prompt, reasonable access to its records but may establish <i>reasonable procedures</i> which protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions.”</p>
29.	Or. Rev. Stat. § 192.430	<p>1. The statute makes clear that Oregon does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. It requires only “<i>proper and reasonable</i> opportunities for inspection and examination” of public records.</p>
30.	Or. Rev. Stat. § 192.440	<p>1. The statute makes clear that Oregon does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. It requires only that a response to a request for public records shall be made “<i>as soon as practicable</i> and without unreasonable delay.”</p>
31.	65 Pa. Code § 67.901	<p>1. The statute makes clear that Pennsylvania does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. Pennsylvania’s “Right-to-Know” law provides that the “time for response [for public records] shall not exceed <i>five business days</i>.”</p>
32.	R.I. Gen. Laws § 38-2-3	<p>1. The statute makes clear that Rhode Island does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. Rhode Island only requires access to be provided “at such <i>reasonable time</i> as may be determined by the custodian</p>

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<u>Ex.</u>	<u>State Statute or Rule</u>	<u>Summary Of Provisions</u>
		thereof.” Moreover, the statute expressly disclaims any same day public access right because it provides the custodian <i>ten business days</i> within which inspection of records must be permitted.
33.	S.D. Codified Laws §15-15A-14	<p>1. The statute makes clear that South Dakota does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. It provides: “Upon receiving a request for access to information the court will respond <i>within a reasonable time</i> regarding the availability of the information and provide the information within a reasonable time.”</p>
34.	South Carolina’s Clerk of Court Manual Rule 1.13	<p>1. The rule makes clear that South Carolina does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. It does not provide any same day right of access, but Rule 1.13 merely instructs that “information filed in the Clerk of Court offices . . . are public records which may be viewed on request.”</p>
35.	Tenn. Code § 10-7-503(A)(1)(B)	<p>1. The statute makes clear that Tennessee does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. Tennessee’s Open Records Act provides: “In the event it is not practicable for the record to be promptly available for inspection, the custodian shall, within <i>seven (7) business days</i>” respond to the request or provide the document.</p>
36.	Texas Rule of Judicial Administration 12.1	<p>1. The rule makes clear that Texas does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. Texas Rule of Judicial Administration</p>

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<u>Ex.</u>	<u>State Statute or Rule</u>	<u>Summary Of Provisions</u>
		12.1 provides that responses to a request for court records must be made “[a]s soon as practicable -- and not more than 14 days ” after the request.”
37.	Utah Code § 63G-2-204(1)	<p>1. The statute makes clear that Utah does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. Utah’s Government Records Access and Management Act requires a response to a request for court records “no later than 10 business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person.”</p>
38.	Vt. Stat. tit. 1, § 316	<p>1. The statute makes clear that Vermont does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. It states that “[a] public agency <i>may make reasonable rules to prevent disruption of operations, to preserve the security of public records or documents, and to protect them from damage.</i>”</p>
39.	Vt. Stat. tit. 1, § 318	<p>1. The statute makes clear that Vermont does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. This provision requires the custodian “promptly produce” the requested record, but also permits the custodian <i>to delay providing a record if it “is in active use or in storage and therefore not available for use at the time the person asks to examine it.”</i></p>
40.	W. Va. Code § 29B-1-3	1. The statute makes clear that West

<u>Ex.</u>	<u>State Statute or Rule</u>	<u>Summary Of Provisions</u>
		<p>Virginia does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. W. Va. Code § 29B-1-3(3) permits the custodian of records to “make reasonable rules and regulations necessary for the protection of the records and to prevent interference with the regular discharge of his or her duties.” Further, W. Va. Code § 29B-1-3(4) gives records custodians <i>five business days</i> to furnish copies of public records.</p>
41.	Wash. Rev. Code, General Rule 31(a)	<p>1. The statute makes clear that Washington does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. It states that “[a]ccess to court records is not absolute <i>and shall . . . not unduly burden the business of the courts.</i>”</p>
42.	Wis. Stat. § 19.35(4)(a)	<p>1. The statute makes clear that Wisconsin does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. It only requires responses to requests for records to be made “<i>as soon as practicable</i> and without delay[.]”</p>
43.	Wisconsin Department of Justice, <i>Compliance Outline: Wis. Stat. §§ 19.31-19.39</i> , Sept. 2012, available at http://www.doj.state.wi.us/sites/default/files/dls/public-records-compliance-outline-2012.pdf	<p>1. The Guide makes clear that Wisconsin does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. In this compliance outline, Wisconsin’s Attorney General opined that the state’s “public records law <i>does not require response within any specific time</i>, such as ‘two weeks’ or ‘48 hours. . . . What constitutes a reasonable time for a response to any specific request depends on the nature of the request, the staff and other resources available to the authority to process the request, the extent of the</p>

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<u>Ex.</u>	<u>State Statute or Rule</u>	<u>Summary Of Provisions</u>
		request, and related considerations. Whether an authority is acting with reasonable diligence in responding to a particular request will depend on the totality of circumstances surrounding that request. [Citation.].”
44.	Wyoming Rule Governing Access to Court Records 4	<p>1. The rule makes clear that Wyoming does not recognize a right of <i>same-day access</i> to civil complaints.</p> <p>2. Rule 4 of the Wyoming Rules Governing Access to Court Records provides that “[u]pon receiving a request for access to court records, the custodian shall respond within a <i>reasonable time</i> regarding the availability of the records, and shall provide or deny access thereto within a reasonable time. Court records shall be provided <i>at a time and in a manner that does not unreasonably interfere with other business of the courts.</i>”</p>

Respectfully submitted,

Dated: August 4, 2014.

JONES DAY

By: /s/

Robert A. Naeve

Attorneys for Defendant
MICHAEL PLANET