

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  
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Senior Deputy District Attorney  
5 1112 Santa Barbara Street  
Santa Barbara, CA 93101  
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**FILED**  
SUPERIOR COURT of CALIFORNIA  
COUNTY of SANTA BARBARA

OCT 08 2004

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

11  
12 THE PEOPLE OF THE STATE OF CALIFORNIA,

13 Plaintiff,

14 v.

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16 MICHAEL JOE JACKSON,

17 Defendant.  
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No. 1133603

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PLAINTIFF'S NOTICE OF  
REQUEST FOR ORDER  
DIRECTING THAT PLAINTIFF'S  
RESPONSE TO DEFENSE  
MOTION COMPELLING  
DISCLOSURE OF INFORMANT'S  
IDENTITY BE MAINTAINED  
UNDER CONDITIONAL SEAL;  
DECLARATION OF GERALD  
McC. FRANKLIN IN SUPPORT  
THEREOF; MEMORANDUM OF  
POINTS AND AUTHORITIES

~~UNDER SEAL~~

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

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

27 PLEASE TAKE NOTICE that on October 14, 2004, at 8:30 a.m. or as soon  
28 thereafter as the matter may be heard, in the Department to be assigned, Plaintiff will, and

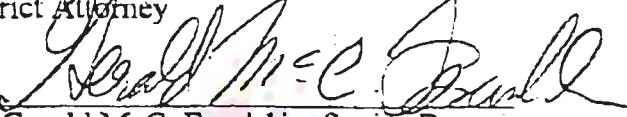
1 hereby does, move for an order directing that Plaintiff's Response to Defense Motion  
2 Compelling Disclosure Of Informant's Identity, filed contemporaneously with this Request for  
3 Conditional Sealing, be maintained under conditional seal until further order of court, pursuant  
4 to California Rules of Court, rule 243.1 et seq.

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

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

12 DATED: October 8, 2004

13 THOMAS W. SNEDDON, JR.  
14 District Attorney

15 By:   
16 Gerald McC. Franklin, Senior Deputy  
17 Attorneys 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(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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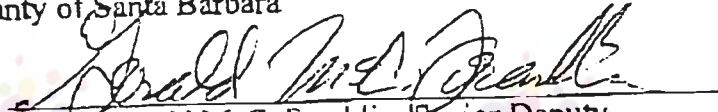
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1 DATED: October 8, 2004

2 Respectfully submitted,

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

5 By:



6 Gerald McC. Franklin, Senior Deputy

7 Attorneys for Plaintiff

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2  
3 **PROOF OF SERVICE**

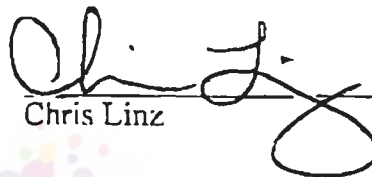
4 STATE OF CALIFORNIA  
5 }  
6 COUNTY OF SANTA BARBARA } SS

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

11 On October 8, 2004, I served the within PLAINTIFF'S MOTION THAT  
12 PLAINTIFF'S RESPONSE TO DEFENSE MOTION COMPELLING DISCLOSURE OF  
13 INFORMANT'S IDENTITY BE MAINTAINED UNDER SEAL on Media's counsel and on  
14 Defendant, by THOMAS A. MESEREAU, JR., STEVE COCHRAN, ROBERT SANGER and  
15 BRIAN OXMAN, by personally delivering a true copy to Robert Sanger's Office and then  
16 transmitting a true copy to Defendant's co-counsel and to Media's counsel at the facsimile  
17 number shown with the address for counsel on the attached Service List, and then causing that  
18 copy to be mailed to each at the address shown on the Service List.

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

20 Executed at Santa Barbara, California on this 8th day of October, 2004.

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22 Chris Linz

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SERVICE LIST

GIBSON, DUNN & CRUTCHER, LLP  
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Attorneys for (collectively) "Media"

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Attorney for Defendant Michael Jackson

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Co-counsel for Defendant

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Co-counsel for Defendant