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Attorneys for Raymond Chandler

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA

NOV 08 2004

GARY M. BLAIR, Executive Officer  
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\* unsealed pursuant  
to 611665 Court  
order

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA BARBARA

COOK DIVISION

THE PEOPLE OF THE STATE OF CALIFORNIA, )

Case No.: 1133603

Plaintiff,

THIRD PARTY, RAYMOND CHANDLER'S  
REPLY TO DEFENDANT'S OPPOSITION TO  
MOTION TO QUASH

vs.

MICHAEL JACKSON,

**SEALED** Adm Camoza

Defendant.

[Assigned for All Purposes to the Honorable  
Rodney S. Melville]

Date: November 10, 2004

Time: 1:30

Dept: SM-2

I. THE CALIFORNIA SHIELD LAW APPLIES

A. Evidence Code §1070 Must Be Interpreted To Conform to the U.S. Constitution.

Defendant argues that Raymond Chandler is not a journalist under Evid. Code §1070 (the California Shield law) because "the critical factor is the employment in the news media as a journalist engaged in news gathering activities. . . and petitioner . . . has no documents showing any compensation or remuneration for his activities as a journalist." (Opp. at p.7).

The supremacy clause of the United States Constitution requires that all state laws conform to federal constitutional standards (Mulkey v. Reitman (1966) 64 Cal.2d 529, 533). While no California court has decided if a non-fiction book author is entitled to shield law protection, nine federal appellate

circuits including the Ninth Circuit have held that the under the U.S. Constitution such laws apply to investigative book authors as well as print and broadcast journalists (Shoen v. Shoen 5 F.3d 1289, 1293 (9th Cir. (AZ.) 1993).

The critical question is whether the author intended to disseminate the information to the public and whether such intent existed at the inception of the newsgathering process (Id., at 1293-1294). "[T]he test emphasizes the intent behind the newsgathering process rather than the mode of dissemination" (Rancho Publications v. Superior Court (1999) 68 Cal.App.4th 1538, 1545; quoting In re Madden 151 F.3d 125 (3d Cir., 1998).) Raymond Chandler meets all of the requirements of Shoen (See Motion to Quash, Section III).

The protections of the California shield law are not restricted to a journalist "employed" by a media outlet. The Code uses the phrase "or other person connected with or employed (by the media)" (underline added), and it specifically includes publishers as well as reporters (Evid. Code §1070). Defendant has incorrectly identified the publisher of Raymond Chandler's book as Windsong Press Ltd. of Gurnee, Illinois. (Opp. p.8; Exh. 3). The correct publisher is a Nevada Corporation (doing business in California) that is also named Windsong Press. Raymond Chandler is the sole owner of this publishing company, which holds the copyright to his book (Decl. of Raymond Chandler ¶1). As such Chandler is not only a journalist by way of his authorship of a non-fiction book, he is also "connected with or employed by" the publisher.

Further, at no point does Evid. Code §1070 mention compensation or remuneration. Raymond Chandler has publicly stated that all profits from the publication of the book will be donated to charity. (Decl. of Raymond Chandler ¶2). Therefore defendant's claim that Chandler has no documents showing compensation or remuneration has no relevance in determining Chandler's status as a journalist.

***B. Raymond Chandler Is Not A Witness To Relevant Claims or Defenses And Has Not Been Subpoenaed To Testify To Such Matters.***

Defendant argues that Raymond Chandler is a witness to events that occurred in 1993 and 1994 and thus, even as a journalist, he is not entitled to the protection of the shield law (Opp. p.7).

Defendant relied on Delaney v. Superior Court (1990) 50 Cal.3d 785 and Rancho Publications v. Superior Court (1999) 68 Cal.App.4th 1538 as authority for the proposition that a journalist who is also

1 a witness is not entitled to the protection of the shield law. These cases are highly distinguishable from  
2 the instant case. In Delaney the journalists were off-duty eyewitnesses to an arrest and were called to  
3 testify whether the defendant had consented to a search (Delaney, supra, at 794). In fact, the reporters  
4 “were the only two possible disinterested witnesses” (Id., at 786).

5 Defendant is well aware that Raymond Chandler was not, and has never claimed to be, a witness  
6 to either the molestation of Jordan Chandler or the alleged extortion attempt by Evan Chandler against  
7 Michael Jackson (Decl. of Raymond Chandler ¶3). This explains why defendant has subpoenaed  
8 Raymond Chandler only as a custodian of records, and not as a percipient witness.

9 In his book and public appearances Raymond Chandler has stated that he did not become  
10 involved in the 1993 matter until *after* the scandal became public. At that point all communications  
11 between Jackson and the Chandler’s had ceased. Raymond Chandler has claimed only to be a witness  
12 to the trials and tribulations of his family as the focus of media scrutiny.

13 Rancho Publications involved a defamation action brought by a hospital against anonymous  
14 persons who placed a paid commercial advertisement-editorial (“advertorial”) in a newspaper. The  
15 hospital issued a subpoena requiring the newspaper to reveal the names of the persons who placed the  
16 advertorial. The Rancho court granted the newspaper’s motion to quash on privacy grounds but not  
17 under the shield law, holding that under the shield law such paid advertorials do not qualify as  
18 newsgathering (Rancho, supra, at 1545). The case at hand involves no paid commercial advertisement  
19 by a third party. Raymond Chandler gathered, authored and published the information in his book  
20 (Decl. of Raymond Chandler ¶4).

21 C. *Defendant’s Claim That Chandler is Promoting His Brother and Nephew Are Unfounded.*

22 Defendant has claims that Raymond Chandler “has never been involved in the news gathering  
23 business and does not do so today” (Opp. 3:18), that he was merely “an uncle who happened to be  
24 present when events took place” (Opp. 8:12), and that he is “glorifying” and “promoting his brother and  
25 nephew” (Opp. 3:21; 4:28; 5:16; 7:6; 8:12). These claims are unfounded.

26 Chandler has been actively involved since August of 1993 in gathering information regarding the  
27 molestation of his nephew by Michael Jackson, and Chandler purposefully placed himself in the position  
28 to gather such information with the intent to disseminate it (See Motion to Quash, Section III B). That



1 Chandler is related to some of the principles involved, and that those persons allowed him to get close  
2 enough to gather information, is irrelevant to the core issue of whether Chandler had the intent to  
3 disseminate the information. Neither Evid. Code §1070, nor Article I §2b of the California Constitution,  
4 nor the First Amendment to the United States Constitution withhold protection because a journalist is  
5 related to the subject of his report.

6 Further, defendant's claim that Chandler's book is merely a promotion of his brother and nephew  
7 is unfounded. First, neither of those persons have any financial stake in the book, nor do they have any  
8 legal action pending against defendant (Decl. of Raymond Chandler ¶5). Second, the book contains  
9 several unflattering comments about Evan Chandler made by himself, by the author and by others (See  
10 Exh. A to Motion (the book), at pp. 26, 34, 57, 101, 154, 248). Third, but certainly not least, the book  
11 discusses issues of significant public concern other than the 1993 molestation and extortion charges.  
12 These issues include unethical and possibly criminal activities among members of the bar and other  
13 state-licensed professionals, unethical and possibly criminal activities on the part of certain media, and  
14 information regarding child abuse.

15 While the evidence reported in the book overwhelmingly suggests that Michael Jackson is a  
16 pedophile who molested Jordan Chandler in 1993, such evidence was gathered by, not created by, the  
17 author. It is irrelevant to the application of the journalist's privilege that defendant Jackson chooses to  
18 define this evidence as a promotion of Evan and Jordan Chandler.

19 In addition, defendant's claim that Raymond Chandler is not currently engaged in the process of  
20 newsgathering is incorrect (Opp. 7). Even after the publication of his book Chandler has continued to  
21 gather information regarding the molestation of his nephew (Decl. of Raymond Chandler ¶6).

## 22 II. *IN CAMERA* REVIEW IS REQUIRED

23 Defendant opines that an *in camera* review of the subpoenaed documents would be "a  
24 tremendous waste of time." (Opp. at 12:10) Nevertheless third party records are to be produced only to  
25 the court until a judicial determination has been made that defendant is legally entitled to receive them  
26 (People v. Superior Court (2000) 80 Cal.App.4th 1305, 1316). The court must apply a two-part test: are  
27 the subpoenaed documents relevant, and if so is there "a reasonable possibility" that they will materially  
28 assist the defense (Delaney, supra, 50 Cal.3d at 809).

1 One of the ways - and in this case the only way - that the documents sought may reasonable  
2 assist the defense is to "impeach the credibility of a prosecution witness" (*Id.* at 790). The fact that  
3 Evan or Jordan Chandler's voice may appear on a tape recording is not in and of itself evidence that the  
4 document will materially assist in the defense. There must be statements that might impeach Jordan  
5 Chandler's testimony that he was molested by Michael Jackson, or might impeach Evan Chandler's  
6 testimony that he did not attempt to extort Michael Jackson. No such statements will be found, and  
7 these documents must be subject to *in camera* review.

8 Defendant argues that documents related to the printing, distribution, promotion or sale of  
9 Chandler's book are relevant because "it demonstrates that petitioner is not engaged in any legitimate  
10 journalistic activity" (Opp. 15:26-28). (As shown in section IA above, the fact that Chandler is a self-  
11 employed, non-fiction author and publisher as opposed to being on the payroll of a specific media outlet  
12 is irrelevant to his status as a journalist). But Raymond Chandler's status as a journalist is not the  
13 determining factor for production of such documents to the defense. They must still pass the two-part  
14 test described above.

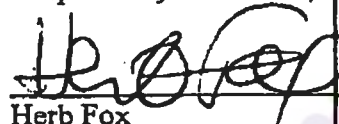
15 Neither Evan Chandler, Jordan Chandler nor any other person or entity is a party to or  
16 beneficiary of any contract involving the printing, distribution, promotion or sale of the book. Such  
17 contracts contain only the financial and other private information of third-party Raymond Chandler and  
18 defendant is not entitled to carte blanche review of such information (Decl. of Raymond Chandler ¶7).  
19 This underscores the need for an *in camera* review of all documents.

20 Defendant's agreement that newspaper and magazine articles and court pleadings need not be  
21 produced (Opp. 12:3) will significantly reduce the time required for *in camera* review.

### 22 III. NO VIOLATION OF PROTECTIVE ORDER

23 Defendant alleges that Chandler has violated this Court's January 23, 2004 Protective Order  
24 (Opp. p.5:16). Presumably this is a reference to the so-called "gag" order that has been reported in the  
25 media. No such order has been served on Raymond Chandler.

26 Respectfully submitted,

27   
28 Herb Fox

DECLARATION OF RAYMOND CHANDLER

I, Raymond Chandler, declare as follows:

1. I am the sole owner of the publishing company Windsong Press, a Nevada Corporation (doing business in California). Windsong Press holds the copyright to *All That Glitters: The Crime and The Cover-up*. A true and correct copyright is attached as Exhibit I.

2. I have publicly stated that all profits from the publication of the book *All That Glitters: The Crime and the Cover-up* will be donated to charity, and such profits, if any, will be so donated.

3. I am not, nor have I ever claimed to be, an eyewitness to either the molestation of Jordan Chandler or the alleged extortion attempt by Evan Chandler against Michael Jackson.

4. I am the sole author and publisher of the book *All That Glitters: The Crime and The Cover-up*.

5. Neither Evan Chandler or Jordan Chandler have a financial stake in the publication of the book *All That Glitters: The Crime and The Cover-up*, nor to my knowledge do they have any legal action pending against Michael Jackson.

6. As of the date of this declaration I continue to gather information regarding the molestation of my nephew by Michael Jackson.

7. Neither Evan Chandler, Jordan Chandler nor any other person or entity is a party to or beneficiary of any contract involving the printing, distribution, promotion or sale of the book *All That Glitters: The Crime and The Cover-up*. Such contracts contain only the financial and other private information of mine.

8. I have never been served with a Protective Order dated January 23, 2004.

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

Dated: November 8, 2004

  
Raymond Chandler



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# Exhibit I



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# Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*

Register of Copyrights, United States of America



**Form TX**

For a Mechanical Library Work  
UNITED STATES COPYRIGHT OFFICE

**TX 5-977-482**



EFFECTIVE DATE OF REGISTRATION

09 20 2004  
Month Day Year

DO NOT WRITE ABOVE THIS LINE IF YOU NEED MORE SPACE USE A SEPARATE CONTINUATION SHEET

**1**

TITLE OF THIS WORK ▼

All That Glitters

PREVIOUS OR ALTERNATIVE TITLES ▼

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared Title of Collective Work ▼

If published in a periodical or serial give Volume ▼ Number ▼ Issue Date ▼ On Page ▼

**2**

NAME OF AUTHOR ▼

a Raymond Chandler

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼  
1946 N/A

Was this contribution to the work a work made for hire? ☐ Yes ☒ No

AUTHOR'S NATIONALITY OR DOMICILE Name of Country

OR { Citizen of ▼ United States  
Domiciled in ▼

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No  
Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes" use detailed instructions

NATURE OF AUTHORSHIP Briefly describe nature of material created by the author in which copyright is claimed ▼  
Entire text of the book.

## NOTE

Under the law the author of a work made for hire is generally the employer and the employee (see instruction 5a). For any part of this work that was made for hire check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as Author of that part and leave the space for dates of birth and death blank.

b

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

Was this contribution to the work a work made for hire? ☐ Yes ☒ No

AUTHOR'S NATIONALITY OR DOMICILE Name of Country

OR { Citizen of ▼  
Domiciled in ▼

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No  
Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes" use detailed instructions

NATURE OF AUTHORSHIP Briefly describe nature of material created by the author in which copyright is claimed ▼

c

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

Was this contribution to the work a work made for hire? ☐ Yes ☒ No

AUTHOR'S NATIONALITY OR DOMICILE Name of Country

OR { Citizen of ▼  
Domiciled in ▼

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No  
Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes" use detailed instructions

NATURE OF AUTHORSHIP Briefly describe nature of material created by the author in which copyright is claimed ▼

**3**

YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

2004

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Month ▼ September Day ▼ 12 Year ▼ 2004  
Country ▼ USA

**4**

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2 ▼

Wandering Press LLC  
1350 E. Flamingo Road #768  
Las Vegas NV 89119

APPLICATION RECEIVED

SEP 20 2004

THE DEPOSIT RECEIVED

SEP 20 2004

THE DEPOSIT RECEIVED

SEP 20 2004

THE DEPOSIT RECEIVED

SEP 20 2004

THE DEPOSIT RECEIVED

SEP 20 2004

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2 give a brief statement of how the claimant(s) obtained ownership of the copyright ▼

Assignment

MORE ON BACK ►

Complete all applicable spaces (numbers 5-8) on the reverse side of this page. Sign the form in line 8.

DO NOT WRITE HERE

Page 1 of 1 pages



EXAMINED BY

FORM TX

CHECKED BY

CORRESPONDENCE  
YesFOR  
COPYRIGHT  
OFFICE  
USE  
ONLY

DO NOT WRITE ABOVE THIS LINE IF YOU NEED MORE SPACE USE A SEPARATE CONTINUATION SHEET

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of the work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is Yes, why is another registration being sought? (Check appropriate box) ▼a ☐ This is the first published edition of a work previously registered in unpublished formb ☐ This is the first application submitted by this author as copyright claimantc ☐ This is a changed version of the work as shown by space 6 on this application

If your answer is Yes, give Previous Registration Number ▶

Year of Registration ▶

5

## DERIVATIVE WORK OR COMPILATION

Preexisting Material Identify any preexisting work or works that this work is based on or incorporates ▼

a

6

See instructions  
before completing  
this space

Material Added to This Work Give a brief general statement of the material that has been added to this work and in which copyright is claimed ▼

b

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account Name ▼ Account Number ▼

a

7

CORRESPONDENCE Give name and address to which correspondence about this application should be sent Name / Address / Apt / City / State / ZIP ▼

b

Herb Fox Esq. Law Office of Herb Fox  
15 West Camillo Street Suite 211  
Santa Barbara CA 93101

Area code and daytime telephone number ▶ 805 899-4777

Fax number ▶ 805 899 2121

Email ▶ [hfox@herbfoxlaw.com](mailto:hfox@herbfoxlaw.com)

CERTIFICATION I, the undersigned, hereby certify that I am the

Check only one ▶

☐ author☐ other copyright claimant☐ owner of exclusive rights☒ authorized agent of

Winding Process LLC

Name of author or other copyright claimant or owner of exclusive rights A

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date

Herb Fox

Date ▶ 9/14/04

Handwritten signature (X) ▼

x Certificate  
will be  
mailed in  
window  
envelope  
to this  
address

Name ▼

Law Office of Herb Fox

Name/Street/Apt ▼

15 West Camillo Street Suite 211

City/State/ZIP ▼

Santa Barbara CA 93101

Complete all necessary steps  
Sign your application in space 81. Application fee  
2. Nonreturnable filing fee (to check or carry  
order payable to Registrar of Copyrights)  
3. Deposit materialLibrary of Congress  
Copyright Office TX  
101 Independence Avenue S E  
Washington D.C. 20540-4022

9

This fee schedule  
applies to all  
registrations  
except for those  
for which the  
Library of Congress  
Copyright Office  
has a special  
arrangement.  
See the Library of  
Congress Copyright  
Office website for  
more information.

PROOF OF SERVICE

(CCP §§1013(a)(1)(3), 1013(c))

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am a citizen of the United States of America and a resident of the county aforesaid. I am employed in the County of Santa Barbara, State of California. I am over the age of 18 and not a party to the within action. My business address is 15 West Carrillo Street, Suite 211, Santa Barbara, California 93101.

On November 8, 2004, I served a copy of the attached *Application to File Under Seal; Proposed Order; Third Party Raymond Chandler's Reply to Defendant's Opposition to Motion to Quash* on the interested parties in this action as follows:

Brian Oxman, Esq.  
14126 E. Rosecrans  
Santa Fe Springs, CA 90670  
Telephone (562) 921-5058

Robert M. Sanger, Esq.  
Sanger & Swysen  
233 E. Carrillo Street #C  
Santa Barbara, CA 93101

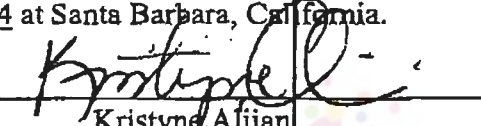
Thomas A. Mesereau, Jr., Esq.  
1875 Century Park East, Suite 700  
Los Angeles, CA 90067

[ ] MAIL: By placing true copies thereof enclosed in a sealed envelope with postage fully prepaid, in the United States Postal Service mail box in the City of Santa Barbara, addressed as above. That there is delivery service by the United States Postal Service at the place so addressed or that there is a regular communication by mail between the place of mailing and the place so addressed.

☒ FACSIMILE TRANSMISSION: By faxing true copies thereof to the receiving fax numbers: Brian Oxman (562) 921-2298; Tom Mesereau (310) 284-3133; Robert Sanger (805) 963-7311. Said transmission was reported complete and without error, the transmission report was properly issued by the transmitting facsimile machine and is attached hereto.

[ ] OVERNIGHT DELIVERY: By depositing true copies thereof in a box or other facility regularly maintained by the express service carrier, or delivered to an authorized courier or driver authorized by the express service carrier to receive documents, in an envelope or package designated by the express service carrier with delivery fees paid or provided for, addressed to the person on whom it is served, at the office address as last given by that person on any document filed in the cause and served on that party making service; otherwise at that party's place of residence.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed November 8, 2004 at Santa Barbara, California.

  
Kristyne Alfian

TRANSMISSION VERIFICATION REPORT

TIME : 11/08/2004 14:06  
NAME : HERB FOX  
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Tom Mesereau



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FAX : 8058994777  
TEL : 8058992121

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*Robert Sengul*

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*Other*