1 2 3 4 5 6 7	THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY County of Santa Barbara By: RONALD J. ZONEN (State Bar No. 85094) Schior Deputy District Attorney J. GORDON AUCHINCLOSS (State Bar No. 150251) Senior Deputy District Attorney GERALD McC. FRANKLIN (State Bar No. 40171) Senior Deputy District Attorney 1112 Santa Barbara Street Santa Barbara, CA 93101 Telephone: (805) 568-2398 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY Superior California COUNTY OF SANTA BARBARA SUPERIOR COURT OF CALIFORNIA COUNTY OF SANTA BARBARA SUPERIOR COURT OF CALIFORNIA COUNTY OF SANTA BARBARA COUNTY OF SANTA BARBARA CARRIE L. WARRIE							
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.) No. 1133603							
13	Plaintiff, PLAINTIFF'S NOTICE OF REQUEST FOR ORDER DIRECTING THAT PLAINTIFF'S OBJECTION TO THE SUBPOENA							
15 16 17 18	OF PSYCHIATRIC RECORDS. AND REQUEST THAT COURT LIMIT THE SCOPE OF MEDICAL RECORDS: ETC BE MAINTAINED UNDER CONDITIONAL SEAL; Defendant.							
20	DATE: December 20, 2004 TIME: 8:30 mm DEPT: TBA (Melville)							
22	TO: MICHAEL JOE JACKSON, AND TO THOMAS A. MESEREAU, JR.,							
24	ROBERT SANGER AND BRIAN OXMAN, HIS ATTORNEYS OF RECORD, AND TO							
25	THEODORE I. BOUTROUS, JR., ESQ., GIBSON, DUNN & CRUTCHER, LLP:							
26	PLEASE TAKE NOTICE that on December 20, 2004, at \$200 and 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 Objection to the Subpoena of							

Psychiatric Records, Etc., filed contemporaneously with this Request for Conditional Scaling, be maintained under conditional seal until further order of court, pursuant to California Rules of Court, rule 243.1 et seq.

The motion will be made on the ground that the facts, as established by the accompanying declaration of Ronald J. Zonen, are sufficient to justify scaling the Response pursuant to California Rules of Court, rule 243.1 et seq.

The motion will be based on this notice of motion, on the declaration of Ronald J.

Zonen and the memorandum of points and authorities served and filed herewith, on the records and the file herein, and on such evidence as may be presented at the hearing of the motion.

DATED: December 8, 2004

THOMAS W. SNEDDON, JR. District Attorney

By: Ronald V Zonen, Senior Deputy

Attorneys for Plaintiff

I, Ronald J. Zonen, 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. Plaintiff's Motion to Conditionally Seal Plaintiff's Objection to the Subpoena of Psychiatric Records, Etc., filed contemporaneously with this Motion, is made on the ground that the Objection makes reference to evidentiary facts not yet made public.
- 3. I believe that the interest of each party to a fair trial overrides the public's prompt access to Plaintiff's Objection until the appropriateness of the release of a reducted version of the Objection is determined by the Court.
- 4. I believe an order maintaining our Objection under seal 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 December 8, 2004.

Ronald J. Zonen

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."

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1	DATED: December 8, 2004					
2	Respectfully submitted,					
3	THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY County of Santa Barbara					
1	D 7 mm					
5	By: Ronald J. Zonen, Schior Deputy					
6	Attorneys for Plaintiff					
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	PLAINTIFF'S MOTION FOR ORDER SEALING OBJECTION TO CERTAIN SURPOENAS DUCES	TECUM				

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF SANTA BARBARA
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California 93101.

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 December 8, 2004, I served the within PLAINTIFF'S MOTION THAT
PLAINTIFF'S OBJECTION TO THE SUBPOENA OF PSYCHIATRIC RECORDS, ETC. BE
MAINTAINED UNDER SEAL on Media's counsel and on Defendant, by THOMAS A.
MESEREAU, JR., ROBERT SANGER and BRIAN OXMAN, by enusing a true copy to be
transmitted to Defendant's co-counsel and to Media's 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 8th day of December. 2004.

mjfacts.com

Ronald J. Zonen

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SERVICE LIST

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3	acts c GIB. Theo Will	SON, DUNN & CRUTCHE dore J. Boutrous, Jr., Esq. am E. Thomson, Esq.	R, LLP	
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8 9	Colli 1875	MAS A. MESEREAU, JR. ns, Mesereau, Reddock & Y Century Park East, No. 700 Angeles, CA 90067	(u, LLP mifac	
10	FAX	: [CONFIDENTIAL]		
	Atto	ncy for Defendant Michael	Jackson	
11	20 8			
12	ROB	ERT SANGER, ESQ.		
13	Sang 233	er & Swysen, Lawyers E. Carrillo Street, Suite C		
14	Santa	n Barbara, CA 93001 : (805) 963-7311		
15	Co-c	ounsel for Defendant		
16	BRIA	AN OXMAN, ESQ.		
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18	Santa	Fe Springs, CA 90670		
19	Со-с	oun <mark>sel for D</mark> efendant		
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