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7 Company; Los Angeles Times; Courtroom
Television Network LLC; The Associated Press
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FILED
SUPERIOR COURT of CALIFORNIA
COUNTY OF SANTA BARBARA

JAN 14 2004

GARY M. BLAIR, EXEC. OFFICER
By Alicia Alcocer
ALICIA ALCOCER, Deputy Clerk

10 SUPERIOR COURT, STATE OF CALIFORNIA
11 FOR THE COUNTY OF SANTA BARBARA

12
13 THE PEOPLE OF THE STATE OF
CALIFORNIA,

14 Plaintiff,

15 vs.

16 MICHAEL JOE JACKSON,

17 Defendant.
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Case No.: 1133603

RULE 980 APPLICATION OF NATIONAL BROADCASTING COMPANY, INC.; CBS BROADCASTING INC.; FOX NEWS NETWORK L.L.C.; ABC, INC.; CABLE NEWS NETWORK LP, LLLP; THE NEW YORK TIMES COMPANY; LOS ANGELES TIMES; COURTROOM TELEVISION NETWORK LLC; AND THE ASSOCIATED PRESS TO MODIFY OR TERMINATE THIS COURT'S JAN. 12, 2004 ORDER DENYING TELEVISION OR PHOTOGRAPHIC MEDIA COVERAGE OF ARRAIGNMENT HEARING; DECLARATION OF JULIAN W. POON IN SUPPORT THEREOF

Date: January 16, 2004

Time: 8:30 a.m.

Place: Department SM9,

Judge Rodney S. Melville

[VIA FACSIMILE]

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1 The Access Proponents¹ respectfully request this Court to modify or terminate its January 12,
2 2004 Order denying numerous media organizations' request, pursuant to Rule of Court 980, to
3 photograph, record, or broadcast the arraignment and motions hearing scheduled for this Friday,
4 January 16, 2004, at 8:30 a.m. (hereinafter, the "Jan. 12, 2004 Order," or the "Order"). The Access
5 Proponents request permission from the Court to place one pool television camera (or a cable
6 connection to the TV camera that the Court already plans to have in place to provide for a closed-
7 circuit TV broadcast in the adjacent courtroom) and one pool still photographer in the courtroom to
8 cover the arraignment hearing. Neither the District Attorney nor defense counsel oppose this request,
9 see Declaration of Julian W. Poon ("Poon Decl.") at ¶¶ 2-3, and permitting such access will allow the
10 public to view the proceedings, thus promoting public understanding of and trust in the judicial
11 process.

12 The factors identified in Rule 980 support this application. First, the "[i]mportance of
13 maintaining public trust and confidence in the judicial system" favors permitting media coverage of
14 Friday's arraignment and motions hearing. Rule 980(c)(3)(i). This factor is especially important in
15 this extraordinarily controversial and high-profile case. Both the California and the United States
16 Supreme Court have repeatedly emphasized the important role the media plays by ensuring
17 widespread public access to judicial proceedings and records, which in turn promotes public
18 confidence and trust in our criminal justice system. Such access "demonstrate[s] that justice is meted
19 out fairly, thereby promoting public confidence in such governmental proceedings." *NBC Subsidiary*
20 *(KNBC-TV), Inc. v. Superior Court*, 20 Cal. 4th 1178, 1211 n.28 (1999). "[P]ublic access to the
21 criminal trial fosters an appearance of fairness, thereby heightening public respect for the judicial
22 process." *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 606 (1982). With so much public
23 debate, discussion, and speculation over the felony prosecution of Michael Jackson, it is vital to
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26 ¹ Again, the "Access Proponents" refer to National Broadcasting Company, Inc., CBS
27 Broadcasting Inc; Fox News Network L.L.C.; ABC, Inc.; Cable News Network LP, LLLP; The
28 New York Times Company; *Los Angeles Times*; Courtroom Television Network LLC; and The
Associated Press.

1 public understanding of and confidence in the judicial system to see first-hand the solemn official
2 commencement of formal proceedings before this Court during which Mr. Jackson will enter his plea.

3 Second, the “[i]mportance of promoting public access to the judicial system” strongly favors
4 media coverage of the arraignment and motions hearing. Rule 980(e)(3)(ii). As the California
5 Supreme Court has explained, “[a] trial is a public event’ and . . . ‘[w]hat transpires in the court
6 room is public property.’” *NBC Subsidiary*, 20 Cal. 4th at 1197-98 (quoting *Craig v. Harney*, 331
7 U.S. 367, 374 (1947)); see also *id.* at 1211 (“a trial court is a public governmental institution”).
8 Thus, “traditional Anglo-American jurisprudence distrusts secrecy in judicial proceedings and favors
9 a policy of *maximum public access* to proceedings and records of judicial tribunals.” *Id.* at 1211 n.28
10 (citation omitted) (emphasis added). Such access “provide[s] a means by which citizens scrutinize
11 and check the use and possible abuse of judicial power; and . . . enhance[s] the truthfinding function
12 of the proceeding.” *Id.* at 1219 (citation omitted).

13 Public scrutiny of a criminal trial enhances the quality and safeguards the integrity of
14 the factfinding process, with benefits to both the defendant and to society as a
15 whole. . . . And in the broadest terms, public access to criminal trials permits the
16 public to participate in and serve as a check upon the judicial process—an essential
17 component in our structure of self-government.

18 *Globe Newspaper*, 457 U.S. at 606. No matter how accurate the non-electronic reporting is, there
19 simply is no substitute for a contemporaneous live broadcast. Only the latter, after all, can show the
20 public exactly what transpires in the courtroom. “[T]he availability of a trial transcript is no
21 substitute for a public presence at the trial itself. As any experienced appellate judge can attest, the
22 ‘cold’ record is a very imperfect reproduction of events that transpire in the courtroom.” *Richmond*
23 *Newspapers, Inc. v. Virginia*, 448 U.S. 555, 597 n.22 (1980) (Brennan, J. concurring). No surer
24 method exists than live courtroom broadcasts to enable “people not actually attending trials [to] have
25 confidence that standards of fairness are being observed . . . and established procedures are being
26 followed.” *Press-Enterprise Co. v. Superior Court*, 478 U.S. 1, 13 (1986). This is particularly true
27 because nowadays “people . . . acquire . . . information about trials . . . chiefly through the print and
28 electronic media.” *Richmond Newspapers*, 448 U.S. at 573. Still photographs also provide members

1 of the public with a direct glimpse inside the courtroom even when they cannot attend in person, and
2 thus foster the important values of openness and access to judicial proceedings.

3 Third, the “[p]arties’ support of or opposition to the request” for media coverage decidedly
4 favors media coverage of Friday’s proceedings. Rule 980(e)(3)(iii). Here, neither the People nor
5 Defendant Jackson, represented by their respective counsel, oppose the media’s request to cover the
6 arraignment and motions hearing. See Poon Decl. at ¶¶ 2-3.

7 Fourth, the “[n]ature of the case” favors permitting media coverage because such coverage is
8 most useful and needed in high-profile cases such as these that have generated enormous and intense
9 public interest and scrutiny. Rule 980(e)(3)(iv). The arraignment and the motions hearing could not
10 possibly give rise to issues such as privacy and the effect on alleged victims or potential witnesses
11 who are minors.² No substantive evidence or testimony will be presented or taken when Defendant
12 Jackson enters his pleas as to each of the charges that will be read to him.³

13 Fifth, the last five factors set forth in Rule 980(e)(3) weigh heavily in favor of permitting
14 television or photographic media coverage of this Friday’s proceedings. These factors deal with the
15 “[s]ecurity and dignity of the court,” “[u]ndue administrative or financial burden[s] to the court or
16 participants,” “[i]nterference with neighboring courtrooms,” “[m]aintaining orderly conduct of the
17 proceeding,” and “[a]ny other factor the judge deems relevant.” Rule 980(e)(3)(xv)-(xix). The
18 Access Proponents recognize and appreciate the significant burdens that this type of case imposes

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20 ² The fifth and sixth factors delineated by Rule 980 are the “[p]rivacy rights of all participants in
21 the proceeding, including witnesses, jurors, and victims” and the “[e]ffect on any minor who is a
22 party, prospective witness, victim, or other participant in the proceeding.” Rule 980(e)(3)(v) and
(vi).

23 ³ The nature of the arraignment also makes factors 7 through 14 of Rule 980(e)(3) weigh in favor
24 of the Access Proponents’ request. Those factors deal, for example, with the effect of media
25 coverage on “the parties’ ability to select a fair and unbiased jury,” “on any ongoing law
26 enforcement activity in the case,” “on any unresolved identification issues,” “on any subsequent
27 proceedings in the case,” “on the willingness of witnesses to cooperate, including the risk that
28 coverage will engender threats to the health or safety of any witness,” “on excluded witnesses
who would have access to the televised testimony of prior witnesses,” “on excluded witnesses
who would have access to the televised testimony of prior witnesses,” and the “[s]cope of the
coverage and whether partial coverage might unfairly influence or distract the jury.” Rule
980(e)(3)(vii)-(xiv). Televising the arraignment will not adversely affect any of these concerns;
thus, these factors are at worst neutral and at best favor granting the application.

1 upon the Court and its staff, but respectfully submit that modification of the Court's Rule 980 order
2 will, if anything, reduce these burdens. Allowing the Access Proponents to connect an additional
3 cable to the TV camera that the Court already plans to have in place on Friday morning to provide for
4 a simultaneous closed-circuit TV broadcast of the proceedings in the adjacent courtroom, or at least
5 permitting a pool photographer to take a few still photographs under the Court's supervision, would
6 ease the pressure and intensity of people seeking to enter the courtroom on Friday morning.⁴

7 Thousands of citizens have indicated their intent to attend the arraignment hearing in support of Mr.
8 Jackson, and even opening an additional courtroom or courtrooms for a closed-circuit broadcast will
9 not allow access to all those who are likely to seek it. Allowing television coverage will relieve the
10 potential pressure that may arise as a result, will be conducive to the Court's "[s]ecurity and dignity,"
11 and will reduce the "administrative or financial burden[s] to the court," as well as "[i]nterference with
12 neighboring courtrooms." Rule 980(e)(3)(xv)(xvii). Lastly, it would aid the Court in "[m]aintaining
13 orderly conduct of the proceeding." Rule 980(e)(3)(xviii).⁵

14 For these reasons, the Access Proponents respectfully submit that this Court should modify or
15 terminate its Jan. 12, 2004 Order denying television and photographic media coverage of the
16 arraignment and motions hearing scheduled for this Friday morning.

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22 ⁴ Doing so would not be disruptive of the proceedings in the least. Even if the Court is not inclined
23 to permit the Access Proponents to connect a single additional cable to the Court's closed-circuit
24 TV camera, a single "pool" stationary TV camera would not produce any noise nor require any
25 additional lighting. The still photography alternative would also be quiet and unobtrusive, as the
26 still camera could be placed in a boot.

27 ⁵ Applying all of the Rule 980 factors, then, this Court should permit television or photographic
28 coverage of Friday's arraignment hearing. As the Court of Appeal explained in *KFMB-TV
Channel 8 v. Municipal Court*, "Rule 980 recognizes that media access should be granted except
where to do so will interfere with the rights of the parties, diminish the dignity of the court, or
impede the orderly conduct of the proceedings." 221 Cal. App. 3d 1362, 1368-69 (1990). Here,
the parties have indicated that they do not oppose media coverage, and such coverage here would
actually promote the orderly conduct of the proceedings and the dignity of the court.

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DATED: January 14, 2004

Respectfully submitted,

GIBSON, DUNN & CRUTCHER LLP
Theodore J. Boutros, Jr.
Julian W. Poon

By: Theodore Boutros Jr
Theodore J. Boutros, Jr

Attorneys for National Broadcasting Company, Inc.;
CBS Broadcasting Inc.; Fox News Network L.L.C.;
ABC, Inc.; Cable News Network LP, LLLP; The New
York Times Company; *Los Angeles Times*; Courtroom
Television Network LLC; The Associated Press

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1 **DECLARATION OF JULIAN W. POON**

2 I, Julian W. Poon, declare as follows:

3 1. I am an associate with Gibson, Dunn & Crutcher LLP, which has been retained by
4 movants National Broadcasting Company, Inc.; CBS Broadcasting Inc.; Fox News Network L.L.C.;
5 ABC, Inc.; Cable News Network LP, LLLP; The New York Times Company; *Los Angeles Times*;
6 Courtroom Television Network LLC; The Associated Press ("the Access Proponents"). I make this
7 declaration in support of the Access Proponents' Application to Modify or Terminate This Court's
8 January 12, 2004 Order Denying Media Coverage of the Arraignment. I have personal knowledge of
9 the facts stated in this declaration, unless the context indicates otherwise, and, if called as a witness,
10 could and would testify competently thereto.

11 2. On January 12, 2004, I spoke with Matthew Geragos, one of Defendant Jackson's
12 attorneys in this case. Mr. Geragos informed me that his client had not opposed the initial Rule 980
13 request for media coverage of the arraignment, and had no present intention to oppose any renewed
14 request therefor.

15 3. On January 13, 2004, I was informed by Senior Deputy District Attorney Gerald McC,
16 Franklin of the Santa Barbara County District Attorney's Office that the District Attorney had not
17 opposed the initial Rule 980 request for media coverage of the arraignment, and had no present
18 intention to oppose any renewed request therefor.

19 I declare under penalty of perjury, under the laws of the State of California, that the foregoing
20 is true and correct and was executed by me at Los Angeles, California, on January 14, 2004.

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23 _____
24 Julian W. Poon

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CERTIFICATE OF SERVICE

MAIL, COMMERCIAL OVERNIGHT MESSENGER, FAX, HAND DELIVERY

I, Lindie S. Joy, hereby certify as follows:

I am employed in the County of Los Angeles, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 333 South Grand Avenue, Los Angeles, California 90071, in said County and State; I am employed in the office of Julian W. Poon, a member of the bar of this Court, and at his/her direction, on January 14, 2004, I served the following:

RULE 980 APPLICATION OF NATIONAL BROADCASTING COMPANY, INC.; CBS BROADCASTING INC.; FOX NEWS NETWORK L.L.C.; ABC, INC.; CABLE NEWS NETWORK LP, LLLP; THE NEW YORK TIMES COMPANY; LOS ANGELES TIMES; COURTROOM TELEVISION NETWORK LLC; AND THE ASSOCIATED PRESS TO MODIFY OR TERMINATE THIS COURT'S JAN. 12, 2004 ORDER DENYING TELEVISION OR PHOTOGRAPHIC MEDIA COVERAGE OF ARRAIGNMENT HEARING; DECLARATION OF JULIAN W. POON IN SUPPORT THEREOF

on the interested parties in this action, by:

Service by Mail: placing true and correct copy(ies) thereof in an envelope addressed to the attorney(s) of record, addressed as follows:

Gerald McC. Franklin
Senior Deputy District Attorney
Santa Barbara County
1105 Santa Barbara Street
Santa Barbara, CA 93101-2007

Matthew Geragos
Geragos & Geragos
350 S. Grand Avenue, Suite 3900
Los Angeles, CA 90071-3480

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business.

Service by Commercial Overnight Messenger: placing true and correct copy(ies) thereof in an envelope addressed to the attorney(s) of record, addressed as follows:

and after sealing said envelope I caused same to be delivered to the aforementioned attorney(s) by qualified commercial overnight messenger.

1 **Service by Fax:** causing a true copy thereof to be sent via facsimile to the attorney(s) of
2 record at the telecopier number(s) so indicated, addressed as follows:

3 **Attorney Name & Address**

Fax and Callback Number

4 Gerald McC. Franklin
5 Senior Deputy District Attorney
6 Santa Barbara County
7 1105 Santa Barbara Street
8 Santa Barbara, CA 93101-2007

Facsimile: (805) 568-2398
Telephone: (805) 568-2306

8 Matthew Geragos
9 Geragos & Geragos
350 S. Grand Avenue, Suite 3900
Los Angeles, CA 90071-3480

Facsimile: (213) 625-1600
Telephone: (213) 625-3900

10 and that the transmission was reported as completed and without error.

11 **Service by Hand Delivery:** delivering true and correct copy(ies) thereof and sufficient
12 envelope(s) addressed to the attorney(s) of record, addressed as follows:

13
14 to a messenger or messengers for personal delivery.

15 I certify under penalty of perjury that the foregoing is true and correct, that the foregoing
16 document(s), and all copies made from same, were printed on recycled paper, and that this Certificate
17 of Service was executed by me on January 14, 2004 at Los Angeles, California.

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Lindie S. Joy

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