

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

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

20 Courthouse News Service,  
21 Plaintiff,

22 vs.

23 Michael Planet, in his official capacity as  
24 Court Executive Officer/Clerk of the  
25 Ventura County Superior Court,  
26 Defendant.

Case No. CV11-08083 R (MANx)

**PLAINTIFF COURTHOUSE NEWS  
SERVICE'S NOTICE OF APPEAL  
TO THE UNITED STATES COURT  
OF APPEALS FOR THE NINTH  
CIRCUIT**

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1 NOTICE IS HEREBY GIVEN that Courthouse News Service, the plaintiff  
2 in the above-captioned matter (“Courthouse News” or “CNS”), hereby appeals to  
3 the United States Court of Appeals for the Ninth Circuit from the Memorandum and  
4 Order Granting Defendant’s Motion to Dismiss Amended Complaint (“Order”),  
5 dated August 28, 2014. A copy of the Order is attached hereto as Exhibit 1.

6 Plaintiff’s Representation Statement is attached hereto as Exhibit 2 (Fed. R.  
7 App. Proc. 12(b); Circuit Rule 3-2(b)).

8 This is a comeback case as defined by section 1.12 of the General Orders of  
9 the United States Court of Appeals for the Ninth Circuit. On April 7, 2014, in  
10 Appeal No. 11-57187, a panel consisting of Judges John T. Noonan, Kim McLane  
11 Wardlaw, and Mary H. Murguia reversed the district court’s order of dismissal  
12 pursuant to Federal Rule of Civil Procedure 12(b)(6) abstaining under *Railroad*  
13 *Comm’n v. Pullman Co.*, 312 U.S. 496 (1941) and *O’Shea v. Littleton*, 414 U.S. 488  
14 (1974). In a 32-page opinion reversing abstention under *Pullman* as “generally  
15 inappropriate when First Amendment rights are at stake,” as well as reversing  
16 abstention under *O’Shea*, the panel found that “there is no question that CNS itself  
17 has alleged a cognizable injury caused by the Ventura County Superior Court’s  
18 denial of timely access to newly filed complaints” and that “this alleged violation of  
19 CNS’s First Amendment right of access also harms its free speech interests.”  
20 *Courthouse News Service v. Planet*, 750 F.3d 776, 788 (9<sup>th</sup> Cir. April 7, 2014).

21 The instant appeal stems from the District Court’s subsequent order,  
22 following remand, granting Defendant’s motion to dismiss under Federal Rule of  
23 Civil Procedure 12(b)(6) for failure to allege a cognizable claim for denial of its  
24 First Amendment right of timely access to newly filed complaints.

25 Dated: September 4, 2014 BRYAN CAVE LLP  
26 By: /s/ Rachel E. Matteo-Boehm  
27 Rachel E. Matteo-Boehm  
28 Attorneys for Plaintiff  
COURTHOUSE NEWS SERVICE