

BRYAN CAVE LLP  
560 MISSION STREET, 25TH FLOOR  
SAN FRANCISCO, CA 94105-2994

1 Rachel E. Matteo-Boehm (SBN 195492)  
2 rachel.matteo-boehm@bryancave.com  
3 Roger R. Myers (SBN 146164)  
4 roger.myers@bryancave.com  
5 Leila C. Knox (SBN 245999)  
6 leila.knox@bryancave.com  
7 BRYAN CAVE LLP  
8 560 Mission Street, 25th Floor  
9 San Francisco, CA 94105-2994  
10 Telephone: (415) 675-3400  
11 Facsimile: (415) 675-3434

9 Jonathan G. Fetterly (SBN 228612)  
10 jon.fetterly@bryancave.com  
11 BRYAN CAVE LLP  
12 120 Broadway, Suite 300  
13 Santa Monica, CA 90401-2386  
14 Telephone: (310) 576-2100  
15 Facsimile: (310) 576-2200

14 Attorneys for Plaintiff  
15 COURTHOUSE NEWS SERVICE

16 **IN THE UNITED STATES DISTRICT COURT**  
17 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
18 **WESTERN DIVISION**

19 Courthouse News Service,  
20 Plaintiff,  
21 vs.  
22 Michael Planet, in his official capacity as  
23 Court Executive Officer/Clerk of the  
24 Ventura County Superior Court,  
25 Defendant.

Case No. CV11-08083 R (MANx)  
**PLAINTIFF COURTHOUSE NEWS  
SERVICE'S OBJECTIONS AND  
REQUEST TO STRIKE  
IMPROPER ARGUMENT IN  
DEFENDANT MICHAEL  
PLANET'S REQUEST FOR  
JUDICIAL NOTICE**

Date: August 18, 2014  
Time: 10 a.m.  
Judge: Hon. Manuel L. Real

28

1 Plaintiff Courthouse News Service (“Courthouse News”) hereby submits  
2 these objections to and request to strike improper argument in the Request for  
3 Judicial Notice (“RJN”) (ECF #72) filed by Defendant Michael Planet  
4 (“Defendant”) in support of his Motion to Dismiss. Courthouse News does not  
5 object to Defendant’s request that this Court take judicial notice of the state statutes  
6 and other authorities attached as Exhibits to his request. Rather, Courthouse News  
7 objects to the portions of the RJN in which Defendant presents improper legal  
8 argument regarding such statutes and other authorities. Namely, Courthouse News  
9 objects to the following portions of the RJN as improper for and irrelevant to a  
10 request for judicial notice: Page 2, lines 6-11, and the entire column labeled as  
11 “Summary of Provisions” for Exhibits 1 through 44 on pages 2-13. While reference  
12 to and direct quotations from the authorities for which Defendant requests judicial  
13 notice may be appropriate, Defendant’s “Summary of Provisions” goes well beyond  
14 this, and is improperly argumentative.

15 In the objected-to portions of the RJN, Defendant is not merely asking the  
16 Court to take judicial notice of the statutes and other authorities he relies on, but is  
17 also seeking to have the Court take judicial notice of Defendant’s *arguments* as to  
18 how these statutes and other authorities should be interpreted – arguments that  
19 Courthouse News disputes. Such arguments belong in Defendant’s reply  
20 memorandum of points and authorities, not in his Request for Judicial Notice. *See*  
21 *Ortega v. J.B. Hunt Transport, Inc.*, 2013 U.S. Dist. LEXIS, \*8-9 (C.D. Cal. Oct. 2,  
22 2013) (granting a request for judicial notice as to a recent court opinion, but denying  
23 judicial notice of the arguments regarding the decision and striking the arguments  
24 from the request for judicial notice) (overruled on other grounds); *Barsch v.*  
25 *O’Toole*, 2007 U. S. Dist. LEXIS \*7 (N.D. Cal. Nov. 26, 2007) (striking portion of  
26 RJN that contained “improper argument”); *accord, e.g.*, Federal Rule of Evidence  
27 201(b) (“The court may judicially notice a *fact* that is not subject to reasonable  
28 dispute.”) (emphasis added).

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

The problem, of course, is that Defendant could not have fit all of this argument into his reply memorandum because it is already 25 pages long, the maximum number of pages allowed for a memorandum of points and authorities. Central District Local Rule 11-6. The argument on Page 2, lines 6-11 of Defendant's RJN, and the entire column labeled as "Summary of Provisions" for Exhibits 1 through 44, is thus also objectionable and must be stricken for the additional ground that it constitutes argument in excess of the page limit set forth at L.R. 11-6.

Dated: August 8, 2014

BRYAN CAVE LLP

By: /s/ Rachel E. Matteo-Boehm  
Rachel E. Matteo-Boehm  
Attorneys for Plaintiff  
COURTHOUSE NEWS SERVICE