

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

JAN 20 2004

GARY M. BLAIR, Executive Officer
BY *Carrie L. Wagner*
CARRIE L. WAGNER, Deputy Clerk

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County of Santa Barbara
2 By: RONALD J. ZONEN (State Bar No. 85094)
Senior Deputy District Attorney
3 GERALD McC. FRANKLIN (State Bar No. 40171)
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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **FOR THE COUNTY OF SANTA BARBARA**
9 **SANTA MARIA DIVISION**

11 THE PEOPLE OF THE STATE OF CALIFORNIA,)
12 Plaintiff,)
13 v.)
14 MICHAEL JOE JACKSON,)
15 Defendant.)

No. 1133603

PLAINTIFF'S REQUEST
THAT REQUEST FOR ORDER
DIRECTING THE SHERIFF TO
LODGE CERTAIN ITEMS OF
PROPERTY WITH THE COURT
BE FILED UNDER SEAL;
DECLARATION OF GERALD
McC. FRANKLIN; ORDER
THEREON

18 Plaintiff respectfully requests that its earlier submitted REQUEST FOR ORDER
19 DIRECTING SHERIFF TO LODGE CERTAIN ITEMS OF PROPERTY SEIZED IN
20 OBEDIENCE TO WARRANT FOR SEARCH OF BRADLEY MILLER'S OFFICE be filed
21 **under seal** to ensure that matters disclosed by Exhibit "A" to that Request not become open to
22 the public until further order of court.

23 This request is made at the suggestion of Daniel Nixon, Esq., counsel for Bradley
24 Miller.

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1 DATED: January 20, 2004

2 Respectfully submitted,

3 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY
4 County of Santa Barbara

5 By: *Gerald McC. Franklin*
6 Gerald McC. Franklin, Senior Deputy

7 Attorneys for Plaintiff

1 DECLARATION OF GERALD McC. FRANKLIN

2 I, Gerald McC. Franklin, say:

3 I am a lawyer admitted to practice in the State of California. I am a deputy of the
4 District Attorney of Santa Barbara County, and I am co-counsel with the District Attorney in
5 the prosecution of this matter.

6 Certain property was seized in the name of the People of the State of California on
7 November 18, 2003 from the office of Bradley Miller at 211 South Beverly Drive, Suite 108,
8 Beverly Hills, California in obedience to search warrant bearing number SW 8844686. At the
9 time of the search of Mr. Miller's office, Daniel Nixon, an attorney, orally asserted the
10 "lawyer-client" and "work-product" privileges as to the property in that office. The above-
11 described property is presently in the custody of the Sheriff of Santa Barbara County and it has
12 not been examined by investigating officers.

13 On Friday, January 16, 2004, following defendant's arraignment and the
14 calendaring of further hearings on February 13, 2004, I submitted "PLAINTIFF'S REQUEST
15 FOR ORDER DIRECTING THE SHERIFF TO LODGE CERTAIN ITEMS OF PROPERTY
16 SEIZED IN OBEDIENCE TO WARRANT FOR SEARCH OF BRADLEY MILLER'S
17 OFFICE" and a proposed "ORDER THEREON" to the clerk of the court for the court's review
18 and approval on Tuesday, January 20, 2004. Attached as an exhibit to the Request is a copy of
19 one page of the Sheriff's Department's "Santa Barbara County Property Form" in Sheriff's
20 Case No. 03-5670 that I redacted at the suggestion of *****. I served a copy of that Request
21 on counsel for Defendant and Mr. Miller by facsimile transmission.

22 Late Friday afternoon my office received a facsimile copy of a letter to me from
23 Daniel Nixon, Mr. Miller's counsel, expressing his concern that the redacted version of the
24 property form was insufficiently redacted to avoid disclosure of information such as the
25 complainant's name and a description of where certain property was located in Mr. Miller's
26 office. He earnestly suggested that "a better job of redacting the property form is needed."

27 In a telephone conversation with Mr. Geragos on Saturday, he suggested that
28 Plaintiff's Request, together with its exhibit, be filed under seal.

1 This followup request is intended to accomplish the sealing of Plaintiff's Request
2 and its attachment.

3 I declare that the foregoing is true. I execute this Declaration under penalty of
4 perjury at Santa Barbara, California on January 20, 2004.

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7 Gerald McC. Franklin

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ORDER

The Court has read and considered Plaintiff's Request for Sealing of its REQUEST FOR ORDER DIRECTING THE SHERIFF TO LODGE CERTAIN ITEMS OF PROPERTY SEIZED IN OBEDIENCE TO WARRANT FOR SEARCH OF BRADLEY MILLER'S OFFICE and the supporting Declaration of Gerald McC. Franklin.

The Court expressly finds that:

1. There exists an overriding interest in the parties' right to a fair trial that overcomes the right of public access to the records concerning the searches made of the defendant's property and the property of individuals employed by him;

2. Certain property may be subject to a claim of lawyer-client privilege or the work product privilege, and if it is found to be privileged, disclosure of its contents to the public will be prohibited;

3. The overriding interest supports sealing the record;

4. A reasonable probability exists that the overriding interest will be prejudiced if the documents in question are not sealed;

5. The proposed sealing is narrowly tailored; and

6. No less restrictive means exist to achieve the overriding interest.

It is therefore ordered that the Clerk of the Court of the Santa Barbara County Superior Court seal the said REQUEST FOR ORDER and its attached exhibit and that the document be kept in the custody of the Superior Court Clerk's Office and not be made part of the public record until further order of the Court.

DATED: January 20, 2004

To be considered on Febr. 13, 2004

Rodney S. Melville
Judge of the Superior Court

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF SANTA BARBARA

} SS

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years and I am not a party to the within-entitled action. My business address is: District Attorney's Office; Courthouse; 1105 Santa Barbara Street, Santa Barbara, California 93101.

On January 20, 2004, I served the within PLAINTIFF'S REQUEST THAT REQUEST FOR ORDER DIRECTING SHERIFF TO LODGE CERTAIN PROPERTY WITH COURT on Defendant, by MARK JOHN GERAGOS, his counsel in this action, and on BRADLEY MILLER, by his counsel, DANIEL V. NIXON, by faxing a true copy to each of them at the facsimile number shown below the addresses on the attached Service List, and then by causing the Santa Barbara County Mailing Center to mail two true copies thereof to counsel at those addresses, by first class mail, postage fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Santa Barbara, California on this 20th day of January, 2004.

Gerald McC. Franklin
Gerald McC. Franklin

SERVICE LIST

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