

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

2 By: RONALD J. ZONEN (State Bar No. 85094)
Senior Deputy District Attorney

3 J. GORDON AUCHINCLOSS (State Bar No. 150251)
Senior Deputy District Attorney

4 GERALD McC. FRANKLIN (State Bar No. 40171)
Senior Deputy District Attorney

5 1105 Santa Barbara Street
Santa Barbara, CA 93101
6 Telephone: (805) 568-2300
7 FAX: (805) 568-2398

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

JUL 23 2004

GARY M. BLAIR, Executive Officer
CARRIE L. WAGNER, Deputy Clerk

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

12 THE PEOPLE OF THE STATE OF CALIFORNIA,

13 Plaintiff,

14 v.

16 MICHAEL JOE JACKSON,

17 Defendant.

No. 1133603

PLAINTIFF'S NOTICE OF
MOTION FOR ORDER
DIRECTING THAT PLAINTIFF'S
MOTION TO QUASH CERTAIN
SUBPOENAS, FILED JULY 23,
2004 UNDER SEAL, BE
MAINTAINED UNDER SEAL
UNTIL FURTHER ORDER OF
COURT; DECLARATION OF
GERALD McC. FRANKLIN IN
SUPPORT OF SEALING;
MEMORANDUM OF POINTS
AND AUTHORITIES

~~UNDER SEAL~~

DATE: July 27, 2004
TIME: 8:30 a.m.
DEPT: TBA (Melville)

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

28 PLEASE TAKE NOTICE that on July 27, 2004, at 8:30 a.m. or as soon thereafter as


1 the matter may be heard, in Department SM 2, Plaintiff will, and hereby does, move for an
2 order directing that Plaintiff's Motion to Quash certain subpoenas, filed July 23, 2004 under
3 seal and contemporaneously with this Request for Conditional Sealing, be maintained under
4 conditional seal until further order of court, pursuant to California Rules of Court, rule 243.1 et
5 seq.

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

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

13 DATED: July 23, 2004

14 THOMAS W. SNEDDON, JR.
15 District Attorney

16 By: 
17 Gerald McC. Franklin, Senior Deputy

18 Attorneys for Plaintiff

1 DECLARATION OF GERALD McC. FRANKLIN

2 I, Gerald McC. Franklin, say:

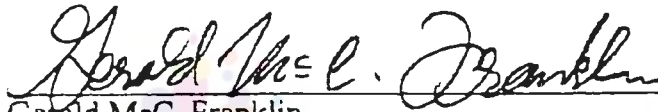
3 1. I am a lawyer admitted to practice in the State of California. I am a Senior
4 Deputy of the District Attorney of Santa Barbara County. I am one of the lawyers of record for
5 the People, Plaintiff in this action.

6 2. This motion to conditionally seal the contemporaneously-filed Plaintiff's motion
7 to quash certain subpoenas is made on the ground that the pending motion makes reference to
8 matters not yet made public, including the names of certain witnesses, their addresses, and
9 facts that would tend to identify them. It also makes arguments concerning the legal and
10 factual merits of other motions which are currently under seal, in whole or in part.

11 3. I believe that the interest of each party to a fair trial overrides the public's prompt
12 access to Plaintiff's motion to quash subpoenas until the appropriateness of the release of a
13 redacted version of the motion is determined by the court.

14 4. I believe an order maintaining this motion under seal in the interim would avert
15 the probability of prejudice, and that no more narrowly tailored order with respect to that
16 pleading could be drafted to achieve the overriding interest in a fair trial.

17 I declare under penalty of perjury under the laws of California that the foregoing is
18 true and correct, except as to matters stated upon my information and belief, and as to such
19 matters I believe it to be true. I execute this declaration at Santa Barbara, California on July 23,
20 2004.

21 
22 Gerald McC. Franklin

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(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 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.”

////

////

////

////

////



mjfacts.com

mjfacts.com

mjfacts.com

DATED: July 23, 2004

Respectfully submitted,

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

By: Gerald McC. Franklin

Gerald McC. Franklin, Senior Deputy

Attorneys for Plaintiff

mjfacts.com

mjfacts.com



mjfacts.com

mjfacts.com

mjfacts.com



mjfacts.com

mjfacts.com



mjfacts.com

mjfacts.com

mjfacts.com



mjfacts.com

mjfacts.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



mjfacts.com

mjfacts.com

mjfacts.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

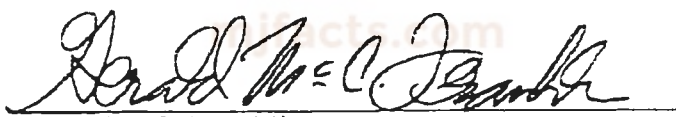
STATE OF CALIFORNIA
COUNTY OF SANTA BARBARA } SS

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 July 23, 2004, I served the within PLAINTIFF'S NOTICE OF MOTION FOR ORDER DIRECTING THAT PLAINTIFF'S MOTION TO QUASH CERTAIN SUBPOENAS, ETC. on Media's counsel and on Defendant, by THOMAS A. MESEREAU, JR., STEVE COCHRAN, ROBERT SANGER and BRIAN OXMAN, by faxing a true copy to counsel at the facsimile number shown with the address of each on the attached Service List, and then by causing to be mailed a true copy to each counsel at that address.

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

Executed at Santa Barbara, California on this 23rd day of July, 2004.


Gerald McC. Franklin

mjfacts.com

mjfacts.com

mjfacts.com

SERVICE LIST

1 GIBSON, DUNN & CRUTCHER, LLP
2 Theodore J. Boutrous, Jr., Esq.
3 William E. Thomson, Esq.
4 Julian Poon, Esq.
5 333 S. Grand Avenue
6 Los Angeles, CA 90071-3197
7 Attorneys for (collectively) "Media"

8 THOMAS A. MESEREAU, JR.
9 Collins, Mesereau, Reddock & Yu, LLP
10 1875 Century Park East, No. 700
11 Los Angeles, CA 90067
12 FAX: [CONFIDENTIAL]

13 Attorney for Defendant Michael Jackson

14 STEVE COCHRAN, ESQ.
15 Katten, Muchin, Zavis & Rosenman, Lawyers
16 2029 Century Park East, Suite 2600
17 Los Angeles, CA 90067-3012
18 FAX: (310) 712-8455
19 Co-counsel for Defendant

20 ROBERT SANGER, ESQ.
21 Sanger & Swysen, Lawyers
22 233 E. Carrillo Street, Suite C
23 Santa Barbara, CA 93001
24 FAX: (805) 963-7311
25 Co-counsel for Defendant

26 BRIAN OXMAN, ESQ.
27 Oxman & Jaroscak, Lawyers
28 14126 E. Rosecrans Blvd.,
Santa Fe Springs, CA 90670
FAX: (562) 921-2298

Co-counsel for Defendant