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**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA

JAN 25 2005

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

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF SANTA BARBARA  
10 SANTA MARIA DIVISION

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12  
13 THE PEOPLE OF THE STATE OF CALIFORNIA,  
14 Plaintiff,  
15 v.  
16 MICHAEL JOE JACKSON,  
17 Defendant.  
18  
19  
20  
21

No. 1133603  
PLAINTIFF'S NOTICE OF  
MOTION AND MOTION  
FOR REVIEW OF COURT  
TO DETERMINE IF  
SEALING OF PLAINTIFF'S  
REPLY TO DEFENDANT'S  
OPPOSITION RE: MOTION  
TO CLOSE THE  
COURTROOM PURSUANT  
TO PENAL CODE §859.1 IS  
APPROPRIATE

Date: January 28, 2005  
Time: 9:30 a.m.  
Dept.: SM2 (Melville)

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23  
24 TO: MICHAEL JOE JACKSON, AND TO THOMAS A. MESEREAU, JR.,  
25 ROBERT SANGER AND BRIAN OXMAN, HIS ATTORNEYS OF RECORD, AND TO  
THEODORE J. BOUTROUS, JR., ESQ., GIBSON, DUNN & CRUTCHER, LLP:

PLEASE TAKE NOTICE that on January 28, 2005, at 9:30 a.m. or as soon

PLAINTIFF'S REQUEST THAT COURT DETERMINE APPROPRIATENESS OF SEALING MOTION FOR CLOSED COURTROOM

RECEIVED  
05 JAN 25 PM 2:15  
SUPERIOR COURT  
SANTA BARBARA COUNTY  
MELVILLE DIVISION


1 thereafter as the matter may be heard, in the Department to be assigned. Plaintiff will, and  
2 hereby does, request the Court to review PLAINTIFF'S REPLY TO DEFENDANT'S  
3 OPPOSITION RE: MOTION TO CLOSE THE COURTROOM PURSUANT TO PENAL  
4 CODE §859.1, filed contemporaneously with this Motion, to determine for itself whether an  
5 order directing that the PLAINTIFF'S REPLY TO DEFENDANT'S OPPOSITION RE:  
6 MOTION TO CLOSE THE COURTROOM PURSUANT TO PENAL CODE §859.1  
7 is an appropriate document for sealing., and that the Motion be maintained under conditional  
8 seal until further order of court, pursuant to California Rules of Court, rule 243.1 et seq.

9  
10 The motion will be made on the ground that the facts, as established by the  
11 accompanying declaration of Gordon Auchincloss, may not be sufficient to justify sealing the  
12 specified motion pursuant to California Rules of Court, rule 243.1 et seq.

13 The motion will be based on this notice of motion, on the declaration of Gordon  
14 Auchincloss and the memorandum of points and authorities served and filed herewith, on the  
15 records and the file herein, and on such evidence as may be presented at the hearing of the  
16 motion.

17 DATED: January 25, 2005

18 THOMAS W. SNEDDON, JR.  
19 District Attorney

20 By:   
21 Gordon Auchincloss, Senior Deputy  
22 Attorney for Plaintiff



MEMORANDUM OF POINTS AND AUTHORITIES

The procedure for sealing records under California Rules of Court, rule 243.1 et seq. applies only to records that are deemed public. (*Id.*, rule 243.1(2)(2).) Motions and responsive pleadings in criminal cases are, ordinarily, “public” records of the court.

Rule 243.1(d) provides that

The court may order that a record be filed under seal only if it expressly finds facts that establish:

(1) There exists an overriding interest that overcomes the right of public access to the record;

(2) The overriding interest supports sealing the record;

(3) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed;

(4) The proposed sealing is narrowly tailored; and

(5) No less restrictive means exist to achieve the overriding interest.

Rule 243.1(e) provides, in pertinent part:

(1) An order sealing the record must (i) specifically set forth the facts findings that support the findings and (ii) direct the sealing of only those documents and pages, or, if reasonably practicable, portions of those documents and pages, that contain the material that needs to be placed under seal. All other portions of each documents or page must be included in the public file.

Rule 243.2(b) provides, in pertinent part, that “Pending the determination of the motion [of a party to file a record under seal], the lodged record will be conditionally under seal.”

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1 DATED: January 25, 2005

2 Respectfully submitted,

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

5 By:



6 Gordon Auchincloss, Senior Deputy

7 Attorneys for Plaintiff





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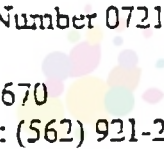
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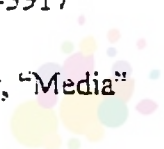
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