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19 MICHAEL PLANET

20 UNITED STATES DISTRICT COURT
21 CENTRAL DISTRICT OF CALIFORNIA
22 WESTERN DIVISION

23 COURTHOUSE NEWS SERVICE,

24 Plaintiff,

25 v.

26 MICHAEL PLANET, in his official
27 capacity as Court Executive
28 Officer/Clerk of the Ventura County
Superior Court,

Defendant.

Case No. 2:11-cv-08083-SJO-MAN

**ANSWER TO AMENDED
COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF**

1 Pursuant to Federal Rule of Civil Procedure 8(b), Defendant Michael Planet,
2 in his official capacity as Court Executive Officer/Clerk of the Ventura County
3 Superior Court ("VSC"), hereby answers the Amended Complaint filed by
4 Courthouse News Service ("CNS") as follows:

5 1. VSC admits that CNS purports to bring claims under the United States
6 Constitution and 42 U.S.C. § 1983. VSC further admits that this Court has subject
7 matter jurisdiction under 28 U.S.C. §§ 1331, 1343 and 2201, and that VSC is
8 subject to personal jurisdiction in this judicial district for purposes of this action.

9 2. VSC admits that venue is proper pursuant to 28 U.S.C. § 1391(b).

10 3. VSC denies the allegations in paragraph 3 of the Complaint, except
11 admits that CNS purports to seek injunctive and declaratory relief against Michael
12 Planet in his official capacity as Court Executive Officer/Clerk of the Ventura
13 County Superior Court under 42 U.S.C. § 1983 and the United States Constitution.

14 4. VSC denies for lack of sufficient knowledge or information the
15 allegation that CNS is a widely-read legal news wire service, and denies the
16 remaining allegations in paragraph 4 of the Complaint.

17 5. VSC denies the allegations in paragraph 5 of the Complaint.

18 6. VSC denies the allegations in paragraph 6 of the Complaint.

19 7. VSC denies for lack of sufficient knowledge or information the
20 allegations in paragraph 7 of the Complaint.

21 8. VSC denies the allegations of paragraph 8 of the Complaint, except
22 admits that Michael Planet is the Court Executive Officer/Clerk of the Ventura
23 County Superior Court and that his primary place of employment is located in
24 Ventura County, California.

25 9. VSC admits that CNS purports to bring this action against Michael
26 Planet in his official capacity only and purports to seek relief against Planet and his
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1 agents, assistants, successors, employees, and all persons acting in concert or
2 cooperation with him or at his direction or under his control.

3 10. VSC denies the allegations in paragraph 10 of the Complaint.

4 11. VSC denies for lack of sufficient knowledge or information the
5 allegations in paragraph 11 of the Complaint.

6 12. VSC denies for lack of sufficient knowledge or information the
7 allegations in paragraph 12 of the Complaint.

8 13. VSC denies for lack of sufficient knowledge or information the
9 allegations in paragraph 13 of the Complaint.

10 14. VSC denies the allegation that clerk's offices often couple same-day
11 access with security procedures, and further denies for lack of sufficient knowledge
12 or information the remaining allegations in paragraph 14 of the Complaint.

13 15. VSC denies for lack of sufficient knowledge or information the
14 allegations in paragraph 15 of the Complaint.

15 16. VSC denies for lack of sufficient knowledge or information the
16 allegations in paragraph 16 of the Complaint.

17 17. VSC denies for lack of sufficient knowledge or information the
18 allegations in paragraph 17 of the Complaint.

19 18. VSC denies for lack of sufficient knowledge or information the
20 allegations in paragraph 18 of the Complaint.

21 19. VSC denies for lack of sufficient knowledge or information the
22 allegations in paragraph 19 of the Complaint.

23 20. VSC denies for lack of sufficient knowledge or information the
24 allegations in paragraph 20 of the Complaint.

25 21. VSC denies for lack of sufficient knowledge or information the
26 allegations in paragraph 21 of the Complaint.

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1 22. VSC denies for lack of sufficient knowledge or information the first
2 and last sentence in paragraph 22 of the Complaint, and denies the remaining
3 allegations in paragraph 22 of the Complaint.

4 23. VSC denies the allegations in paragraph 23 of the Complaint, except
5 admits that in March 2009, VSC limited requests for case records to 25 per person,
6 per day.

7 24. VSC denies the allegations in paragraph 24 of the Complaint.

8 25. VSC denies for lack of sufficient knowledge or information the
9 allegations that CNS began covering the Ventura County Superior Court on a daily
10 basis in 2010. VSC admits that in February 2011, CNS initiated discussions with
11 VSC's clerk's office regarding same-day access to unlimited civil complaints.

12 26. VSC denies the allegations in paragraph 26 of the Complaint, except
13 admits that CNS's counsel wrote to Michael Planet by letter dated June 20, 2011.
14 VSC further denies the allegations in paragraph 26 of the Complaint to the extent
15 they purport to characterize the contents of a letter that speaks for itself.

16 27. VSC denies the allegations in paragraph 27 of the Complaint to the
17 extent they purport to characterize the contents of a letter that speaks for itself,
18 except admits that Michael Planet sent a letter to counsel for CNS dated July 11,
19 2011.

20 28. VSC denies the allegations in paragraph 28 of the Complaint to the
21 extent they purport to characterize the contents of a letter that speaks for itself,
22 except admits that CNS's counsel responded to Michael Planet by letter dated
23 August 2, 2011.

24 29. VSC denies for lack of sufficient knowledge or information the
25 allegation in paragraph 29 of the Complaint that from August 8, 2011 through
26 September 2, 2011 Julianna Krolak tracked the availability of newly filed
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1 complaints and reviewed 152 new unlimited civil complaints, and denies the
2 remaining allegations in paragraph 29 of the Complaint.

3 30. VSC denies for lack of sufficient knowledge or information the
4 allegations in paragraph 30 of the Complaint.

5 31. VSC incorporates by reference its answers to paragraphs 1 through 30
6 of the Complaint.

7 32. VSC denies the allegations in paragraph 32 of the Complaint.

8 33. VSC denies the allegations in paragraph 33 of the Complaint, and
9 further denies the allegations in this paragraph to the extent they amount to
10 assertions and conclusions of law to which VSC is not required to respond.

11 34. VSC denies the allegations in paragraph 34 of the Complaint.

12 35. VSC denies the allegations in paragraph 35 of the Complaint.

13 **PRAYER FOR RELIEF**

14 VSC denies that CNS is entitled to any substantive or procedural remedy or
15 relief, including the relief requested in paragraphs 1 through 4 of the “Prayer for
16 Relief” portion of CNS’s Complaint. VSC further denies that CNS has suffered or
17 incurred any injury or damage in this matter as a result of VSC’s conduct.

18 Without conceding that it bears the burden of proof or persuasion, VSC
19 asserts the following separate and affirmative defenses. This statement of
20 affirmative defenses is based on VSC’s investigation to date, and VSC reserves the
21 right to supplement or amend these affirmative defenses during the course of
22 litigation. To the extent that any of the affirmative defenses asserted herein or
23 asserted in any supplement or amendment is mutually exclusive with any other
24 asserted affirmative defense, such affirmative defense is asserted in the alternative
25 to the other.

26 **FIRST AFFIRMATIVE DEFENSE**

27 (Failure to State a Claim)

1 The Complaint and each claim for relief are barred because they fail to state a
2 claim against VSC upon which relief can be granted.

3 **SECOND AFFIRMATIVE DEFENSE**

4 (Failure to State a Claim for Injunctive Relief)

5 The Complaint and each claim for relief are barred because they fail to state a
6 claim upon which injunctive relief can be granted.

7 **THIRD AFFIRMATIVE DEFENSE**

8 (Federal Courts Improvement Act of 1996)

9 The Complaint and its claims for injunctive relief and attorney's fees are
10 barred by 28 U.S.C. § 2412.

11 **FOURTH AFFIRMATIVE DEFENSE**

12 (Judicial Immunity)

13 The Complaint and each claim for relief are barred by the judicial immunity
14 doctrine.

15 **FIFTH AFFIRMATIVE DEFENSE**

16 (No Irreparable Harm)

17 The Complaint and its claims for injunctive or equitable relief are barred to
18 the extent that CNS has not suffered, and will not suffer, irreparable harm or injury.

19 **SIXTH AFFIRMATIVE DEFENSE**

20 (No Injury in Fact)

21 The Complaint and each claim for relief are barred because CNS has not
22 suffered any injury in fact from the conduct alleged in the Complaint.

23 **SEVENTH AFFIRMATIVE DEFENSE**

24 (Causation)

25 The Complaint and each claim for relief are barred because the conduct of
26 VSC was and is neither the cause in fact nor the proximate cause of any injury, loss,
27 or damage alleged by CNS.

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EIGHTH AFFIRMATIVE DEFENSE

(Standing)

The Complaint and each claim for relief are barred to the extent that CNS lacks standing to assert any claims.

NINTH AFFIRMATIVE DEFENSE

(Mootness)

The Complaint and each claim for relief are barred because CNS's causes of action and claims for relief are moot.

TENTH AFFIRMATIVE DEFENSE

(Commercial Speech)

The Complaint and each claim for relief are barred because Plaintiff challenges a lawful regulation of commercial speech.

ELEVENTH AFFIRMATIVE DEFENSE

(Time, Place, Manner)

The Complaint and each claim for relief are barred because Plaintiff challenges a reasonable time, place, and manner restriction.

TWELFTH AFFIRMATIVE DEFENSE

(Overriding Interest)

The Complaint and each claim for relief are barred because Defendant has an overriding interest in closure that is essential to preserve higher values and is narrowly tailored to serve that interest.

DEFENDANT VSC'S PRAYER FOR RELIEF

VSC does not presently know all the facts and circumstances respecting CNS's claim. VSC reserves the right to amend this Answer should it later discover facts demonstrating the existence of additional affirmative defenses.

WHEREFORE, VSC hereby prays for the following relief:

1. That CNS take nothing by reason of the Complaint;

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- 2. That Judgment be rendered in favor of VSC;
- 3. That VSC be awarded its attorney's fees and the costs of suit incurred by it in this action; and
- 4. For such other and further relief as the Court deems just and proper.

Dated: August 28, 2015

JONES DAY

By: /s/ Nathaniel P. Garrett
Nathaniel P. Garrett

Attorneys for Defendant
MICHAEL PLANET

Burnett, Nancy

From: cacd_ecfmail@cacd.uscourts.gov
Sent: Friday, August 28, 2015 11:23 AM
To: ecfnef@cacd.uscourts.gov
Subject: Activity in Case 2:11-cv-08083-SJO-MAN Courthouse News Service v. Michael Planet
Answer to Complaint

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UNITED STATES DISTRICT COURT for the CENTRAL DISTRICT OF CALIFORNIA

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Filer: Michael Planet

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