

**ORIGINAL**

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6 DAVID and MARIA VENTURA

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

JAN 03 2005

GARY M. BLAIR, Executive Officer  
BY *Carrie L. Wagner*  
CARRIE L. WAGNER, Deputy Clerk

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8 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION

KAYE SCHOLER LLP

11 THE PEOPLE OF THE STATE OF CALIFORNIA,

12 Plaintiff,

13 v.

14 MICHAEL JACKSON,

15 Defendant.

CASE NO. 1133603

16 APPLICATION FOR AN ORDER  
17 DIRECTING THAT THE "MOTION  
18 TO QUASH AND OPPOSITION TO  
SUBPOENAS DATED JANUARY 6,  
2005" AND ACCOMPANYING  
19 PAPERS FILED ON DECEMBER 30,  
2004, AS WELL AS PAPERS FILED  
21 JANUARY 3, 2005, BE MAINTAINED  
22 UNDER CONDITIONAL SEAL;  
MEMORANDUM OF POINTS AND  
23 AUTHORITIES; AND DECLARATION  
24 OF THEODORE MAYA IN SUPPORT  
25 THEREOF

\* unsealed pursuant  
to 6/16/05 court  
order

26 TO BE FILED UNDER SEAL *Indemnity*

KAYE SCHOLER LLP

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**TO DEFENDANT MICHAEL JOSEPH JACKSON AND HIS ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that Maria and David Ventura (the "Venturas") hereby move for an order directing that the following records be maintained under conditional seal until further order of court, pursuant to California Rules of Court, Rule 243.1, *et seq.*, and pursuant to this Court's Order of July 9, 2004 (the "July 9 Order").

The records covered by this Application are:

1. The "Motion to Quash and Opposition to Subpoenas Dated January 6, 2005," and exhibits thereto, filed December 30, 2004; and

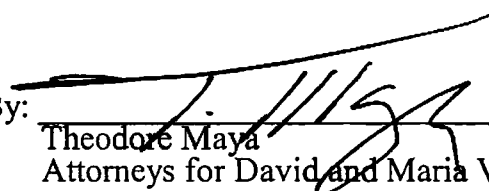
2. This Application for an Order Directing that these papers be filed under seal;

This Motion is made on the ground that, pursuant to the July 9 Order, any objections to subpoenas are to be filed under seal. Furthermore the facts, as established by the accompanying declaration of Theodore Maya, are sufficient to justify sealing of these records pursuant to California Rules of Court, Rule 243.1, *et seq.*

The Motion will be based on this Notice of Motion, the Memorandum of Points and Authorities served and filed herewith, the Declaration of Theodore Maya, the records and the file herein, and on such evidence as may be presented to the Court.

Dated: January 3, 2004

KAYE SCHOLER LLP

By:   
Theodore Maya  
Attorneys for David and Maria Ventura

KAYE SCHOLER LLP

MEMORANDUM OF POINTS AND AUTHORITIES

Under California Rule of Court 243.2, “[a] record must not be filed under seal without a court order.” 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 document 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.”

In its July 9 Order, the Court has already determined that papers such as those sought to be filed under seal here should be so filed. (See Exh. 1 at ¶ 4.) Furthermore, the facts of

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1 and intense public interest in this case justify maintaining these records under conditional  
2 seal, for instance to protect Complainant's well-being. Accordingly, the Venturas  
3 respectfully ask that this Court file these papers under seal.

4  
5 Dated: January 3, 2004

KAYE SCHOLER LLP

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8 By: 

Theodore Maya  
Attorneys for David and Maria Ventura

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KAYE SCHOLER LLP

DECLARATION OF THEODORE MAYA

I, Theodore Maya, declare as follows:

1. I am an attorney licensed to practice law in the State of California and am an associate with the firm of Kaye Scholer LLP, counsel for David and Maria Ventura for purposes of their motion to quash. If called to testify in this action, I could and would testify as follows:

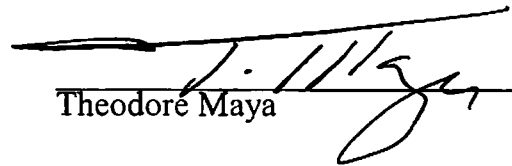
2. This Application to file records under seal is made on the grounds that these records make reference to evidentiary facts not yet made public.

3. I believe that the interest of each party to a fair trial overrides the public's prompt access to these records until the appropriateness of the release of a redacted version of these records is determined by the court.

4. I believe an order maintaining these records under seal in the interim would avert the probability of prejudice, and that no more narrowly tailored order with respect to these records could be drafted to achieve the overriding interest in a fair trial.

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

Executed on January 3, 2004 at Los Angeles, California.

  
Theodore Maya

KAYE SCHOLER LLP

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA**

3 **COUNTY OF LOS ANGELES**

4 I am employed in the County of Los Angeles, State of California. I am over the age of  
5 18 and not a party to the within action. My business address is 1999 Avenue of the Stars,  
Suite 1700, Los Angeles, California 90067.

6 On January 3, 2005, I served the following documents described as:

7 **APPLICATION FOR AN ORDER DIRECTING THAT THE "MOTION**  
8 **TO QUASH AND OPPOSITION TO SUBPOENAS DATED JANUARY**  
9 **6, 2005" AND ACCOMPANYING PAPERS FILED ON DECEMBER 30,**  
10 **2004, AS WELL AS PAPERS FILED JANUARY 3, 2005, BE**  
11 **MAINTAINED UNDER CONDITIONAL SEAL; MEMORANDUM OF**  
12 **POINTS AND AUTHORITIES; AND DECLARATION OF THEODORE**  
13 **MAYA IN SUPPORT THEREOF**

14 by placing a true copy of the above entitled document in a sealed envelope addressed as  
15 follows:

16 **Thomas A. Mesereau, Jr.**  
17 **1875 Century Park East, Suite 700**  
18 **Los Angeles, CA 90067**

19 **Brian Oxman**  
20 **14126 E. Rosecrans**  
21 **Santa Fe Springs, CA 90670**

22  by **FEDERAL EXPRESS**

23  by **U.S. MAIL** (I am readily familiar with the firm's practice of collection and  
24 processing correspondence for mailing. Under that practice it would be deposited  
25 with U.S. Postal Service on that same day with postage thereon fully prepaid at Los  
26 Angeles, California in the ordinary course of business. I am aware that on motion of  
27 the party served, service is presumed invalid if postal cancellation date or postage  
28 meter date is more than one day after date of deposit for mailing in affidavit.)

OR

by **PERSONAL SERVICE**

by personally delivering such envelope to the addressee.

by causing such envelope to be delivered by messenger to the office of the  
addressee.

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

KAYE SCHOLER/lp

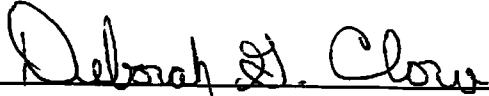
KAYE SCHOLERllp

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\_\_\_\_ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on January 3, 2005, at Los Angeles, California.

Deborah G. Clow  
Name

  
Signature