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County of Santa Barbara
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Senior Deputy District Attorney
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FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

OCT 01 2004

GARY M. BLAIR, Executive Officer
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

11 THE PEOPLE OF THE STATE OF CALIFORNIA,)

No. 1133603

12 Plaintiff,)

13 v.)

14 MICHAEL JOE JACKSON,)

15 Defendant.)

16 PLAINTIFF'S NOTICE OF
17 MOTION AND MOTION FOR
18 ORDER SEALING PLAINTIFF'S
19 *SANCHEZ* MOTION FOR ORDER
20 DIRECTING DEFENDANT TO
21 LODGE INCULPATORY
22 EVIDENCE WITH COURT;
23 DECLARATION OF GERALD
24 McC. FRANKLIN;
25 MEMORANDUM OF POINTS
26 AND AUTHORITIES

27 DATE: October 14, 2004
28 TIME: 8:30 a.m.
DEPT: TBA (Melville)

UNDER SEAL

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

26 PLEASE TAKE NOTICE that on October 14, 2004, at 8:30 a.m. or as soon thereafter
27 as the matter may be heard, in the Department to be assigned, Plaintiff will, and hereby docs,
28 move for an order directing that Plaintiff's *Sanchez* Motion For Order Directing Defendant To

1 Lodge Inculpatory Evidence With Court, filed October 1, 2004 under seal, be maintained under
2 conditional seal until further order of court, pursuant to California Rules of Court, rule 243.1 et
3 seq.

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

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

10 DATED: October 1, 2004

11 THOMAS W. SNEDDON, JR.
12 District Attorney

13 By: 
14 Gerald McC. Franklin, Senior Deputy

15 Attorneys for Plaintiff
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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."

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1 DATED: October 1, 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

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PROOF OF SERVICE

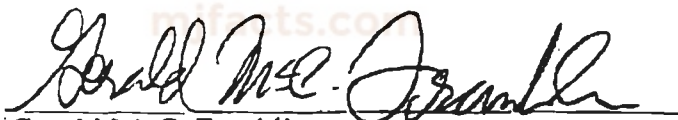
STATE OF CALIFORNIA }
COUNTY OF SANTA BARBARA } SS

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 October 1, 2004, I served the within PLAINTIFF'S NOTICE OF MOTION FOR ORDER SEALING PLAINTIFF'S *SANCHEZ* MOTION FOR ORDER DIRECTING DEFENDANT TO LODGE INCULPATORY EVIDENCE WITH COURT 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 (except Mr. Oxman) 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 1st day of October, 2004.


Gerald McC. Franklin

SERVICE LIST

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