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FILED
 CLERK U.S. DISTRICT COURT
SEP 29 2011
 CENTRAL DISTRICT OF CALIFORNIA
 BY DEPUTY

12 Attorneys for Plaintiff
 13 COURTHOUSE NEWS SERVICE

14 UNITED STATES DISTRICT COURT
 15 CENTRAL DISTRICT OF CALIFORNIA

16 Courthouse News Service,

17 Plaintiff,

18 v.

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

22 Defendant.

CASE NO. **CV11-08083** (MMX)

**COMPLAINT FOR INJUNCTIVE
 AND DECLARATORY RELIEF**

23 Plaintiff Courthouse News Service ("Courthouse News"), by and through its
 24 undersigned attorneys, hereby alleges the following facts in support of its Complaint
 25 for Injunctive and Declaratory Relief:

26 **JURISDICTION AND VENUE**

27 1. Courthouse News' claims arise under the First and Fourteenth
 28 Amendments to the United States Constitution, the federal common law and the Civil
 Rights Act, Title 42 U.S.C. § 1983 *et seq.* This Court has subject matter jurisdiction

1 under 28 U.S.C. §§ 1331 (federal question), 1343 (civil rights), and 2201 (declaratory
2 relief). This Court has supplemental jurisdiction under 28 U.S.C. § 1367 over the
3 state law claims brought pursuant to California Rule of Court 2.550. Defendant is
4 subject to personal jurisdiction in this judicial district at the time this action is
5 commenced.

6 2. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)
7 because, on information and belief, Defendant resides in California, and in this
8 district, and because a substantial part of the events or omissions giving rise to
9 Courthouse News' claims occurred in this district.

10 **PRELIMINARY STATEMENT**

11 3. Plaintiff Courthouse News Service brings this action seeking injunctive
12 and declaratory relief against Defendant Michael Planet, in his official capacity as
13 Court Executive Officer/Clerk of the Superior Court of the State of California, County
14 of Ventura ("Ventura Superior"), to restrain the deprivation under color of state law of
15 Courthouse News' rights, privileges and immunities under 42 U.S.C. § 1983 *et seq.*,
16 the United States Constitution, federal common law, and the California Rules of
17 Court.

18 4. Courthouse News, a widely-read legal news wire service with thousands
19 of subscribers across the nation, seeks timely access to new civil unlimited jurisdiction
20 complaints filed with Ventura Superior. In recognition of the crucial role played by
21 the media to inform interested persons about new court cases, it has been a
22 longstanding tradition for both state and federal courts to provide reporters who visit
23 the court every day with access to new complaints at the end of the day on which they
24 are filed. This same-day access ensures that interested members of the public learn
25 about new civil litigation while the initiation of that litigation is still newsworthy.

26 5. In contrast, at Ventura Superior, same-day access is a rarity and delays in
27 access are rampant. During a four-week period between August 8 and September 2,
28 2011, Courthouse News was given same-day access to only small minority of new

1 civil unlimited complaints, with the vast majority of complaints delayed for days or
2 even weeks.

3 6. By denying Courthouse News timely access to newly-filed civil
4 unlimited jurisdiction complaints, these records are as good as sealed for an
5 appreciable amount of time after filing, in violation of the rights secured to
6 Courthouse News by the First and Fourteenth Amendments to the U.S. Constitution,
7 federal common law, and the California Rules of Court. Having failed in its efforts to
8 work cooperatively with Defendant to reach an amicable resolution to these delays,
9 Courthouse News thus brings this action challenging the legality of Defendant's
10 actions and seeking injunctive and declaratory relief.

11 **PARTIES**

12 7. Courthouse News Service is a California corporation with its principal
13 place of business located in Pasadena, California. Courthouse News is similar to other
14 news wire services, such as the Associated Press, except that Courthouse News
15 specializes in news reporting about civil lawsuits, from the date of filing through the
16 appellate level. Courthouse News' comprehensive and timely coverage of civil
17 litigation through its print, web site, and e-mailed publications has made it a go-to
18 source of information about the nation's civil courts. Courthouse News has
19 approximately 3,000 institutional and individual subscribers across the nation, and
20 many more readers of its freely available web site, www.courthousenews.com.

21 8. Defendant Michael Planet is the Court Executive Officer/Clerk of the
22 Superior Court of the State of California, County of Ventura ("Ventura Superior"),
23 and is sued in that official capacity. The Court Executive Officer/Clerk is responsible
24 for, among other things, the administration of court records. Acting in his official
25 capacity, Defendant, as well as those acting under his direction and supervision, is
26 directly involved with and/or responsible for the delays in access to newly-filed
27 complaints experienced by Courthouse News, which acts reflect the official policy of
28 the clerk's office as a whole. Defendant's actions, as alleged in this Complaint, are

1 under the color of California law and constitute state action within the meaning of the
2 Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983. On
3 information and belief, Defendant resides in Ventura County, California and his
4 primary place of employment is located in Ventura County, California.

5 9. Defendant is sued in his official capacity only. Courthouse News seeks
6 relief against Defendant as well as his agents, assistants, successors, employees, and
7 all persons acting in concert or cooperation with him or at his direction or under his
8 control.

9 **FACTUAL ALLEGATIONS**

10 **A. A Tradition Of Same-Day Access To New Civil Complaints**

11 10. In recognition of the crucial role played by the media to inform interested
12 persons about new court cases, it has been a longstanding tradition for courts to
13 provide reporters who visit the court every day with access to that day's new civil
14 complaints at the end of the day on which they are filed. This same-day access
15 ensures that interested members of the public learn about new cases while they are
16 still newsworthy. Courts have traditionally and still do provide this same-day access,
17 in many instances before the complaints have been fully processed.

18 11. For example, at the Los Angeles Division of the United States District
19 Court for the Central District of California, a room is set up directly off the docketing
20 department with a set of pass-through boxes. At the end of each day, a staffer places
21 all of the civil complaints filed that day in the pass-through boxes so the media can
22 review them. These complaints are made available for review before they have been
23 processed. Reporters that cover the courthouse on a daily basis have a key to the
24 room where they review the complaints and then put them back in the pass-through
25 boxes. At the San Francisco Division of the U.S. District Court for the Northern
26 District of California, reporters go behind the counter and review new complaints filed
27 that same day, before they have been fully processed or posted on PACER. They are
28 also permitted access to the "transfer boxes" of new actions being sent to different

1 divisions of the court, and are provided with a copy of the intake log. Same-day
2 access to new civil complaints is also provided at the Southern and Eastern Districts of
3 California.

4 12. Similarly, at many of the state superior courts in California, reporters are
5 provided with same-day access to new civil complaints, a practice that is consistent
6 with other major state trial courts across the country. For example, at the San
7 Francisco, Los Angeles, and Santa Clara County superior courts, new filings are
8 available to news reporters after initial intake tasks, but well before full processing.
9 The Superior Courts in Alameda, Contra Costa, and Riverside counties also provide
10 same day access to the press, and while it is Courthouse News' understanding that
11 such access is provided after a certain amount of additional processing has been
12 completed, access is nevertheless provided on a same-day basis.

13 13. Courthouse News' experience at the Eighth Judicial District Court in Las
14 Vegas, Nevada, demonstrates that same-day access to new complaints can be provided
15 in both the traditional paper and e-filing environments. Prior to that court's transition
16 to mandatory e-filing in February 2010, court officials provided Courthouse News'
17 reporter with paper-filed complaints filed earlier that day, regardless of whether they
18 had been fully processed. Following the switch to mandatory e-filing, which included
19 e-filing of complaints, the court began requiring news reporters to review new
20 complaints at a computer terminal in the clerk's office, but this system resulted in
21 complaints not being available for viewing until the day *after* they were filed. The
22 reason for these delays was that new complaints did not appear on the computer
23 terminals until after they had been "accepted" by the clerk's office, and only after the
24 terminals had been updated to reflect the new filings. After Courthouse News brought
25 these delays to the attention of the court, the court adopted a new system: an electronic
26 in-box (or, more precisely, a feature called "Daily Documents") through which
27 reporters essentially see exactly what staffers in the clerk's office see as new
28 complaints flow in throughout the day. Complaints can be viewed on a computer

1 terminal as soon as they cross the electronic equivalent of the intake counter at the
2 clerk's office, even if court staff has not yet had a chance to review the complaint,
3 process it, and/or manually upload it for electronic viewing. Thus, in both the
4 traditional paper and new e-filing environments, the Eighth Judicial District Court has
5 provided Courthouse News' reporter with same-day access to new civil complaints
6 whether or not those complaints have been fully processed.

7 14. Through its experience covering civil litigation during the past twenty-
8 one years, Courthouse News has developed extensive personal knowledge of the
9 procedures that courts throughout the country currently use, and have used in the past,
10 to provide press access to new civil complaints. Attached as Exhibit 1 is a true and
11 correct copy of a summary of media access procedures used in state and federal courts
12 across the nation, which was prepared by Courthouse News Service (the "Access
13 Summary"). As demonstrated in the Access Summary, to make sure that new
14 complaints are accounted for, clerk's offices often couple same-day access procedures
15 with security procedures such as requiring reporters to provide collateral such as a
16 driver's license, instituting a check-out procedure, or setting aside a secure area for the
17 media to review the newly filed complaints.

18 **B. News Reporting Activities of Courthouse News**

19 15. Courthouse News' core news publications are its new litigation reports,
20 which are e-mailed to its subscribers and contain staff-written summaries of all
21 significant new civil complaints filed in a particular court. Decisions as to which new
22 civil complaints will receive coverage are made by the reporters after reviewing all of
23 the new filings. Although not all complaints are significant enough to merit coverage,
24 these reports provide coverage of many more civil actions than is typically found in a
25 daily newspaper. For larger courts, reports are e-mailed to subscribers each evening
26 and provide coverage of new complaints filed earlier that same day.

27 16. In all, Courthouse News publishes sixteen new litigation reports for its
28 California subscribers, which include daily coverage of new litigation filed in all four

1 federal district courts as well as the California Superior Courts for the counties of
2 Alameda, Contra Costa, Fresno, Kern, Los Angeles (downtown and Santa Monica
3 courthouses), Orange, Riverside, Sacramento, San Bernardino, San Diego, San
4 Francisco, San Joaquin, San Mateo, Santa Barbara, Santa Clara, Solano, Sonoma,
5 Stanislaus, and Ventura. Courthouse News covers Ventura Superior as part of its
6 *Central Coast Report*. In addition, Courthouse News offers its subscribers alerts
7 about new civil filings, which are delivered by e-mail. For example, a subscriber can
8 sign up to receive an alert anytime a particular company is sued.

9 17. Nationwide, there are nearly 3,000 subscribers to Courthouse News' new
10 litigation reports, with approximately 740 in California alone. Courthouse News'
11 subscribers include lawyers and law firms, well-known media outlets such as the *Los*
12 *Angeles Times*, the *Los Angeles Business Journal*, the *Pacific Coast Business Times*,
13 the *San Jose Mercury News*, *Forbes*, and the *Boston Globe*, as well as several
14 universities and law libraries.

15 18. To produce this level of coverage, Courthouse News employs a
16 nationwide network of more than one hundred reporters who are assigned to cover one
17 or more individual courts. At most of the larger courts, Courthouse News' reporters
18 visit their assigned court near the end of each court day. The reporter reviews civil
19 complaints filed earlier that day and prepares an original summary of each complaint
20 or other case-initiating document that is of likely interest to Courthouse News'
21 subscribers for inclusion in the report. In California, Courthouse News only reviews
22 "unlimited jurisdiction" civil complaints – that is, complaints where the amount in
23 controversy usually exceeds \$25,000. Given the nature of this publication, any delay
24 in the reporter's ability to review a newly filed complaint necessarily creates a delay
25 in Courthouse News' ability to inform interested persons of the factual and legal
26 allegations in those complaints, and is especially problematic when there is an
27 intervening weekend and/or holiday, in which case a delay of even one court day
28 results in actual delays of three or even four calendar days.

1 19. In addition to its new litigation reports and alerts, Courthouse News
2 publishes a web site, www.courthousenews.com, which features news reports and
3 commentary about civil cases and appeals, and is updated throughout the day.
4 Readership of the web site has grown steadily. Just two years ago, in mid-2009, the
5 web site was receiving an average of 300,000 unique visitors each month. Since then,
6 readership has spiked almost threefold. In July 2011, the site had 938,000 unique
7 visitors; in August 2011, it had 800,000 unique visitors; and as of the date of this
8 filing, the site had 1.14 million unique visitors for September 2011. Reports from
9 www.courthousenews.com are frequently picked up by other news outlets and other
10 Internet content providers, and as a result, disseminated to a much broader audience.

11 20. Rounding out its coverage of civil litigation, Courthouse News also
12 offers four print publications. These include the *Four District Almanac* (which
13 includes reports on all four of California's federal district courts), the *Entertainment*
14 *Law Digest*; the *Environmental Law Report*, and the *Securities Law Report*.

15 **C. Delays In Access At The Ventura County Superior Court**

16 21. Courthouse News began covering new civil case filings at Ventura
17 Superior on a regular basis in 2001. As is the case with other California superior
18 courts it covers, Courthouse News currently visits Ventura Superior toward the end of
19 each court day and only reviews unlimited jurisdiction complaints. In Courthouse
20 News' estimation, an average of 15 new unlimited jurisdiction civil complaints are
21 filed each day. Since 2001, Courthouse News' Ventura Superior reporter has been
22 Julianna Krolak.

23 22. Initially, Ms. Krolak visited Ventura Superior only once and later twice
24 each week. During this time, and continuing through the present, the clerk's office
25 has maintained a "media bin" which contained the new civil complaints that clerk's
26 office staff anticipated would be of likely press interest. Other filings had to be
27 specifically requested from the clerk's office staff. Initially, and up until a few years
28 ago, Courthouse News' reporter did this by requesting a range of sequentially

1 numbered case files. Through these procedures, Ms. Krolak was able to see the large
2 majority of the new civil unlimited complaints filed since her prior visit.

3 23. Beginning in early 2008, however, the clerk's office made a series of
4 small and large changes that made Courthouse News' review of new civil complaints
5 less timely and more difficult. Most notably, March 2009, the clerk's office instituted
6 a new rule that limited Ms. Krolak to viewing only twenty-five complaints per day,
7 which meant that Courthouse News could no longer request to see a sequential range
8 of cases but was instead compelled to request individual complaints based on docket
9 information. Not only was this more cumbersome for both Courthouse News and
10 clerk's office staff alike, but not all of the complaints Ms. Krolak requested to see
11 were always made available for review. And even if the complaints were not
12 available for review, they still counted toward her per-day limit. The result was
13 delayed and incomplete access to new civil complaints.

14 24. As is its normal practice, Courthouse News brought these problems to the
15 attention of Defendant and his staff in an attempt to work them out cooperatively.
16 Through correspondence, discussions, and an in-person meeting, an arrangement was
17 worked out in June 2009 by which newly filed complaints were to be made available
18 to Courthouse News' reporter after some processing but before the complaints had
19 been fully processed, the result of which was that access became much more timely.
20 Unfortunately, staffers in the clerk's office soon began waiting until new complaints
21 had been fully processed before providing them to the press, the result of which was
22 delays in access.

23 25. In an effort to improve the quality of the Central Coast Report through
24 more timely reporting on new civil unlimited jurisdiction complaints, in November
25 2010, Courthouse News began covering Ventura Superior a daily basis. Prompted by
26 its change to daily coverage and the access problems it continued to experience,
27 Courthouse News once again initiated discussions with the clerk's office about the
28 possibility of adjusting its procedures so that Ms. Krolak could have same-day access

1 to newly filed unlimited jurisdiction civil complaints, as news reporters do in other
2 courts they visit on a daily basis.

3 26. Unfortunately, these discussions did not lead to any improvements in
4 access, and the delays got even worse. Accordingly, on June 20, 2011, Courthouse
5 News' counsel wrote to Defendant to request that Courthouse News' reporter be given
6 timely access to new unlimited civil filings and suggesting possible ways in which this
7 could be accomplished. A true and correct copy of that letter is attached as Exhibit 2.

8 27. By letter dated July 11, 2011, Defendant replied that his office "cannot
9 make any new filings available until the requisite processing is completed."
10 Defendant further stated that "While I appreciate the Courthouse News Services'
11 interest in same-day access, the Court cannot prioritize that access above other
12 priorities and mandates." A true and correct copy of Defendant's July 11, 2011, letter
13 is attached as Exhibit 3.

14 28. Courthouse News' counsel responded by letter dated August 2, 2011,
15 disputing Defendant's assertion that access could not be provided until after
16 "processing" and again providing examples of how other courts were able to provide
17 same-day access. A true and correct copy of that letter is attached as Exhibit 4.
18 Courthouse News has received no response to that letter.

19 29. From August 8, 2011, through September 2, 2011, Ms. Krolak tracked
20 the availability of newly filed complaints at the Ventura courthouse. During that
21 period, she reviewed 152 new unlimited civil complaints, on average fewer than 8
22 complaints per court day. Yet even with that relatively small number of complaints
23 being reviewed, the delays were significant. The following charts reflect the delays
24 between the date of filing and the date that Courthouse News' reporter was first
25 allowed to see the complaint:
26
27
28

1 **COMPLAINTS REVIEWED**

2 **Delays Reported in Calendar Days**

3

Case availability	Number of cases	Percentage
Same-day	9	6%
Next-day	21	14%
2-6 days	94	62%
7-14 days	23	15%
15-34 days	5	3%

6

7 **COMPLAINTS REVIEWED**

8 **Delays Reported in Court Days**

9

Case availability	Number of cases	Percentage
Same-day	9	6%
Next-day	28	18%
2-6 days	100	66%
7-14 days	12	8%
15-24 days	3	2%

13

14 **COMPLAINTS REPORTED**

15 **Delays Reported in Calendar Days**

16

Case availability	Number of cases	Percentage
Same-day	4	4%
Next-day	14	14%
2-6 days	60	60%
7-14 days	17	17%
15-34 days	5	5%

19

20 **COMPLAINTS REPORTED**

21 **Delays Reported in Court Days**

22

Case availability	Number of cases	Percentage
Same-day	4	4%
Next-day	18	18%
2-6 days	66	66%
7-14 days	9	9%
15-24 days	3	3%

26

27 30. As reflected in the above charts, 94 percent of new complaints were not
28 available on the day they were filed, with delays stretching up to 34 calendar days.

1 **COUNT ONE**

2 **Violation of U.S. Const. Amend. I and 42 U.S.C. 1983**

3 31. Courthouse News incorporates the allegations of Paragraphs 1-30 herein.

4 32. Defendant's actions under color of state law, including without limitation
5 his policies that have led to delays in access to new civil unlimited complaints and his
6 denial of timely, same-day access to new civil unlimited complaints, deprive
7 Courthouse News, and by extension its subscribers, of their right of access to public
8 court records secured by the First Amendment to the U.S. Constitution.

9 33. The First Amendment requires that for anything more than a *de minimis*
10 denial of access to a court record, that there be an adversarial adjudicative process that
11 considers the propriety of the effective sealing of the record on a case-by-case basis.
12 Neither Defendant nor anyone at the clerk's office has the authority or ability to
13 conduct that process. Such authority lies only in a judge of the court. Defendant's
14 exercise of unguided discretion to effectively seal a court record without providing
15 any of the procedural or substantive protections required by the First Amendment
16 denies Courthouse News and the public of their constitutional rights of access to new
17 civil complaints.

18 34. Moreover, except as deemed permissible following the appropriate case-
19 by-case adjudication, there is no compelling or overriding interest sufficient to
20 overcome Courthouse News' presumptive right of access to new complaints under the
21 First Amendment. And even if an overriding or compelling interest did exist, there
22 are far less restrictive means of achieving any such interest, and Defendant's policies
23 are not narrowly tailored to serve that interest.

24 35. Courthouse News has no adequate and speedy remedy at law to prevent
25 or redress Defendant's unconstitutional actions, and will suffer irreparable harm as a
26 result of Defendant's violation of its First Amendment rights. Courthouse News is
27 therefore entitled to declaratory and both preliminary and permanent injunctive relief
28 to prevent further deprivation of the First Amendment rights guaranteed to it and its

1 subscribers.

2 **COUNT TWO**

3 **Violation of Federal Common Law and 42 U.S.C. § 1983**

4 36. Courthouse News incorporates the allegations of Paragraphs 1-35 herein.

5 37. Defendant's actions under color of state law, including without limitation
6 his policies that have led to delays in access to new civil unlimited complaints and his
7 denial of timely, same-day access to new civil unlimited complaints, deprive
8 Courthouse News and its subscribers of the presumption of access to court records
9 guaranteed by the federal common law.

10 38. There is no legitimate justification for a blanket rule for withholding all
11 new complaints that is sufficient to overcome the common law right of Courthouse
12 News and its subscribers to be able to timely review new case-initiating documents.

13 39. Courthouse News has no adequate and speedy remedy at law to prevent
14 or redress Defendant's actions, and will suffer irreparable harm as a result of
15 Defendants' violation of its common law right of access. This is so, in part, because
16 prolonged delays in access not only diminish the value of Courthouse News's reports
17 to its subscribers, but are also likely to result in a loss of subscribers or, at the very
18 least, a perception among subscribers that Courthouse News's news reporting
19 products are less useful and valuable than they have been in the past, leading to a loss
20 of goodwill. Courthouse News is therefore entitled to declaratory and both
21 preliminary and permanent injunctive relief to prevent further deprivation of the rights
22 guaranteed to it and its subscribers under the common law.

23 **COUNT THREE**

24 **Violation of California Rule of Court 2.550**

25 40. Courthouse News incorporates the allegations of Paragraphs 1-39 herein.

26 41. Defendant's actions under color of state law, including without limitation
27 his policies that have led to delays in access to new civil unlimited complaints and his
28 denial of timely, same-day access to new civil unlimited complaints, effectively seals

1 those records until the Ventura Superior Court, in its unguided discretion, determines
2 that the complaints may be made public. Such action violates California Rule of
3 Court 2.550, which requires that a court make specific, written findings before sealing
4 a record.

5 42. Even if Defendant had endeavored to comply with Rule of Court 2.550,
6 he would not have been able to make the required showing that: (1) There exists an
7 overriding interest that overcomes the right of public access to the record; (2) The
8 overriding interest supports sealing the record; (3) A substantial probability exists that
9 the overriding interest will be prejudiced if the record is not sealed; (4) The proposed
10 sealing is narrowly tailored; and (5) No less restrictive means exist to achieve the
11 overriding interest.

12 43. Courthouse News has no adequate and speedy remedy at law to prevent
13 or redress Defendant's actions, and will suffer irreparable harm as a result of
14 Defendant's violation of California Rule of Court 2.550. This is so, in part, because
15 prolonged delays in access not only diminish the value of Courthouse News' reports
16 to its subscribers, but are also likely to result in a loss of subscribers or, at the very
17 least, a perception among subscribers that Courthouse News' news reporting products
18 are less useful and valuable than they have been in the past, leading to a loss of
19 goodwill. Courthouse News is therefore entitled to declaratory and both preliminary
20 and permanent injunctive relief to prevent further deprivation of the rights guaranteed
21 to it and its subscribers under Rule of Court 2.550.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff Courthouse News Service prays for judgment against
24 Defendant Michael Planet, in his official capacity is the Court Executive Officer/Clerk
25 of the Superior Court of the State of California, County of Ventura ("Ventura
26 Superior"), as follows:

27 1. For preliminary and permanent injunctions against Defendant, including
28 his agents, assistants, successors, employees, and all persons acting in concert or

1 cooperation with him, or at his direction or under his control, prohibiting him
2 preliminarily, during the pendency of this action, and permanently thereafter, from
3 continuing his policies resulting in delayed access to new unlimited jurisdiction civil
4 complaints and denying Courthouse News timely access to new civil unlimited
5 jurisdiction complaints on the same day they are filed, except as deemed permissible
6 following the appropriate case-by-case adjudication.

7 2. For a declaratory judgment pursuant to 28 U.S.C. § 2201 declaring
8 Defendant's policies that knowingly affect delays in access and a denial of timely,
9 same-day access to new civil unlimited complaints as unconstitutional under the First
10 and Fourteenth Amendments to the United States Constitution and in violation of the
11 federal common law and California Rule of Court 2.550, for the reason that that it
12 constitutes an effective denial of access to court records.

13 3. For an award of costs and reasonable attorneys' fees pursuant to 42
14 U.S.C. § 1988; and

15 4. For all other relief the Court deems just and proper.

16
17 Date: September 29, 2011

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

18
19
20
21 By: 
22 Rachel Matteo-Boehm
23 Attorneys for Plaintiff
24 COURTHOUSE NEWS SERVICE
25
26
27
28

EXHIBIT 1

Media Access to Courts Around the Nation

**Prepared By Courthouse News Service
September 2011**

Courts around the country have developed a variety of procedures to provide the media with access to new civil case initiating documents (complaints or petitions, depending on the jurisdiction) on the same day they are filed, regardless of whether processing has been completed (or in federal courts that have adopted e-filing, the so-called “quality assurance” process is completed), and regardless of whether the complaint or petition has been made available for electronic viewing. Courthouse News Service has prepared the following summary of some of these same-day access procedures adopted in courts throughout the nation.

Albuquerque

At the Second District Court of New Mexico (Bernalillo County), both paper and electronically filed civil complaints are made available to the media in a “review pile” on the day of filing, before they have been fully processed or made available to the public. Courthouse News’ reporter has been granted behind-the-counter access to the “review pile” and provided with a small work space, where he can review virtually all new cases on a same-day basis and scan any newsworthy complaint using a portable scanner. Any complaint that does not make it to the review pile enters a –three- to four-day docketing process, during which Courthouse News Service’s reporter can typically track down any case that needs to be seen.

Atlanta

At the Fulton County Superior Court in Atlanta, Georgia, new complaints are scanned immediately upon filing and made available at computer terminals at the courthouse, most within minutes of filing. In addition, complete docket information for civil cases is available from a publicly accessible website on the day the complaint is filed.

At the United States District Court for the Northern District of Georgia, where e-filing is voluntary, reporters review new civil actions on the same day they are filed. New complaints that are filed in paper form are scanned into a computerized press box before they go to docketing and are accessible on a computer terminal in the clerk’s office. E-filed complaints are made available to

CNS's reporter, prior to any processing, via PACER by using a shell case number code to access an online press queue of new same-day filings.

Austin

At the Travis County District Courthouse in Austin, where e-filing is mandatory for civil cases, Courthouse News' reporter gets a list of all of the new civil petitions filed earlier that same day upon arriving at the courthouse. She then views newly filed petitions using a public access terminal at the courthouse. Before leaving the court, Courthouse News' reporter gets an updated copy of the list of newly filed petitions to see whether there are any that have been filed since her first review, which she also views using the court's public access terminal.

Beaumont

At the Jefferson County District Court in Beaumont, Texas, reporters are allowed behind the counter to access paper copies of petitions filed that day, before the cases are put through the docketing process. Reporters can make copies of newsworthy cases.

At the Beaumont Division of the United States District Court for the Eastern District of Texas, reporters have same-day access to the vast majority of newly filed actions regardless of whether docketing has been completed. Reporters review scanned copies of new complaints via PACER, and if a new case is not yet scanned and available on the court's computer system, reporters can request and are given a paper copy of the new action based on a listing of new filings in a red log book made available to the press.

Brooklyn

At the Kings County Supreme Court, newly filed cases are typically scanned into electronic form immediately after they are filed, and the paper copies are then placed in a designated media box for same day review. However, in the event that a new complaint is not scanned immediately, the court will provide Courthouse News' reporter with access to the unscanned document. Courthouse News' reporter has been provided with a media pass that allows her to remove the new filings from the media box and review them in a different area behind the counter in the clerk's office on the same day the complaints are filed. Courthouse News' reporter is free to make her own copies for a small fee.

At the United States District Court for the Eastern District of New York, parties file “press copies” of new complaints, which are placed into a press box that is made available to reporters throughout the day, thereby allowing them same-day access to the vast majority of new filings, even if the new filings have not been fully processed or posted to PACER.

Chicago

At the Cook County Circuit Court in Chicago, Courthouse News’ reporter, or any other member of the media who is first to arrive at the courthouse, begins each visit by going behind the counter to pick up the day’s new complaints, and then brings them to a press room located in the same building. The reporter sees the vast majority of new complaints on the same day they are filed, regardless of whether the complaints have been fully processed. Reporters can stay as late as they like to review the new complaints.

At the United States District Court for the Northern District of Illinois, where electronic filing of initiating documents is mandatory, newly filed complaints are made available immediately upon filing through PACER, as well as the court’s own independent website.

Cincinnati

At the Hamilton County Court of Common Pleas in Cincinnati, Ohio, new complaints are placed in the intake area for review by the media on the same day the complaints are filed. Complaints are made available after they have been date-stamped, but before any other processing occurs. Courthouse News’ reporter sees between 30-60 complaints each day. If Courthouse News’ reporter misses a complaint, he may request the file from the paper room staff the next day. Court employees will make copies of newsworthy complaints available upon request for 10 cents per page.

At the United States District Court for the Southern District of Ohio, many of the newly filed complaints are made available on the day of filing via PACER. However, for cases not available electronically, the court places a copy of new cases into a press box at the intake counter, where Courthouse News Service’s reporter may review them until 4:00 p.m. when the court closes to the public. The reporter may request copies of new complaints for 50 cents per page.

Cleveland

At the Cuyahoga County Court of Common Pleas in Cleveland, Ohio, Courthouse News' reporter has behind-the-counter access to new filings on the same day they are filed, regardless of whether they have been fully processed. Complaints are available as soon as they have been date-stamped. Court officials provide Courthouse News' reporter with desk space to set up a laptop and scanner, and allow him to disassemble the case file and scan the original filings. Use of the office copy machines is also permitted when necessary.

At the United States District Court for the Northern District of Ohio, new civil cases can be filed either in person or electronically. Both cases filed electronically and in person are made available on PACER on the same day they are filed. However, to view cases that are restricted from access via PACER or cases that have not yet been posted to PACER, Courthouse News' reporter visits the courthouse, where the court staff will print out a copy of any case he requests, even if docketing has not been completed and regardless of how those complaints were filed.

Columbus

At the United States District Court for the Southern District of Ohio in Columbus, the vast majority of new complaints are made available on PACER promptly upon filing. The court will also provide hard copies of any civil filings not available on PACER on a same-day basis, but the speed with which cases are posted to PACER generally makes this unnecessary.

Dallas

At the Dallas County District Court in Dallas, Texas, Courthouse News' reporter is provided with behind-the-counter access to new petitions as soon as they are filed and before any docketing has taken place. The court provides the reporter with a place to work, where staffers in the clerk's office provide him with access to the new petitions filed in paper form. As for e-filed petitions, Courthouse News Service's reporter views some on a computer terminal in the clerk's office. In many instances, however, petitions are not available on the terminal on a same-day basis, and the clerk's office provides him with paper printouts of those petitions so that he can see them same-day.

The United States District Court for the Northern District of Texas has developed a process that ensures reporters have same-day access to all new complaints, regardless of how far those complaints have progressed through the intake process. On his daily afternoon visits to the court, Courthouse News' reporter goes through a three-step process, described below. Leigh Lyon, Assistant Chief Deputy of Operations, Dallas Division of the Northern District of Texas, has informed us that she would be happy to speak with court officials in other jurisdictions about this system.

- First, Courthouse News' reporter checks a computer terminal in the clerk's office to view summaries of the day's new complaints that have already been made available on PACER. Courthouse News' reporter then uses his own internet connection to immediately download documents he needs to his laptop computer at the courthouse.
- Second, Courthouse News' reporter checks for complaints that have been scanned by the clerk's office, but are not yet available on PACER. These complaints have been assigned a bar code and case number, and are made available for electronic viewing at a public computer kiosk located in the clerk's office, where the media can then review the new complaints on the same day they are filed.
- Finally, for complaints that are so new they have not yet been scanned, Courthouse News' reporter views the paper versions of those new cases in their case folder and makes copies of newsworthy complaints.

Detroit

At the Wayne County Circuit Court, complaints are placed in a drawer in the intake area of the clerk's office immediately after they are filed. Upon arriving at the clerk's office at approximately 3:00 p.m., Courthouse News' reporter goes behind the counter and first double-checks the previous day's complaints, which are located in bundled folders behind the intake drawer, for any missed or last-minute filings from the day before. Then he turns to the intake drawer, where he is permitted to review the newly filed complaints while standing behind the counter. Most new complaints are in the drawer, but some are with the intake clerks, who will share the complaints with the reporter for review. The reporter is permitted to make his own copies of complaints using a copier located also behind the counter, as well as an alternate copier on the other side of the cashier station near the death certificates/marriage license area.

At the United States District Court for the Eastern District of Michigan, the court provides access to newly filed complaints electronically via PACER, both online and at computer terminals set up in the clerk's office.

Fort Worth

At the Tarrant County District Court in Fort Worth, most petitions appear on the court's online system the day they are filed, except those cases that are mailed in or filed by fax after the court closes at 5:00 p.m., which are then made available the following day. If any petition that was filed during court business hours is not available online the day it is filed, Courthouse News' reporter arranges for the petition to be immediately scanned and posted to the online access system. The end result is that Courthouse News' reporter is able to access almost all petitions filed during court hours on the same day they are filed.

Houston

The Harris County Civil District Courts in Houston provided same-day access for many years by permitting reporters to go behind the intake counters and review newly filed petitions. In 2008, the clerk began requiring reporters to wait until new petitions had been processed and posted on the clerk's website before they could be reviewed, which delayed their availability by a day or more – sometimes several days. After repeated attempts by Courthouse News to negotiate a solution with the clerk's office failed to lead to a resolution, Courthouse News reluctantly filed suit under 42 U.S.C. § 1983. In July 2009, the U.S. District Court for the Southern District of Texas issued a preliminary injunction ordering the clerk to provide same-day access to civil petitions, and finding that “the 24 to 72 hour delay in access is effectively a denial of access and is, therefore, unconstitutional.” *Courthouse News Service v. Jackson, et al.*, 2009 WL 2163609, at *4 (S.D. Tex. July 20, 2009). In accordance with that injunction order, the clerk's office began scanning new petitions and posting them to the clerk's website the same day they are filed. Pursuant to a stipulated permanent injunction entered by the court in March 2010, the clerk's office became obligated not only to continue to provide same-day access to new civil filings, but to pay more than \$250,000 to Courthouse News to compensate it for the attorneys fees it incurred in litigating the case. The stipulated permanent injunction did not specify the particular manner in which same-day access must be provided, and the clerk's office has chosen to comply with the order by continuing its practice of posting new petitions on the clerk's website. Those petitions can be viewed, and

printouts can be made, free of charge by the media and other interested parties on the day of filing. After that, petitions can still be viewed without charge, but printouts can be made only if they have not been certified. Once they are certified – which usually occurs the day after filing – there is a fee to print out copies of the petitions. Details about this program can be found on the Harris County District Clerk’s website, at <http://www.hcdistrictclerk.com/Edocs/Public/search.aspx> (see button: “Search Today’s Filings”).

At the United States District Court for the Southern District of Texas, where electronic filing is required for new cases, Courthouse News’ reporter can view electronic versions of complaints that are already docketed and posted to PACER on the same day they are filed. For any new complaint that has not yet been fully docketed, the court will usually provide a hard copy regardless of how far along the complaint is in the docketing process, also on the same day they are filed.

Indianapolis

At the Marion County Circuit and Superior courts in Indianapolis, Indiana, reporters view the vast majority of new filings on a same-day basis in the clerk’s office. Reporters are given stacks of the new filings, after they have been filed and date stamped but before they are fully processed or sent to the proper court division, and are allowed to go through them at tables in the public viewing area from 4:00 p.m. to 4:30 p.m. Reporters can then make copies themselves on court copy machines, which are then billed to Courthouse News Service monthly.

At the United States District Court for the Southern District of Indiana, reporters are provided with access to virtually all complaints filed on a same-day basis, even if docketing has not been completed. When Courthouse News’ reporter arrives at the end of the day, the court staff gathers all of the civil cases filed throughout the day and allows the reporter to review the complaints. The court staff will then make copies at a rate of 50 cents per page.

Las Vegas

At the Eighth Judicial District Court in Las Vegas, Nevada, reporters saw the majority of new civil complaints on a same-day basis until the court switched to mandatory e-filing in February 2010. Following that switch, the court began requiring news reporters to review new complaints at a computer terminal in the clerk’s office, but this system resulted in complaints not being available for

viewing until the day after they were filed. The reason for these delays was that new complaints did not appear on the computer terminals until after they had been “accepted” by the clerk’s office, and only after the terminals had been updated to reflect the new filings. After Courthouse News brought these delays to the attention of the court, the court adopted a new system: an electronic in-box, through which complaints can be viewed on a computer terminal as soon as they cross the electronic version of the intake counter at the clerk’s office, even if they have not yet been fully processed. Through this system, which is similar to the electronic in-box access procedures in place at numerous federal district courts (many of which are described in this survey), Courthouse News is now seeing new e-filed complaints on a same-day basis.

At the United States District Court for the District of Nevada, Courthouse News’ reporter can view electronic versions of the majority of new complaints on a same-day basis on PACER. Complaints that are not made available on the day they are filed are usually made available on the following day.

Los Angeles

At the Downtown (Stanley Mosk Courthouse) branch of the Superior Court of California in Los Angeles, court staff upload the full text of newly filed complaints to the court’s computer system after initial intake tasks, which include scanning and assigning a case number, have been completed. Reporters can then review the vast majority of new actions that are filed on a particular day at terminals located at the courthouse that are available to the general public, or on additional terminals located in a designated press room. Both the filing room – including the intake and processing areas – and the area in which the general public view cases close at 4:30 p.m., but the press room remains open later and even the latest filings of the day are available and can be reviewed by 7:00 p.m. About 110 new civil, general jurisdiction cases are filed each day.

At the Santa Monica Courthouse of the same court, face pages of each day’s newly filed complaints are made available for review at 3:30 p.m. on the same day the complaints are filed. Courthouse News’ reporter then requests copies of those complaints for which she wants to see the full-text versions. The full text of late-filed complaints is made available at 4:30 p.m., when the filing room court closes its doors to the public but where the courthouse employees continue to work until 5:00 p.m. Courthouse News’ reporter can then request copies of any of those late-filed complaints, and they are generally provided right away.

At the United States District Court for the Central District of California, a room is set up directly off the docketing department with a set of pass-through boxes. Sometime between 4:30 and 5:00 p.m., a court staffer places a large majority of the civil complaints filed that day in the pass-through boxes so that the media can review them. Reporters that cover the courthouse on a daily basis have a key to the room, which is otherwise locked, and they can stay as long as they want to look over the complaints and rulings, copy those of interest, and put the documents back in the pass-through boxes.

Louisville

At the Jefferson County Circuit Court in Louisville, Kentucky, the clerk's staff makes a copy of the front page of all complaints filed throughout the day and places the coversheets on a table in the public area of the office. Courthouse News' reporter then reviews the stack of coversheets and requests any complaints he determines to be newsworthy on the same day they are filed. The clerk's office will make copies for him at a rate of 25 cents per page.

The United States District Court for the Western District of Kentucky in Louisville has adopted an e-filing system requiring initiating documents to be filed electronically. Courthouse News' reporter is able to review newly filed complaints in exactly the same format as they are received in the clerk's office, prior to being docketed and before they are available to the public on PACER, by using a shell case number code to access an electronic press queue of new filings on PACER, both online and at public computer terminals at the courthouse.

Manhattan

At the New York County Supreme Court, where certain case types are required to be e-filed, new complaints are made available to reporters on the same day they are filed, whether they are filed in paper or electronic form. E-filed cases are posted online to a court website by the end of the day they are filed, while new complaints filed in paper form are indexed and scanned shortly after being filed, and made available electronically via an internal computer system on terminals set up throughout the courthouse. At 3:30 p.m., and then at regular intervals until 4:45 p.m., the paper versions of the new complaints are then placed by court officials in a secure area behind the counter where reporters are free to review them on a same-day basis.

At the United States District Court for the Southern District of New York, reporters are permitted to view new civil complaints three times a day – between 9:00 a.m. and 9:45 a.m., between 11:30 a.m. and 12:15 p.m., and between 3:45 p.m. and 4:30 p.m. – on the same day the complaints are filed.

Martinez

At the Contra Costa County Superior Court in Martinez, California, the court closes its doors to the public at 3:00 p.m. each day. However, those still in line at that time are allowed to remain in the clerk's office to complete their filings, and the clerk's staff continue their work at the court until at least 5:00 p.m. Although Courthouse News had previously experienced delays in access at this court, court staff recently implemented new access procedures after Courthouse News brought the issue of delays to the attention of both the court's head clerk and its presiding judge. Under those procedures, filed civil unlimited jurisdiction complaints are placed in a media bin at approximately 4:00 p.m. each day, and Courthouse News' reporter is permitted to remain at the court until 4:45 p.m. to review those complaints, the result of which is same-day access to the vast majority of newly filed unlimited jurisdiction complaints.

Miami

At the United States District Court for the Southern District of Florida, electronic filing of new civil complaints is mandatory, and new complaints that are filed before 5:00 p.m. appear on PACER on the same day they are filed. Cases filed after 5:00 p.m. appear on PACER the following day.

Milwaukee

At the Milwaukee County Court in Wisconsin, reporters have access to new complaints on the day they are filed, even if they have not yet been fully processed, and are permitted to go behind the counter. Reporters can request copies of complaints from court personnel for a small fee.

At the United States District Court for the Eastern District of Wisconsin, most new complaints are e-filed and available electronically through PACER on the same day they are filed. However, for those cases that are not immediately posted to PACER, court staff provides reporters with the original paper versions of the new complaints, also on the same day they are filed. Reporters are then able to make copies at a copy machine for a nominal fee.

Minneapolis/St. Paul

At both the Hennepin County District Court in Minneapolis and the Ramsey County District Court in St. Paul, where many of the new complaints are filed by mail, Courthouse News' reporter is permitted to go behind the counter to review the stack of original complaints on the same day they are filed and before they are docketed. Because the reporter visits Ramsey County only three times per week, she is unable to review all cases on the same day they are filed, but is able to search for and view the cases she has missed on a computer terminal at the courthouse the next time she visits the court. The reporter is able to make her own copies in Hennepin County, where Courthouse News has established a copy account. In Ramsey County, for cases the reporter reviews on the day of filing, the court staff will make copies of any complaint the reporter requests. For cases she reviews after the day of filing, the reporter is able to print a copy directly from the computer terminal.

At the United States District Court for District of Minnesota, reporters begin their visit by using a computer terminal at the courthouse to view an intake log of new cases. From there, reporters review complaints available on PACER using a public computer terminal in the clerk's office. If a complaint shown on the intake log of new cases is not yet available on PACER, the court will print out a copy for the reporter. The clerk charges 10 cents per page for any copies that reporters request.

Nashville

At the Davidson County Chancery Court in Nashville, Courthouse News' reporter reviews an intake log of the day's new filings on a public computer terminal at the courthouse. She then compiles a list of the relevant cases and presents the list to the court staff, who retrieve the requested cases and allow her to review the complaints regardless of whether the docketing process has been completed.

At the Davidson County Circuit Court, most new complaints are scanned throughout the day and are made available through a government website on the same day they are filed.

At the United States District Court for the Middle District of Tennessee, the clerk's staff are required to stay one hour after closing in order to scan all new filings and post them onto PACER on the day they are filed.

Oakland

Although the Alameda County Superior Court in Oakland, California, endeavors to make newly filed complaints available for viewing on its website on a same-day basis, it has implemented procedures to ensure that news reporters who visit the René C. Davidson courthouse can obtain same-day access to those complaints that would otherwise not be posted for electronic viewing on a same-day basis. Under those procedures, reporters are provided with access to a workstation behind the intake counter. The station is equipped with a computer connected to the Internet. Courthouse News' reporter first reviews the cases that are made available online. For those cases that are not available online by the end of the work day but are of media interest, court staffers scan and make those cases available on their website.

Oklahoma City

At the Oklahoma County Court, intake clerks place all of the day's new petitions into a central basket by 3:15 p.m. Petitions placed in the basket have been date stamped, but have not been fully docketed – only indexed. A member of the clerk's staff then provides the petitions to Courthouse News' reporter, and the reporter is instructed to sign the back of each petition to ensure that she has seen them all. After she has completed her review of the petitions in the basket, Courthouse News' reporter is permitted to review any further petitions that have been filed, indexed and placed in the basket after 3:15 p.m. The reporter may request copies of petitions at a rate of \$1.00 for the first page and 50 cents for all subsequent pages.

Omaha

At the Douglas County District Court, where new complaints can be filed electronically or in paper form, new cases are immediately indexed and added to a statewide computer database that is updated on an hourly basis. Courthouse News' reporter reviews the index information for relevant cases on a courthouse computer terminal and downloads images as they become available. Downloads are free at the courthouse, but are also available online via the statewide Justice website for a fee.

Orlando

At the Ninth Judicial Circuit Court, Courthouse News' reporter reviews hard copies of newly filed complaints at a designated desk behind the counter. The staff places new complaints that have not undergone any processing (*i.e.*, docketed, jacketed or assigned a case number) near the reporter's desk each day for same-day viewing. Since some complaints have been docketed by the time Courthouse News' reporter arrives, these complaints are placed in a separate pile for the reporter's review before they are moved to a separate desk for scanning by 4:00 p.m. In addition, Courthouse News' reporter is permitted to review e-filed complaints and complaints that have been docketed and scanned by the time the reporter arrives on a same-day basis using one of the clerk's terminals located behind the counter.

At the United States District Court for the Middle District of Florida in Orlando, where electronic filing is mandatory, the court posts the majority of new civil filings to PACER on the same day they are filed.

Phoenix

At the Maricopa County Superior Court in Phoenix, Arizona, court staff recently implemented new procedures to ensure same-day access to civil complaints filed at its downtown location. Under the new procedures, court staff scan and upload for electronic viewing all complaints filed before 3:00 p.m., which are then made available on a designated press computer located in the Customer Service Center for Courthouse News' reporter to review and, if necessary, print. Complaints filed between 3:00 and 5:00 p.m. are immediately placed in a bin at a designated intake window in the Central Court Building, where Courthouse News' reporter may review those complaints between 4:00 and 5:00 p.m.

Pittsburgh

At the Allegheny County Court of Common Pleas in Pittsburgh, Pennsylvania, where the court has implemented an internally operated electronic filing system, nearly all of the day's new filings are available on-line on a same-day basis. Complaints not posted to the court's website on the day of filing are made available the following day.

In the United States District Court for the Western District of Pennsylvania, where electronic filing is mandatory, Courthouse News' reporter has been provided with an "MC" case number code for PACER that allows her to view the new filings before they are docketed.

Portland

At the Multnomah County Court in Portland, Courthouse News' reporter is given a stack of the current day's newly filed complaints, which she reviews at a cubicle behind the counter. The reporter can make any needed copies herself using her own portable scanner.

At the United States District Court for the District of Oregon, Courthouse News' reporter first searches for newly filed complaints through the court's "electronic in-box," which is available on a public access terminal at the courthouse and contains those complaints that the clerks have scanned but not yet processed and posted to PACER. She then searches for processed complaints on PACER, which are also available at a public access terminal at the courthouse. Finally, the clerks give Courthouse News' reporter paper copies of those complaints that have not yet been scanned and posted either to the electronic in-box or to PACER. The clerks will also review the court's record book with Courthouse News' reporter at the end of the day to make sure that no filings have been missed.

Riverside

At the Superior Court for the State of California, County of Riverside, new complaints are scanned and made available for electronic viewing via the court's website and at computer terminals in the courthouse. The press had been experiencing delays in access for years until a new clerk, formerly from the United States District Court for the Central District of California, came on board. The clerk found that same-day access could be achieved simply by shifting the schedules of the personnel who scan complaints so that they begin and end work later in the day, thus ensuring that the vast majority of new complaints would be made available for electronic viewing on a same-day basis.

St. Louis

At the St. Louis City Circuit Court in Missouri, Courthouse News' reporter goes to the intake window where cases are filed and clerk's office staff members hand the reporter a stack of new cases filed that same day. Courthouse News' reporter

works at the counter next to the intake window; however, members of the media can also work at a table near the window. Staff members in the clerk's office will provide members of the media with copies of newsworthy new cases free of charge.

At the United States District Court for the Eastern District of Missouri, where new complaints must be electronically filed, each case is assigned a case number upon filing by the attorney and is immediately made available on PACER, even if it has not been fully reviewed and processed. Courthouse News' reporter is able to view the new complaints on a computer terminal in the clerk's office and print out copies for a small fee.

San Francisco

At the Superior Court of California for the County of San Francisco, news reporters are allowed behind the counter into the stacks to review unlimited numbers of new filings after providing a driver's license and filling out a temporary name tag. The number of new filings per day varies, but often exceeds 50. Courthouse News views new complaints regardless of whether they have been fully processed. San Francisco Superior has established a written protocol for members of the press. The key provisions are quoted below:

If media personnel want to review files already on the shelves, they can pull these files themselves and return them to the shelves.

All new filings will be held in a Media Box during the day. Between 3:00 and 4:30 each day, this box will be available to the media for viewing in the Records department, whether or not the cases have been entered in the computer. At 4:00 PM, when the office closes to the public, media personnel may ask to view any additional filings that may have come in since 3:00 PM. The Records supervisor or an assigned clerk will retrieve those files for the media to view. Any member of the media viewing new filings must return them to the box for eventual return to the Records supervisor or assigned clerk.

Media personnel may come in anytime before 3:00 PM to view new filings. However, they will only be viewing cases newly filed up until that time.

Copy machine from the second floor Media Room will be moved to Room 103 and located behind the Records department. This machine belongs to Courthouse News Service, but has been made available to all media personnel for their use.

At the San Francisco Division of the United States District Court for the Northern District of California, reporters go behind the counter and review actions filed that same day, regardless of whether the complaints have been fully docketed or posted on PACER. They are also permitted access to "transfer boxes" of new actions being sent to different divisions of the court, and are provided with a copy of the intake log. Reporters are permitted to make copies of cases they determine to be newsworthy using a portable scanner.

San Jose

At the Santa Clara County Superior Court in San Jose, California, the court recently implemented new procedures to ensure that reporters receive same-day access to the vast majority of each day's new civil unlimited jurisdiction complaints. Under those procedures, civil unlimited complaints are made available to Courthouse News' reporter upon receipt of the filing fee, the assignment of a case number, and the assignment of a first status conference date, even though processing of the new complaint is far from over at this juncture. Complaints that are filed over the counter by 3:30 p.m. are made available to Courthouse News' reporter on the same day they are filed. All unlimited jurisdiction complaints that are in the drop box by 4:00 p.m. are also made available to Courthouse News on the same day they are filed. Unlimited jurisdiction complaints that are filed over the counter between 3:30 p.m. and the clerk's office closing at 4:00 p.m. have been designated as a staff priority, and the court endeavors to make them available for review on the same day they are filed. Courthouse News' reporter is permitted to remain at the court until 4:30 p.m., one half-hour after closing, to review late-filed cases. The court makes copies of complaints as requested by the reporter.

At the San Jose Division of the United States District Court for the Northern District of California, clerks print out a list of all new complaints filed earlier that day. Reporters go behind the counter, obtain complaints from individual clerks' desks, report on and scan any newsworthy complaints, and then return the complaints to the clerks' desks.

Seattle

At the King County Superior Court, Courthouse News' reporter is provided with a docket report of new cases two times per day – once at 11:00 a.m. and again at 3:00 p.m. The 11:00 a.m. list includes all cases that have been filed from 3:00 p.m. on the previous day through 11:00 a.m. on the current day, while the 3:00 p.m. list includes new cases that have been filed from 11:00 a.m. to 3:00 p.m. that day. The reporter reviews each list to find relevant cases, then searches for and views new complaints on a computer terminal at the courthouse. She is able to print out relevant complaints for 15 cents per page.

Tampa

At the Hillsborough County Circuit Court, new complaints that are hand-filed in the main courthouse are made available for review by reporters at the end of the day they are filed. Most complaints are scanned by court staff and made available on the court's public access terminals for review. Those complaints that are not scanned and available on the public access terminals by 4:00 p.m. are provided in paper form for news reporters, who have until the court closes at 5:00 p.m. to review those late-filed complaints.

Wilmington

At the United States District Court for the District of Delaware, new complaints can be filed either in paper form or electronically. Courthouse News' reporter can view e-filed complaints on PACER almost immediately after they are filed by using a shell case number code to access an online press queue of new electronic filings. The reporter also visits the court on a daily basis and is able to review the vast majority of new complaints filed in paper form on the same day those complaints are filed. Court staff will make copies of paper-filed cases for 10 cents per page.

EXHIBIT 2



Holme Roberts & Owen LLP
Attorneys at Law

SAN FRANCISCO

June 20, 2011

BOULDER

Michael Planet
Court Executive Officer
Ventura County Superior Court
800 South Victoria Ave.
Ventura, CA 93009

COLORADO SPRINGS

Re: Media Access to New Complaints

Dear Mr. Planet:

DENVER

As you may recall, we represent Courthouse News Service, a nationwide news service for lawyers and the news media. Over the past two years, Courthouse News has written to and met with various officials at this Court regarding delays in access to newly filed civil unlimited complaints. Although your office has undertaken to decrease the amount of time between the filing of a complaint and its availability to members of the news media, news reporters are rarely permitted to see any new civil complaints on the same day they are filed. Rather, delays in access range anywhere from one day to several weeks.

DUBLIN

LONDON

It appears that the Court is not currently releasing newly filed complaints for press review until after a certain amount of processing has been completed. However, as explained below, the press's right of access to court records is not dependent on a court having completed processing. Indeed, the delays at this Court are effectively denials of access, and are contrary to the fundamentally public nature of adjudicative court records and the media's legitimate interest in timely access to those records.

LOS ANGELES

We therefore respectfully ask that you address these delays immediately by adopting simple procedures to ensure that members of the media have access to new complaints on the same day they are filed.

SALT LAKE CITY

About Courthouse News Service

Courthouse News Service is a 21-year-old, Pasadena-based legal news service for lawyers and the news media. It is similar to other news wire services, such as the Associated Press, except that it focuses on civil lawsuits, from the date of filing through the appellate level. Courthouse News does not report on criminal or family law matters, and in California it focuses only on unlimited jurisdiction civil cases.

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Holme Roberts & Owen LLP
Attorneys at Law

Michael Planet
June 20, 2011
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The majority of Courthouse News' nearly 3,000 subscribers nationwide are lawyers and law firms, including numerous prominent California firms. In addition, other news outlets are increasingly looking to Courthouse News to provide them with information about newsworthy new civil filings. Courthouse News' media subscribers include such well-known entities as the *Los Angeles Times*, the *Los Angeles Business Journal*, the *San Jose Mercury News*, and *Forbes*, all of which puts Courthouse News in a position similar to that of a pool reporter. Courthouse News' core news publications are its new litigation reports, which are e-mailed to subscribers daily and contain coverage of all significant new civil complaints. Its website, www.courthousenews.com, also features news reports and commentary about civil cases and appeals, and receives an average of 850,000 unique visitors each month.

Access to Court Records at Ventura County Superior Court

Courthouse News' reporter Julianna Krolak has covered the Ventura County Superior Court since 2003. Until recently, Ms. Krolak visited the court twice each week to review new civil unlimited jurisdiction complaints. In recognition of the growing importance of this Court, starting in November 2010, Ms. Krolak began visiting the Court on a daily basis.

Up until early 2008, Ms. Krolak was able to review the vast majority of new complaints filed since her prior visit. This was achieved through a combination of a media bin procedure (which, at the time, contained complaints that the Court determined would be of interest to the press) as well as the clerk's office's practice of providing Ms. Krolak with all additional complaints falling within a specific number range, since cases are numbered sequentially. In general, these procedures allowed Ms. Krolak to review all of the newsworthy unlimited jurisdiction complaints filed since her previous visit without imposing any apparent burden on court staff.

Beginning in 2008, however, media access at the Court began to deteriorate on a number of fronts. Among other things, the clerk's office began limiting the number of files that members of the media could request to 25 each day, and only permitted reporters to request five at a time, which meant Ms. Krolak had to wait in line – usually for at least 30 minutes, and sometimes more than an hour – to ask for each batch of five cases. Each requested case counted toward her 25-file limit, even if the complaint was not made available for

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review, and Court staff sometimes counted every case in the media bin toward Ms. Krolak's 25-case quota. Since there were often more than 50 potentially newsworthy civil unlimited cases filed in any given week, the 25-file limit frequently prevented Ms. Krolak from reviewing and reporting on all of the week's newsworthy filings, thereby resulting in significant delays in access to newly filed civil complaints.

Courthouse News' Northern California Bureau Chief, Chris Marshall, attempted at various times to resolve these issues with Supervisor Linda Daniels, as well as Records Manager Peggy Yost, but these efforts proved unsuccessful. Thereafter, in April 2009, we wrote to you. We subsequently spoke on the phone, together with Deputy Court Executive Officer Cheryl Kanatzar, about potential solutions to the access problems. In June 2009, Ms. Kanatzar, as well as Ms. Yost and Ms. Daniels, met in person with Mr. Marshall to further discuss potential solutions. The solution ultimately devised by the Court involved placing newly filed civil unlimited jurisdiction complaints directly into the media bin for review only after minimal processing. Ms. Krolak would be permitted access to all of the complaints contained in the media bin, as well as up to 25 additional complaints, per visit, from the shelves. Of the additional 25 complaints that Ms. Krolak would be permitted to request, she could only access five complaints at a time.

While these procedures initially worked reasonably well to provide Ms. Krolak with timely access to newly filed complaints, access again quickly deteriorated, as it seemed that the clerks were waiting until newly filed complaints were fully processed before placing them in the media bin (contrary to the agreement that new complaints would be placed in the bin after just minimal processing). The deterioration of the media bin procedure led to a backlog of newly filed unlimited civil jurisdiction complaints that Ms. Krolak needed to review, and she therefore had to request numerous additional complaints as part of her daily reporting activities. On many of her visits, she found that she had to request up to 25 complaints (her limit for cases that were not contained in the media bin) in order to see the entire flow of newly filed unlimited civil jurisdiction complaints, standing in a new and lengthy line for each group of five complaints she wished to review. Even with respect to those 25 additional complaints she requested, many were not available, with delays in access ranging for the most part from one to three days, but sometimes significantly longer.

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As noted, late last year, Courthouse News began covering the Court on a daily basis. Given the ongoing delays and problems with the media bin procedure, Mr. Marshall contacted Ms. Kanatzar by letter in February 2011 in an attempt to come up with mutually agreeable procedures that would provide same-day access to all newly filed unlimited civil jurisdiction complaints, and Ms. Kanatzar spoke with Mr. Marshall by phone in early March 2011 to discuss options. While Ms. Kanatzar indicated a desire to improve on the delays, the message conveyed to Courthouse News was that the clerk's office would not provide same-day access to newly filed unlimited jurisdiction civil complaints. At best, the Court would attempt to provide next-day access. Mr. Marshall was disappointed to hear this, but agreed to wait and see what solution the Court came up with to resolve delays. Subsequently, Ms. Kanatzar left Mr. Marshall a voice mail message advising him that beginning on March 14, 2011, the clerks would reprioritize how cases are processed, and Courthouse News should begin seeing complaints within two days of filing.

Over the past three months, Courthouse News has monitored the availability of complaints to determine what effect, if any, the new procedures would have in terms of delays in access. Unfortunately, things have gone from bad to worse, with same-day access to new complaints a rare occurrence.¹ Rather, actual delays in access are anywhere between one day and several weeks after filing for virtually all civil unlimited jurisdiction complaints filed in this Court.

There Is A Right Of Access, And Timely Access, To All New Civil Court Filings

As we have related to you in our previous correspondence and discussions, the press has a presumptive, constitutional right of timely access to newly filed complaints, which necessarily means same-day access. *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court*, 20 Cal. 4th 1178, 1208 & n.25 (1999) (recognizing First Amendment right of access to civil litigation documents submitted to a court as a basis for adjudication); *Associated Press v. U.S. District Court*, 705 F.2d 1143, 1147 (9th Cir. 1983) (even short delays in access constitute "a total restraint on the public's first amendment right of access even though the restraint is limited in time"); *Grove Fresh Distribs., Inc. v. Everfresh Juice Co.*, 24 F.3d

¹ During one recent four-week period, only one complaint out of 145 was available for review on the same day it was filed.

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893, 897 (7th Cir. 1994) (“[i]n light of values which the presumption of access endeavors to promote, a necessary corollary to the presumption is that once found to be appropriate, access should be immediate and contemporaneous”); *Globe Newspaper Co. v. Pokaski*, 868 F.2d 497, 507 (1st Cir. 1989) (“even a one to two day delay impermissibly burdens the First Amendment”); *Courthouse News Service v. Jackson*, 2009 U.S. Dist. LEXIS 62300, at *10-11, 14 (S.D. Tex. 2009) (“the 24 to 72 hour delay in access is effectively a denial of access and is, therefore, unconstitutional”).

Likewise, once a record has been filed or lodged with the court, Rule of Court 2.550(c) provides that the record is “presumed to be open” to public inspection. The Rule of Court thus recognizes that the public character of new complaints comes not from the court’s taking any particular action with respect to a complaint, but from a person’s invoking the power of the judiciary by submitting it to the court. *See also Bank of Am. Nat’l Trust & Sav. Ass’n v. Hotel Rittenhouse Assocs.*, 800 F.2d 339, 344 (3d Cir. 1986) (the right of access springs into being the moment a person “undertake[s] to utilize the judicial process”); *Leucadia, Inc. v. Applied Extrusion Techs., Inc.*, 998 F.2d 157, 164 (3d Cir. 1993) (“By **submitting** pleadings and motions to the court for decision, one ... exposes oneself [to] public scrutiny.”) (quotation omitted; *emph. added*).

In light of this right of access, it is not appropriate for this Court to deny media requests to examine newly filed complaints on the ground that the Court has not yet completed its administrative tasks associated with the processing of those complaints (tasks that vary from court to court, but can include such items as inputting information about the complaint into a computer system, formal acceptance, scanning, and/or posting the complaint online for remote viewing). As you can see from the enclosed city-by-city survey, courts around the country have implemented a variety of procedures to ensure that the press has access to *all* new civil complaints at the end of the day on which those complaints are filed, regardless of whether they have been fully processed and/or other administrative procedures have been completed. Indeed, given the media’s role as “surrogates for the public,” *see, e.g., Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 573 (1980), it is appropriate to provide news reporters who visit the Court every day with procedures for obtaining same-day access to new filings, so that those reporters may in turn disseminate information about those filings to interested persons, thereby keeping the public informed as to what transpires in the courts.

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With these considerations in mind, Courthouse News once again respectfully requests that the Court adopt procedures to ensure that reporters who visit the court every day (which would include but not necessarily be limited to Courthouse News) can review new unlimited civil complaints at the end of the day they are filed, even if they have not been fully processed. As the enclosed survey demonstrates, there are a variety of specific ways this can be accomplished, but fundamentally, what we are asking for is for Ms. Krolak to simply be allowed to see the day's new unlimited civil filings at the end of each court day.

We thank you for your attention to this important matter, and look forward to hearing from you.

Sincerely,



Rachel Matteo-Boehm

cc: The Honorable Vincent O'Neill, Jr., Presiding Judge
Courthouse News Service

Media Access to Courts Around the Nation

**Prepared By Courthouse News Service
June 2011**

Courts around the country have developed a variety of procedures to provide the media with access to new civil case initiating documents (complaints or petitions, depending on the jurisdiction) on the same day they are filed, regardless of whether processing has been completed (or in federal courts that have adopted e-filing, the so-called "quality assurance" process is completed), and regardless of whether the complaint or petition has been made available for electronic viewing. Courthouse News Service has prepared the following summary of some of these same-day access procedures adopted in courts throughout the nation.

Albuquerque

At the Second District Court of New Mexico (Bernalillo County), both paper and electronically filed civil complaints are made available to the media in a "review pile" on the day of filing, before they have been fully processed or made available to the public. Courthouse News' reporter has been granted behind-the-counter access to the "review pile" and provided with a small work space, where he can review the new cases and scan any newsworthy complaint using a portable scanner. Any complaint that does not make it to the review pile enters a 3 - 4 day docketing process, during which Courthouse News Service's reporter can typically track down any case that needs to be seen.

Atlanta

At the Fulton County Superior Court in Atlanta, Georgia, new complaints are scanned immediately upon filing and made available at computer terminals at the courthouse, most within minutes of filing. In addition, complete docket information for civil cases is available from a publicly accessible web site on the day the complaint is filed.

At the United States District Court for the Northern District of Georgia, where e-filing is voluntary, reporters review new civil actions on the same day they are filed. New complaints that are filed in paper form are scanned into a computerized press box before they go to docketing and are accessible on a computer terminal in the Clerk's office. E-filed complaints are made available to CNS's reporter, prior to any processing, via PACER by using a shell case number code to access an online press queue of new same-day filings.

Austin

At the Travis County District Courthouse in Austin, where e-filing is mandatory for civil cases, Courthouse News' reporter gets a list of all of the new civil petitions filed earlier that same day upon arriving at the courthouse. She then views newly filed petitions using a public access terminal at the courthouse. Before leaving the court, Courthouse News' reporter gets an updated copy of the list of newly filed petitions to see whether there are any that have been filed since her first review, which she also views using the court's public access terminal.

Beaumont

At the Jefferson County District Court in Beaumont, Texas, reporters are allowed behind the counter to access paper copies of petitions filed that day, before the cases are put through the docketing process. Reporters can make copies of newsworthy cases.

At the Beaumont Division of the United States District Court for the Eastern District of Texas, reporters have same-day access to newly filed actions regardless of whether docketing has been completed. Reporters review scanned copies of new complaints via PACER, and if a new case is not yet scanned and available on the court's computer system, reporters can request and are given a paper copy of the new action based on a listing of new filings in a red log book made available to the press.

Brooklyn

At the Kings County Supreme Court, newly filed cases are typically scanned into electronic form immediately after they are filed, and the paper copies are then placed in a designated media box for same day review. However, in the event that a new complaint is not scanned until the following day, the paper copy remains in the press box until Courthouse News' reporter has reviewed it. Courthouse News' reporter has been provided with a media pass that allows her to remove the new filings from the media box and review them in a different area behind the counter in the clerk's office on the same day the complaints are filed. Courthouse News' reporter is free to make her own copies for a small fee.

At the United States District Court for the Eastern District of New York, parties file "press copies" of new complaints, which are placed into a press box that is made available to reporters throughout the day, thereby allowing them same-day access to the vast majority of new filings, even if the new filings have not been fully processed or posted to PACER.

Chicago

At the Cook County Circuit Court in Chicago, Courthouse News' reporter, or any other member of the media who is first to arrive at the courthouse, begins each visit by going behind the counter to pick up the day's new complaints, and then brings them to a press room located in the same building. The reporter sees complaints on the same day they are filed, regardless of whether the complaints have been fully processed. Reporters can stay as late as they like to review the new complaints.

At the United States District Court for the Northern District of Illinois, where newly filed complaints are available on a same-day basis, the court had previously provided the media with a special case number code for the PACER web site that granted reporters access to a press queue where the new complaints were posted before they had even been assigned a case number or appeared on the public PACER website. However, the Court is now making newly-filed civil complaints immediately available on PACER, as well as the court's own independent website, making access to the press queue unnecessary.

Cincinnati

At the Hamilton County Court of Common Pleas in Cincinnati, Ohio, new complaints are placed in the intake area for review by the media on the same day the complaints are filed. Complaints are made available after they have been date-stamped, but before any other processing occurs. Courthouse News' reporter sees between 30-60 complaints each day. If Courthouse News' reporter misses a complaint, he may request the file from the paper room staff the next day. Court employees will make copies of newsworthy complaints available upon request for 10 cents per page.

At the United States District Court for the Southern District of Ohio, many of the newly filed complaints are made available on the day of filing via PACER. However, for cases not available electronically, the court places a copy of new cases into a press box at the intake counter, where Courthouse News Services' reporter may review them until 4:00 p.m. when the court closes to the public. The reporter may request copies of new complaints for 50 cents per page.

Cleveland

At the Cuyahoga County Court of Common Pleas in Cleveland, Ohio, Courthouse News' reporter has behind-the-counter access to new filings on the same day they are filed, regardless of whether they have been fully processed. Complaints are available as soon as they have been date-stamped. Court officials provide Courthouse News' reporter with desk space to set up a laptop and allow him use of the office copy machines.

At the United States District Court for the Northern District of Ohio, new civil cases can be filed either in person or electronically. Both cases filed electronically and in person are made available on PACER on the same day they are filed. However, to view cases that are restricted from access via PACER or cases that have not yet been posted to PACER, Courthouse News' reporter visits the courthouse, where the court staff will print out a copy of any case he requests, even if docketing has not been completed and regardless of how those complaints were filed.

Columbus

At the Franklin County Court of Common Pleas in Columbus, Ohio, Courthouse News' reporter has same-day access to new civil complaints after they have been date-stamped and before processing. Courthouse News' reporter works at a desk behind the intake counter. Complaints that are filed before the reporter arrives to the courthouse are placed in an "outbox" tray where CNS's reporter is able to review them on the same day they are filed. Once the reporter has finished reviewing those cases, a member of the court staff retrieves complaints that have been filed since the reporter's arrival directly from the various tellers and makes them available for immediate review. Copies are available for a nominal fee.

At the United States District Court for the Southern District of Ohio in Columbus, all new complaints are made available on PACER promptly upon filing. The court will also provide

hard copies of any civil filings not available on PACER on a same-day basis, but the speed with which cases are posted to PACER generally makes this unnecessary.

Dallas

At the Dallas County District Court in Dallas, Texas, Courthouse News' reporter is provided with behind-the-counter access to new petitions as soon as they are filed and before any docketing has taken place. The court provides the reporter with a place to work, where staffers in the clerk's office provide him with access to the new petitions filed in paper form. As for e-filed petitions, Courthouse News Service's reporter views some on a computer terminal in the clerk's office. In many instances, however, petitions are not available on the terminal on a same-day basis, and the clerk's office provides him with paper printouts of those petitions so that he can see them same-day.

The United States District Court for the Northern District of Texas has developed a process that ensures reporters have same-day access to all new complaints, regardless of how far those complaints have progressed through the intake process. On his daily afternoon visits to the court, Courthouse News' reporter goes through a three-step process, described below. Leigh Lyon, Assistant Chief Deputy of Operations, Dallas Division of the Northern District of Texas, has informed us that she would be happy to speak with court officials in other jurisdictions about this system. Ms. Lyon can be reached at (214) 753-2186.

- First, Courthouse News' reporter checks a computer terminal in the clerk's office to view summaries of the day's new complaints that have already been made available on PACER. Courthouse News' reporter then uses his own internet connection to immediately download documents he needs to his laptop computer at the courthouse.
- Second, Courthouse News' reporter checks for complaints that have been scanned by the clerk's office, but are not yet available on PACER. These complaints have been assigned a bar code and case number, and are made available for electronic viewing at a public computer kiosk located in the clerk's office, where the media can then review the new complaints on the same day they are filed.
- Finally, for complaints that are so new they have not yet been scanned, Courthouse News' reporter views the paper versions of those new cases in their case folder and makes copies of newsworthy complaints.

Detroit

At the Wayne County Circuit Court, complaints are placed in a drawer in the intake area of the clerk's office immediately after they are filed. Upon arriving at the clerk's office at approximately 3 p.m., Courthouse News' reporter goes behind the counter and first double-checks the previous day's complaints, which are located in bundled folders behind the intake drawer, for any missed or last-minute filings from the day before. Then he turns to the intake drawer, where he is permitted to review the newly filed complaints while standing behind the counter. Most new complaints are in the drawer, but some are with the intake clerks, who will share the complaints with the reporter for review. The reporter is permitted to make his own

copies of complaints using a copier located also behind the counter, as well as an alternate copier on the other side of the cashier station near the death certificates/marriage license area.

At the United States District Court for the Eastern District of Michigan, the court provides copies, on a same-day basis, of all newly filed complaints in a media box located in a public area, but only after the complaints have been fully docketed. Courthouse News' reporter can either visit the courthouse to view complaints or he can view the new filings electronically on PACER, which is just as timely as the hard copy press box.

Fort Worth

At the Tarrant County District Court in Fort Worth, most petitions appear on the court's on-line system the day they are filed, except those cases that are filed electronically after 5:00 p.m., when the court is closed, which are made available the following day. If any petition that was filed during court business hours is not available online the day it is filed, court staff either make a copy for Courthouse News' reporter or arranges for the petition to be immediately scanned and posted to the on-line access system. The end result is that Courthouse News' reporter is able to access all petitions filed during court hours on the same day they are filed.

Houston

The Harris County Civil District Courts in Houston provided same-day access for many years by permitting reporters to go behind the intake counters and review newly-filed petitions. In 2008, the clerk began requiring reporters to wait until new petitions had been processed and posted on the clerk's web site before they could be reviewed, which delayed their availability by a day or more – sometimes several days. After repeated attempts by Courthouse News to negotiate a solution with the clerk's office failed to lead to a resolution, Courthouse News reluctantly filed suit under 42 U.S.C. § 1983. In July 2009, the U.S. District Court for the Southern District of Texas issued a preliminary injunction ordering the clerk to provide same-day access to civil petitions, and finding that “the 24 to 72 hour delay in access is effectively a denial of access and is, therefore, unconstitutional.” *Courthouse News Service v. Jackson, et al.*, 2009 WL 2163609, at *4 (S.D. Tex. July 20, 2009). In accordance with that injunction order, the clerk's office began scanning new petitions and posting them to the clerk's web site the same day they are filed. Pursuant to a stipulated permanent injunction entered by the court in March 2010, the clerk's office became obligated not only to continue to provide same-day access to new civil filings, but to pay more than \$250,000 to Courthouse News to compensate it for the attorneys fees it incurred in litigating the case. The stipulated permanent injunction did not specify the particular manner in which same-day access must be provided, and the clerk's office has chosen to comply with the order by continuing its practice of posting new petitions on the clerk's web site. Those petitions can be viewed, and printouts can be made, free of charge by the media and other interested parties on the day of filing. After that, petitions can still be viewed without charge, but printouts can be made only if they have not been certified. Once they are certified – which usually occurs the day after filing – there is a fee to print out copies of the petitions. Details about this program can be found on the Harris County District Clerk's web site, at <http://www.hcdistrictclerk.com/Edocs/Public/search.aspx> (see button: “Search Today's Filings”).

At the United States District Court for the Southern District of Texas, where electronic filing is required for new cases, Courthouse News' reporter can view electronic versions of complaints that are already docketed and posted to PACER on the same day they are filed. For any new complaint that has not yet been fully docketed, the Court will usually provide a hard copy regardless of how far along the complaint is in the docketing process, also on the same day they are filed.

Indianapolis

At the Marion County Circuit and Superior Courts in Indianapolis, Indiana, reporters view all new filings on a same-day basis in the clerk's office. Reporters are given stacks of the new filings, before they are processed or sent to the proper court division, and are allowed to go through them at tables in the public viewing area from 4:00 p.m. to 4:30 p.m. Reporters can then make copies themselves on court copy machines, which are then billed to Courthouse News Service monthly.

At the United States District Court for the Southern District of Indiana, reporters are provided with access to all complaints filed on a same-day basis, even if docketing has not been completed. When Courthouse News' reporter arrives at the end of the day, the court staff gathers all of the civil cases filed throughout the day and allows the reporter to review the complaints. The court staff will then make copies at a rate of 50 cents per page.

Las Vegas

At the Eighth Judicial District Court in Las Vegas, Nevada, reporters saw the majority of new civil complaints on a same-day basis until the court switched to mandatory e-filing in February 2010. Following that switch, the court began requiring news reporters to review new complaints at a computer terminal in the clerk's office, but this system resulted in complaints not being available for viewing until the day after they were filed. The reason for these delays was that new complaints did not appear on the computer terminals until after they had been "accepted" by the clerk's office, and only after the terminals had been updated to reflect the new filings. After Courthouse News brought these delays to the attention of the court, the court adopted a new system: an electronic in-box, through which complaints can be viewed on a computer terminal as soon as they cross the electronic version of the intake counter at the clerk's office, even if they have not yet been fully processed. Through this system, which is similar to the electronic in-box access procedures in place at numerous federal district courts (many of which are described in this survey), Courthouse News is now seeing new e-filed complaints on a same-day basis.

At the United States District Court for the District of Nevada, Courthouse News' reporter can view electronic versions of the majority of new complaints on a same-day basis on PACER. Complaints that are not made available on the day they are filed are usually made available on the following day.

Los Angeles

At the Downtown (Stanley Mosk Courthouse) branch of the Superior Court of California in Los Angeles, reporters can review all new actions that are filed on a particular day through the court's computer system, which includes terminals for the general public and additional terminals in a designated press room. Both the filing room – including the intake and processing areas – and the area in which the general public view cases close at 4:30 p.m., but the press room remains open later and even the latest filings of the day are available and can be reviewed by 7:00 p.m. About 90 new civil, general jurisdiction cases are filed each day.

At the Santa Monica Courthouse of the same court, face pages of each day's newly-filed complaints are made available for review at 3:30 p.m. on the same day the complaints are filed. Courthouse News' reporter then requests copies of those complaints for which she wants to see the full-text versions. The full text of late-filed complaints is made available at 4:30 p.m., when the filing room court closes its doors to the public but where the courthouse employees continue to work until 5:00 p.m. Courthouse News' reporter can then request copies of any of those late-filed complaints, and they are generally provided right away.

At the United States District Court for the Central District of California, a room is set up directly off the docketing department with a set of pass-through boxes. At 4:45 p.m., a messenger places all of the civil complaints filed that day in the pass-through boxes so that the media can review them. Inside the reviewing room is a copy machine maintained by the press. Reporters that cover the courthouse on a daily basis have a key to the room, which is otherwise locked, and they can stay as long as they want to look over the complaints and rulings, copy those of interest, and put the documents back in the pass-through boxes.

Louisville

At the Jefferson County Circuit Court in Louisville, Kentucky, the clerk's staff makes a copy of the front page of all complaints filed throughout the day and places the coversheets on a table in the public area of the office. Courthouse News' reporter then reviews the stack of coversheets and requests any complaints he determines to be newsworthy on the same day they are filed. The clerk's office will make copies for him at a rate of 25 cents per page.

The United States District Court for the Western District of Kentucky in Louisville has adopted an e-filing system requiring initiating documents to be filed electronically. The court has provided the media with an "MC" case number code. Using this code at a designated computer terminal in the clerk's office, reporters can review newly filed complaints in exactly the same format as they are received in the clerk's office, prior to being docketed and before they are available to the public on PACER. If a reporter needs a copy of a complaint, he requests the copy from court staff at a rate of 50 cents per page.

Manhattan

At the New York County Supreme Court, where certain case types are required to be e-filed, new complaints are made available to reporters on the same day they are filed, whether they are filed in paper or electronic form. E-filed cases are posted online to a court website by the end

of the day they are filed, while new complaints filed in paper form are indexed and scanned shortly after being filed, and made available electronically via an internal computer system on terminals set up throughout the courthouse. At 4:00 p.m., and then at regular intervals until 5:00 p.m., the paper versions of the new complaints are then placed by court officials in a secure area behind the counter where reporters are free to review them on a same-day basis.

At the United States District Court for the Southern District of New York, reporters are permitted to view new civil complaints three times a day – between 9:00 a.m. and 9:45 a.m., between 11:30 a.m. and 12:15 p.m., and between 3:35 p.m. and 4:30 p.m. – on the same day the complaints are filed.

Miami

In Miami-Dade County Circuit Court, the clerk's office closes to the general public at 4 p.m., but security personnel remain until 6:45 p.m., allowing Courthouse News Service's reporter to review new filings. The reporter is permitted to go behind the intake counter and pull same day complaints directly from each intake clerks' desk from 4:45 p.m. until the office closes at 6:45 p.m. The complaints that Courthouse News' reporter reviews have been assigned a case number and checked for all required documentation and payment, but have not been entered into the court's computer system. If the reporter needs copies she is able to make her own copies at a Court copy machine for \$1 per page.

At the United States District Court for the Southern District of Florida, electronic filing of new civil complaints is mandatory, and new complaints that are filed before 5 p.m. appear on PACER on the same day they are filed. Cases filed after 5 p.m. appear on PACER the following day.

Milwaukee

At the Milwaukee County Court in Wisconsin, reporters have access to new complaints on the day they are filed, even if they have not yet been fully processed, and are permitted to go behind the counter. Reporters can request copies of complaints from court personnel for a small fee.

At the United States District Court for the Eastern District of Wisconsin, most new complaints are e-filed and available electronically through PACER on the same day they are filed. However, for those cases that are not immediately posted to PACER, court staff provides reporters with the original paper versions of the new complaints, also on the same day they are filed. Reporters are then able to make copies at a copy machine for a nominal fee.

Minneapolis/St. Paul

At both the Hennepin County District Court in Minneapolis and the Ramsey County District Court in St. Paul, where many of the new complaints are filed by mail, Courthouse News' reporter is permitted to go behind the counter to review the stack of original complaints on the same day they are filed and before they are docketed. Because the reporter visits Ramsey County only three times per week, she is unable to review all cases on the same day they are

filed, but is able to search for and view the cases she has missed on a computer terminal at the courthouse the next time she visits the court. The reporter is able to make her own copies in Hennepin County, where Courthouse News has established a copy account. In Ramsey County, for cases the reporter reviews on the day of filing, the court staff will make copies of any complaint the reporter requests. For cases she reviews after the day of filing, the reporter is able to print a copy directly from the computer terminal.

At the United States District Court for District of Minnesota, reporters begin their visit by using a computer terminal at the courthouse to view an intake log of new cases. From there, reporters review complaints available on PACER using a public computer terminal in the clerk's office. If a complaint shown on the intake log of new cases is not yet available on PACER, the court will print out a copy for the reporter. The Clerk charges 10 cents per page for any copies that reporters request.

Nashville

At the Davidson County Chancery Court in Nashville, Courthouse News' reporter reviews an intake log of the day's new filings on a public computer terminal at the courthouse. She then compiles a list of the relevant cases and presents the list to the court staff, who retrieve the requested cases and allow her to review the complaints regardless of whether the docketing process has been completed.

At the Davidson County Circuit Court, most new complaints are scanned throughout the day and are made available through a government website on the same day they are filed.

At the United States District Court for the Middle District of Tennessee, the clerk's staff are required to stay one hour after closing in order to scan all new filings and post them onto PACER on the day they are filed.

Oakland

Although the Alameda County Superior Court in Oakland, California, endeavors to make newly-filed complaints available for viewing on its web site on a same-day basis, it has implemented procedures to ensure that news reporters who visit the René C. Davidson courthouse can obtain same-day access to those complaints that would otherwise not be posted for electronic viewing on a same-day basis. Under those procedures, reporters are provided with access to a workstation behind the intake counter. The station is equipped with a computer connected to the Internet. Courthouse News' reporter first reviews the cases that are made available online. For those cases that are not available online by the end of the work day but are of media interest, court staffers scan and make those cases available on their web site.

Oklahoma City

At the Oklahoma County Court, intake clerks place all of the day's new petitions into a central basket by 3:15 p.m. Petitions placed in the basket have been date stamped, but have not been fully docketed – only indexed. A member of the clerk's staff then provides the petitions to Courthouse News' reporter, and the reporter is instructed to sign the back of each petition to

ensure that she has seen them all. After she has completed her review of the petitions in the basket, Courthouse News' reporter is permitted to review any further petitions that have been filed, indexed and placed in the basket after 3:15 p.m. The reporter may request copies of petitions at a rate of \$1.00 for the first page and 50 cents for all subsequent pages.

Omaha

At the Douglas County District Court, new complaints are filed in paper form and then added to an internal computer database that is updated live when a new case is received and indexed. Courthouse News' reporter reviews the index information for relevant cases on a courthouse computer terminal and a filing clerk retrieves the complaints he requests before they have been fully processed or scanned. Courthouse News' reporter can review the new complaints on the day of filing in the public area of the clerk's office and is free to make copies on public machines.

Orlando

At the Ninth Judicial Circuit Court, Courthouse News' reporter reviews hard copies of newly filed complaints at a designated desk behind the counter. The staff places new complaints that have not undergone any processing (*i.e.*, docketed, jacketed or assigned a case number) near the reporter's desk each day for same-day viewing. Since some complaints have been docketed by the time Courthouse News' reporter arrives, these complaints are placed in a separate pile for the reporter's review before they are moved to a separate desk for scanning by 4 p.m. In addition, Courthouse News' reporter is permitted to review e-filed complaints and complaints that have been docketed and scanned by the time the reporter arrives on a same-day basis using one of the Clerk's terminals located behind the counter.

At the United States District Court for the Middle District of Florida in Orlando, where electronic filing is mandatory, the court posts the majority of new civil filings to PACER on the same day they are filed.

Palm Beach

In the Palm Beach County Circuit Court, members of the press review new civil cases at the intake counter at 4 p.m. on the day they are filed. The new cases are given to the press as a stack of folders.

Phoenix

At the Maricopa County Superior Court in Phoenix, Arizona, court staff recently implemented new procedures to ensure same-day access to civil complaints filed at its downtown location. Under the new procedures, court staff scan and upload for electronic viewing all complaints filed before 3 p.m., which are then made available on a designated press computer located in the Customer Service Center for Courthouse News' reporter to review and, if necessary, print. Complaints filed between 3 and 5 p.m. are immediately placed in a bin at a designated intake window in the Central Court Building, where Courthouse News' reporter may review those complaints between 4 and 5 p.m.

Pittsburgh

At the Allegheny County Court of Common Pleas in Pittsburgh, Pennsylvania, where the Court has implemented an internally operated electronic filing system, nearly all of the day's new filings are available on-line on a same-day basis. Complaints not posted to the court's website on the day of filing are made available the following day.

In the United States District Court for the Western District of Pennsylvania, where electronic filing is mandatory, Courthouse News' reporter has been provided with an "MC" case number code for PACER that allows her to view the new filings before they are docketed.

Portland

At the Multnomah County Court in Portland, Courthouse News' reporter is given a stack of the current day's newly filed complaints, which she reviews at a cubicle behind the counter. The reporter can make any needed copies herself using her own portable scanner.

At the United States District Court for the District of Oregon, Courthouse News' reporter first searches for newly filed complaints through the court's "electronic in-box," which is available on a public access terminal at the courthouse and contains those complaints that the clerks have scanned but not yet processed and posted to PACER. She then searches for processed complaints on PACER, which are also available at a public access terminal at the courthouse. Finally, the clerks give Courthouse News' reporter paper copies of those complaints that have not yet been scanned and posted either to the electronic in-box or to PACER. The clerks will also review the court's record book with Courthouse News' reporter at the end of the day to make sure that no filings have been missed.

Riverside

At the Superior Court for the State of California, County of Riverside, new complaints are scanned and made available for electronic viewing via the Court's web site and at computer terminals in the courthouse. The press had been experiencing delays in access for years until a new clerk, formerly from the United States District Court for the Central District of California, came on board. The clerk found that same-day access could be achieved simply by shifting the schedules of the personnel who scan complaints so that they begin and end work later in the day, thus ensuring that new complaints would be made available for electronic viewing on a same-day basis.

St. Louis

At the St. Louis City Circuit Court in Missouri, Courthouse News' reporter goes to the intake window where cases are filed and clerk's office staff members hand the reporter a stack of new cases filed that same day. Courthouse News' reporter works at the counter next to the intake window; however, members of the media can also work at a table near the window. Staff members in the clerk's office will provide members of the media with copies of newsworthy new cases free of charge.

At the United States District Court for the Eastern District of Missouri, where new complaints must be electronically filed, each case is assigned a case number upon filing by the attorney and is immediately made available on PACER, even if it has not been fully reviewed and processed. Courthouse News' reporter is able to view the new complaints on a computer terminal in the clerk's office and print out copies for a small fee.

San Francisco

At the Superior Court of California for the County of San Francisco, news reporters are allowed behind the counter into the stacks to review unlimited numbers of new filings after providing a driver's license and filling out a temporary name tag. The number of new filings per day varies, but often exceeds 50. Courthouse News views new complaints regardless of whether they have been fully processed. San Francisco Superior has established a written protocol for members of the press. The key provisions are quoted below:

If media personnel want to review files already on the shelves, they can pull these files themselves and return them to the shelves.

All new filings will be held in a Media Box during the day. Between 3:00 and 4:30 each day, this box will be available to the media for viewing in the Records department, whether or not the cases have been entered in the computer. At 4:00 PM, when the office closes to the public, media personnel may ask to view any additional filings that may have come in since 3:00 PM. The Records supervisor or an assigned clerk will retrieve those files for the media to view. Any member of the media viewing new filings must return them to the box for eventual return to the Records supervisor or assigned clerk.

Media personnel may come in anytime before 3:00 PM to view new filings. However, they will only be viewing cases newly filed up until that time.

Copy machine from the second floor Media Room will be moved to Room 103 and located behind the Records department. This machine belongs to Courthouse News Service, but has been made available to all media personnel for their use.

At the San Francisco Division of the United States District Court for the Northern District of California, reporters go behind the counter and review actions filed that same day, regardless of whether the complaints have been fully docketed or posted on PACER. They are also permitted access to the so-called "transfer boxes" of new actions being sent to different divisions of the court, and are provided with a copy of the intake log. Reporters are permitted to make copies of cases they determine to be newsworthy using a portable scanner.

San Jose

At the Santa Clara County Superior Court in San Jose, California, the Court recently implemented new procedures to ensure that reporters receive same-day access to the vast

majority of each day's new civil unlimited jurisdiction complaints. Under those procedures, civil unlimited complaints are made available to Courthouse News' reporter upon receipt of the filing fee, the assignment of a case number, and the assignment of a first status conference date, even though processing of the new complaint is far from over at this juncture. Complaints that are filed over the counter by 3:30 p.m. are made available to Courthouse News' reporter on the same day they are filed. All unlimited jurisdiction complaints that are in the drop box by 4:00 p.m. are also made available to Courthouse News on the same day they are filed. Unlimited jurisdiction complaints that are filed over the counter between 3:30 p.m. and the clerk's office closing at 4:00 p.m. have been designated as a staff priority, and the court endeavors to make them available for review on the same day they are filed. Courthouse News' reporter is permitted to remain at the court until 4:30 p.m., one half-hour after closing, to review late-filed cases. The court makes copies of complaints as requested by the reporter.

At the San Jose Division of the United States District Court for the Northern District of California, clerks print out a list of all new complaints filed earlier that day. Reporters go behind the counter, obtain complaints from individual clerks' desks, report on and scan any newsworthy complaints, and then return the complaints to the clerks' desks.

Seattle

At the King County Superior Court, Courthouse News' reporter is provided with a docket sheet print-out of new cases two times per day – once at 11 a.m. and again at 3 p.m. The 11 a.m. list includes all cases that have been filed from 3 p.m. on the previous day through 11 a.m. on the current day, while the 3 p.m. list includes new cases that have been filed from 11 a.m. to 3 p.m. that day. The reporter reviews each list to find relevant cases, then searches for and views new complaints on a computer terminal at the courthouse. She is able to print out relevant complaints for 15 cents per page.

Tampa

At the Hillsborough County Circuit Court, new complaints that are hand-filed in the main courthouse are made available for review by reporters at the end of the day they are filed. Most complaints are scanned by court staff and made available on the court's public access terminals for review. Those complaints that are not scanned and available on the public access terminals by 4 p.m. are provided in paper form for news reporters, who have until the court closes at 5 p.m. to review those late-filed complaints.

EXHIBIT 3



Superior Court of California

COUNTY OF VENTURA
Hall of Justice
800 South Victoria Avenue
Ventura, CA 93009

Michael D. Planet
*Executive Officer/Clerk
and Jury Commissioner*

July 11, 2011

Rachel Matteo-Boehm
Holme Roberts and Owen LLP
560 Mission Street, 25th Floor
San Francisco, CA 94105

Re: *Media Access to New Complaints*

Dear Ms. Matteo-Boehm:

I am writing in response to your June 20, 2011 letter regarding media access to new complaints at the Ventura Superior Court.

As you have noted, the Court has met and spoken with you and representatives of Courthouse News Service several times over the past couple of years to both explain the Court's serious resource shortages as a result of budget reductions, and steps that could reasonably be taken to make new complaints available to the media. The budget recently signed by the Governor imposes even more drastic reductions to the Courts, which makes it even more difficult to provide same-day access to new filings.

While I appreciate the Courthouse News Services' interest in same-day access, the Court cannot prioritize that access above other priorities and mandates. Further, the Court must ensure the integrity of all filings, including new filings, and cannot make any filings available until the requisite processing is completed. We will continue to make every effort to make new filings available as early as is practicable given the demands on limited court resources.

Sincerely,

A handwritten signature in black ink that reads "Michael D. Planet".

Michael D. Planet
Executive Officer

MDP/vjb

EXHIBIT 4



Holme Roberts & Owen LLP
Attorneys at Law

SAN FRANCISCO

August 2, 2011

BOULDER

Michael Planet
Court Executive Officer
Ventura County Superior Court
800 South Victoria Ave.
Ventura, CA 93009

COLORADO SPRINGS

Re: Media Access to New Complaints

Dear Mr. Planet:

DENVER

On behalf of Courthouse News Service, we write to briefly respond to your assertion, in your July 11, 2011 letter, that budgetary difficulties prevent the Ventura County Superior Court from providing the media with timely, same-day access to newly-filed civil unlimited jurisdiction complaints.

DUBLIN

Respectfully, our experience working with other courts shows that providing prompt media access to new civil complaints – fundamentally, the simple act of letting reporters *see* the new complaints that, because they are newly-filed, are already centrally located in the intake area – need not involve any extra expense or staff time beyond the *de minimis* effort of handing a stack of complaints to a reporter (and even that *de minimis* effort can be eliminated if a credentialed reporter is simply allowed to go behind the counter to pick up the stack, as reporters do at the federal district court in San Francisco, for example).

LONDON

Indeed, it has been our experience that providing prompt access is largely a matter of will on the part of the court and its leaders.

LOS ANGELES

SALT LAKE CITY

For example, at the San Francisco Superior Court and Santa Clara County Superior Court, new filings are placed in a media box, available to news reporters for viewing whether or not those complaints have been fully docketed. In the past, in San Francisco, reporters gathered the complaints from the intake window and put them in the box, actually saving some work for the court. Courthouse News has also observed that the *de minimis* staff effort required to administer this type of “review box” is much less than the substantial effort involved when staff are required to track down fully processed complaints for press review, as is currently the case in Ventura County. State courts in Alameda, Los Angeles and Riverside also provide same day access to the press. All four federal courts in California provide the media with same-day access to new civil complaints without undue expenditures of staff time or expense.

Rachel Matteo-Boehm 415.268.1996 rachel.matteo-boehm@hro.com
560 Mission Street, 25th Floor San Francisco, California 94105-2994 tel 415.268.2000 fax 415.268.1999

#64769 v1 saf

Holme Roberts & Owen LLP
Attorneys at Law

Michael Planet
August 2, 2011
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At bottom, press access only results in increased costs where the court imposes the requirement of complete processing before providing access. But newly filed complaints become public records upon filing, and this status is not contingent on the court having first completed processing. We must therefore respectfully but firmly disagree with your assertion that providing timely access can only be accomplished at a monetary cost to the Court.

Sincerely,



Rachel Matteo-Boehm

cc: The Honorable Vincent O'Neill, Jr., Presiding Judge
Courthouse News Service