1 2 3 4 5 6 7 8	THOMAS W. SNEDDON, JR., DISTRICT ATTORNE County of Santa Barbara By: RONALD J. ZONEN (State Bar No. 85094) Senior Deputy District Attorney J. GORDON AUCHINCLOSS (State Bar No. 1502 Senior Deputy District Attorney GERALD McC. FRANKLIN (State Bar No. 4017) Senior Deputy District Attorney 1112 Santa Barbara Street Santa Barbara, CA 93101 Telephone: (805) 568-2300 FAX: (805) 568-2398 SUPERIOR COURT OF THE STAT	SUPERIOR COURT of CALIFORNIA CCUNTY OF SANTA BARBARA 251) GARY M. BLAIR, Executive Officer CARRIEL. WAGNER, Copuly Clerk TE OF CALIFORNIA				
9	FOR THE COUNTY OF SANTA BARBARA					
10	SANTA MARIA DIVISION					
11	نة النم					
12	THE PEOPLE OF THE STATE OF CALIFORNIA,	No. 1133603				
13 14	mifacts.com v. mifacts.com	PLAINTIFF'S NOTICE OF REQUEST FOR ORDER DIRECTING THAT PLAINTIFF'S AUGUST STATUS REPORT ON				
15 16 17 18	MICHAEL JOE JACKSON, Defendant.	PLAINTIFF'S DISCOVERY TO DEFENDANT BE MAINTAINED UNDER CONDITIONAL SEAL DECLARATION OF GERALD McC. FRANKLIN IN SUPPORT THEREOF; MEMORANDUM OF POINTS AND AUTHORITIES				
19	mjfacts:com n	facts NULL STALL				
20 21		DATE: November 4, 2004 TIME: 8:30 a.m. DEPT: TBA (Melville)				
22						
23	TO: MICHAEL JOE JACKSON, AND TO THOMAS A. MESEREAU, JR.,					
24	ROBERT SANGER AND BRIAN OXMAN, HIS ATTORNEYS OF RECORD, AND TO					
25	THEODORE J. BOUTROUS, JR., ESQ., GIBSON, DUNN & CRUTCHER, LLP:					
26	PLEASE TAKE NOTICE that on November 4, 2004, at 8:30 a.m. or as soon					
27	thereafter as the matter may be heard, in the Department to be assigned, Plaintiff will, and					
28	hereby does, move for an order directing that Plaintiff's Status Report on Plaintiff's Discovery					
-	mjfacts.com m	jfacts.com				
-	PLAINTIFF'S MOTION FOR ORDER STALING PLAINTIFF'S AUGUST STATUS REPORT RE: DISCOVERY					

DECLARATION OF GERALD McC. FRANKLIN

- I, Gerald McC. Franklin, say:
- 1. I am a lawyer admitted to practice in the State of California. I am a Senior Deputy of the District Attorney of Santa Barbara County. I am one of the lawyers of record for the People, Plaintiff in this action.
- 2. This Motion to Conditionally Scal Plaintiff's Status Report on Plaintiff's Discovery to Defendant, dated August 13, 2004 is made on the ground that the Report made reference to evidentiary facts not yet made public and the name of certain potential witnesses.
- 3. I believe that the interest of each party to a fair trial overrides the public's prompt access to Plaintiff's Response until the appropriateness of the release of a reducted version of the Response is determined by the Court.
- 4. I believe an order maintaining our Response under scal 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 October 19, 2004.

Gerald McC. Franklin

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mjfacts.com

MEMORANDUM OF POINTS AND AUTHORITIES

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The procedure for sealing records under California Rules of Court, rule 243.1 et seq. 2 applies only to records that are deemed public. (Id., rule 243.1(a)(2).) Motions and responsive 3 pleadings in criminal cases are, ordinarily, "public" records of the court. 4 Rule 243.1(d) provides that 5 The court may order that a record be filed under seal only if it 6 expressly finds facts that establish: 7 (1) There exists an overriding interest that overcomes the right of 8 public access to the record; 9 (2) The overriding interest supports sealing the record: 10 (3) A substantial probability exists that the overriding interest will 11 be prejudiced if the record is not septed; 12 13 (4) The proposed scaling is narrowly tailored; and (5) No less restrictive means exist to achieve the overriding interest. 14 15 Rule 243.1(e) provides, in pertinent part: 16 (1) An order scaling the record must (i) specifically set forth the facts findings that support the findings and (ii) direct the sealing of 17 only those documents and pages, or, if reasonably practicable, 18 portions of those documents and pages, that contain the material that 19 nceds to be placed under seal. All other portions of each documents or page must be included in the public file. 20 21 Rule 243.2(b) provides, in pertinent part, that "Pending the determination of the 22 motion [of a party to file a record under seal], the lodged record will be conditionally under 23 seal." 24 1111 25 1111 26 1111

1	DATED: October 19, 2004				
2	Respectfully submitted.				
3	THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY County of Santa Barbara				
4	County of Santa Barbara				
5.	By: Out ME (. Much Gerald McC. Franklin, Senior Deputy				
6	Attorneys for Plaintiff				
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PROOF OF SERVICE

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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; 1105 Santa Barbara Street, Santa Barbara,

On October 19, 2004, I served the within PLAINTIFF'S REQUEST FOR ORDER THAT PLAINTIFF'S STATUS REPORT ON PLAINTIFF'S DISCOVERY TO DEFENDANT, DATED AUGUST 13, 2004 BE MAINTAINED UNDER SEAL on Media's counsel and on Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER and BRIAN OXMAN, by transmitting a facscimile copy thereof to each counsel at the facsimile number shown with the address for counsel on the attached Service List, and then causing that copy to be mailed to each at the address shown on the Service List.

> I declare under penalty of perjury that the foregoing is true and correct. Executed at Santa Barbara, California on this 19th day of October, 2004.

SERVICE LIST

1			
2	GIBSON	, DUNN & CRUTCHER, LLP	
3 [!]	Theodore William	E. J. Boutrous, Jr., Esq. E. Thomson, Esq.	
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S	Collins.	Mesercau, Roddock & Yu, LLF nury Park East, No. 700	
9	I Los Ang	eles. CA 90067 ONFIDENTIAL]	
10	_	for Defendant Michael Jackson	D.
1;			-
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14	Co-coun	sel for Defendant	
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18		sel for Delendant	
19	BRIAN	OXMAN, ESQ.	
20	Oxman	& Jaroscak, Lawyers . Rosecrans Blvd.	
21	Santu Fe	Springs, CA 90670	
22	Co-coun	sel for Defendant	
23			
24	facts.com		
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