

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 1112 Santa Barbara Street
Santa Barbara, CA 93101
6 Telephone: (805) 568-2300
FAX: (805) 568-2398

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

OCT 08 2004

GARY M. BLAIR, Executive Officer

BY *Carrick L. Wagner*
CARRIE L. WAGNER, Deputy Clerk

7
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.

15
16 MICHAEL JOE JACKSON,

17 Defendant.

No. 1133603

18
19
20
21
22
23
24
25
26
27
28
PLAINTIFF'S NOTICE OF
REQUEST FOR ORDER
DIRECTING THAT PLAINTIFF'S
RESPONSE TO COURT-ORDERED
DISCOVERY COMPLIANCE AND
STATUS REPORT 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 (Mcville)

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

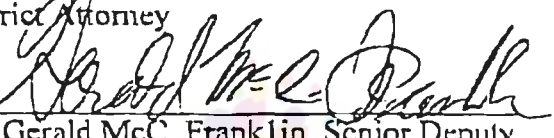
1 hereby does, move for an order directing that Plaintiff's Response to Court-Ordered Discovery
2 Compliance And Status Report, filed contemporaneously with this Request for Conditional
3 Sealing, be maintained under conditional seal until further order of court, pursuant to California
4 Rules of Court, 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 Response.

12 DATED: October 8, 2004

13
14 THOMAS W. SNEDDON, JR.
District Attorney

15
16 By: 
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(c) 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.”

////

////

////

////

////

1 DATED: October 8, 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

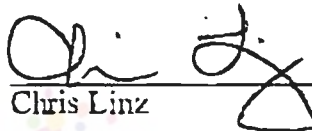
1
2
3 **PROOF OF SERVICE**

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 COURT-ORDERED DISCOVERY COMPLIANCE AND
13 STATUS REPORT BE MAINTAINED UNDER SEAL on Media's counsel and on Defendant,
14 by THOMAS A. MESEREAU, JR., STEVE COCHRAN, ROBERT SANGER and BRIAN
15 OXMAN, by personally delivering a true copy to Robert Sanger's Office and then transmitting
16 a true copy to Defendant's co-counsel and to Media's counsel at the facsimile number shown
17 with the address for counsel on the attached Service List, and then causing that copy to be
18 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.

21 
22 _____
23 Chris Linz

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

SERVICE LIST

GIBSON, DUNN & CRUTCHER, LLP
Theodore J. Boutrous, Jr., Esq.
William E. Thomson, Esq.
Julian Poon, Esq.
333 S. Grand Avenue
Los Angeles, CA 90071-3197
FAX: (213) 229-6758

Attorneys for (collectively) "Media"

THOMAS A. MESEREAU, JR.
Collins, Mescreau, Reddock & Yu, LLP
1875 Century Park East, No. 700
Los Angeles, CA 90067
FAX: [CONFIDENTIAL]

Attorney for Defendant Michael Jackson

STEVE COCHRAN, ESQ.
Katten, Muchin, Zavis & Rosenman, Lawyers
2029 Century Park East, Suite 2600
Los Angeles, CA 90067-3012
FAX: (310) 712-8455

Co-counsel for Defendant

ROBERT SANGER, ESQ.
Sanger & Swysen, Lawyers
233 E. Carrillo Street, Suite C
Santa Barbara, CA 93001
FAX: (805) 963-7311

Co-counsel for Defendant

BRIAN OXMAN, ESQ.
Oxman & Jaroscak, Lawyers
14126 E. Rosecrans Blvd.,
Santa Fe Springs, CA 90670

Co-counsel for Defendant