THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY County of Santa Barbara FEB - 9 COL By: RONALD J. ZONEN (State Bar No. 85094) 2 Senior Deputy District Attorney GARY M. BLATE, Ex curry Officer

(ACCUMANTE OF CAME AND COMMENTAL J. GORDON AUCHINCLOSS (State Bar No. 150251) 3 Senior Deputy District Attorney ARRIEL, WARDNER, Bugarty Clerk GERALD McC. FRANKLIN (State Bar No. 40171) 4 Schior Deputy District Attorney 1112 Santa Barbara Street 5 Santa Barbara, CA 93101 Telephone: (805) 568-2300 FAX: (805) 568-2398 6 7 SUPERIOR COURT OF THE STATE OF CALIFORNIA 8 FOR THE COUNTY OF SANTA BARBARA 9 SANTA MARIA DIVISION 10 11 THE PEOPLE OF THE STATE OF CALIFORNIA. No. 1133603 12 Plaintiff. PLAINTIFF'S NOTICE OF 13 MOTION FOR ORDER THAT PLAINTIFF'S REPLY TO MOTION TO LIMIT INTRODUCTION OF 14 EVIDENCE OF PRIOR 15 LITIGATION INVOLVING THE DOE FAMILY BE MAINTAINED 16 UNDER CONDITIONAL SEAL; DECLARATION OF GERALD 17 MICHAEL JOE JACKSON McC. FRANKLIN IN SUPPORT TI-IEREOF: MEMORANDUM 18 OF POINTS AND AUTHORITIES Defendant. 19 DATE: TBA TIME: 8:30 a.m. 20 DEPT: TBA (Melville) 21 22 TO: MICHAEL JOE JACKSON, AND TO THOMAS A. MESEREAU, JR., 33 ROBERT SANGER AND BRIAN OXMAN, HIS ATTORNEYS OF RECORD, AND TO 24 THEODORE J. BOUTROUS, JR., ESQ., GIBSON, DUNN & CRUTCHER, LLP: 25 PLEASE TAKE NOTICE that on the date next fixed for the hearing of motions, at 26 8:30 a.m. or as soon thereafter as the matter may be heard, in the Department to be assigned, 27 Plaintiff will, and hereby does, move for an order directing that Plaintiff's Reply to Motion to 28

PLAINTIFF'S MOTION FOR ORDER SEALING REPLY TO OPPOSITION RE PRIOR LITIGATION

02/09 '05 14:40

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Limit Introduction of Evidence Involving The Doe Family, filed contemporaneously with this Request for Conditional Sealing, be maintained under conditional seal until further order of court, pursuant to California Rules of Court, rule 243.1 et seq.

The motion will be made on the ground that the facts, as established by the accompanying declaration of Gerald McC. Franklin, are sufficient to justify sealing the Reply pursuant to California Rules of Court, rule 243.1 et seq.

The motion to conditionally seal will be based on this notice of motion, on the declaration of Gerald McC. Franklin and the memorandum of points and authorities served and filed herewith, on the records and the file herein, and on such evidence as may be presented at the hearing of the motion.

DATED: February 8, 2005

THOMAS W. SNEDDON, JR.

District Attorney

Gerald McC. Franklin. Senior Deputy

Attorneys for Plaintiff

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Deputy of the District Attorney of Santa Barbara County. I am one of the lawyers of record for

1. I am a lawver admitted to practice in the State of California. I am a Senior

I, Gerald McC. Franklin, say:

the People, Plaintiff in this action.

 2. Plaintiff's Reply to Motion to Limit Introduction of Evidence Involving The Doc Family, filed contemporaneously with this Motion to Conditionally Scal, is made on the ground that Plaintiff's Reply to Motion to Limit Introduction of Evidence Involving The Doc

Family makes reference to evidentiary facts not yet made public, and to the names of potential witnesses.

- 3. I believe that the interest of each party to a fair trial dictates that Plaintiff's Reply to Motion to Limit Introduction of Evidence Involving The Doe Family should remain under conditional seal until the appropriateness of scaling the document and the release of a redacted version of the Reply is determined by the Court.
- 4. I believe an order maintaining Plaintiff's Reply to Motion to Limit Introduction of Evidence Involving The Doc Family under seal in the interim would avert the probability of prejudice, and that no more narrowly tailored order with respect to that pleading could be drafted to achieve the overriding interest in a fair trial.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct, except as to matters stated upon my information and belief, and as to such matters I believe it to be true. I execute this declaration at Santa Barbara, California on February 8, 2005.

Gerald McC. Franklin

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MEMORANDUM OF POINTS AND AUTHORITIES

The procedure for sealing records under California Rules of Court, rule 243.1 et seg. applies only to records that are decined public. (Id., rule 243.1(a)(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 scaling 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(c) provides, in pertinent part:

(1) An order scaling the record must (i) specifically set forth the facts findings that support the findings and (ii) direct the scaling 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 scal."

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DATED: February 8, 2005 Respectfully submitted. THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY County of Banta Barbara McC. Franklin, Senior Deputy б Attorneys for Plaintiff S mjfacts.com

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STATE OF CALIFORNIA
COUNTY OF SANTA BARBARA
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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; 1112 Santa Barbara Street, Santa Barbara, California 93101.

On February 8, 2005, I screed the within PLAINTIFF'S REQUEST THAT PLAINTIFF'S REPLY TO MOTION TO LIMIT INTRODUCTION OF EVIDENCE INVOLVING THE DOE FAMILY BE MAINTAINED UNDER SEAL on Media's counsel and on Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER and BRIAN OXMAN, by transmitting a true copy thereof on defendant's counsel by fax at the confidential fax number in Santa Maria and to Media's counsel at the facsimile number shown with the address for counsel on the attached Service List.

I declare under penalty of perjury that the foregoing is true and correct. Executed at Santa Barbara, California on this 8th day of February, 2005.

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Gerald McC. Franklin

PLAINTIFF'S MOTION FOR ORDER SEALING REPLY TO OPPOSITION RE PRIOR LITIGATION

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SERVICE LIST

2 GIBSON, DUNN & CRUTCHER, LLP Theodore J. Boutrous, Jr., Esq. 3 William E. Thomson, Esq. Julian Poon, Esq. 333 S. Grand Avenue 4 Los Angeles, CA 90071-3197 5 FAX: (213) 229-6758 Attorneys for (collectively) "Media" 6 7 THOMAS A. MESEREAU, JR. Collins, Mesereau, Reddock & Yu, LLP 1875 Century Park East, No. 700 8 Los Angeles. CA 90067 9 FAX: [SANTA MARIA - CONFIDENTIAL] 10 Attorney for Defendant Michael Jackson 11 12 ROBERT SANGER, ESQ. Sanger & Swysen, Lawyers 13 233 E. Carrillo Street, Suite C Santa Barbara, CA 93001 14 FAX: (805) 963-7311 Co-counsel for Defendant 15 16 BRIAN OXMAN. ESQ. Oxman & Jaroscak, Lawyers 17 · 14126 E. Rosccrans Blvd.. Santa Fc Springs, CA 90670 18 Co-counsel for Defendant 19 20 21 22 23 24 25 26 27 28 PLAINTIFF'S MOTION FOR ORDER SEALING REPLY TO OPPOSITION RE PRIOR LITICATION

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