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Company, Inc.; CBS Broadcasting Inc.; Fox  
6 News Network L.L.C.; ABC, Inc.; Cable  
News Network, Inc.; and The New York  
7 Times Company

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

JAN - 7 2004  
GARY M. BLAIR, EXEC. OFFICER  
By Suzanne M. Blain  
Deputy Clerk

10 SUPERIOR COURT, STATE OF CALIFORNIA  
11 FOR THE COUNTY OF SANTA BARBARA

13 THE PEOPLE OF THE STATE OF  
14 CALIFORNIA,

15 Plaintiff,  
16 vs.

17 MICHAEL JACKSON, et al.

18 Defendant.

Case No.: 1133603  
Search Warrant No. 884686

**NOTICE OF MOTION AND MOTION,  
FILED BY NATIONAL BROADCASTING  
COMPANY, INC.; CBS BROADCASTING  
INC.; FOX NEWS NETWORK L.L.C.;  
ABC, INC.; CABLE NEWS NETWORK,  
INC.; AND THE NEW YORK TIMES  
COMPANY, SEEKING TO UNSEAL  
CERTAIN COURT RECORDS RELATED  
TO SEARCH WARRANT #884686**

Date: Friday, January 16, 2004  
Time: 8:30 a.m.  
Place: Department SM2,  
Judge Rodney S. Melville

23 TO ALL PARTIES AND TO THEIR RESPECTIVE ATTORNEYS OF RECORD:

24 PLEASE TAKE NOTICE that on Friday, January 16, 2004, at 8:30 a.m., or as soon thereafter  
25 as the matter may be heard before the above-entitled Court, located at 312 East Cook Street, Santa  
26 Maria, California 93456-5369, National Broadcasting Company, Inc.; CBS Broadcasting Inc.; Fox  
27 News Network L.L.C.; ABC, Inc.; Cable News Network, Inc.; and The New York Times Company  
28 (collectively, the "Access Proponents") will, and hereby do, move this Court to unseal certain court

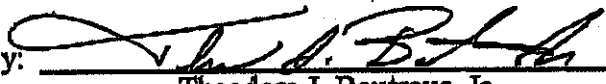
1 records related to Search Warrant # 884686, executed on November 18, 2003, at Neverland Ranch,  
2 which this Court initially ordered sealed for 45 days from the date of the issuance of the search  
3 warrant on November 17, 2003, and then ordered, on December 26, 2003, sealed "until, at a  
4 minimum, the arraignment in this matter."

5 This Motion is made pursuant to California Rule of Court 243.1-243.2, California Penal Code  
6 Section 1534(a), the First Amendment to the United States Constitution, Article I, Section 2 of the  
7 California Constitution, and the common-law right of access to judicial records.

8 This Motion is based upon this Notice, the attached Memorandum of Points and Authorities,  
9 all pleadings, records and papers on file herein, all matters of which the Court may properly take  
10 judicial notice, and upon such further argument and evidence as may be presented at the hearing on  
11 this Motion.

12  
13 DATED: January 7, 2004

14 GIBSON, DUNN & CRUTCHER LLP  
15 Theodore J. Boutros, Jr.  
16 Julian W. Poon

17 By:   
Theodore J. Boutros, Jr.

18 Attorneys for National Broadcasting Company, Inc.;  
19 CBS Broadcasting Inc.; Fox News Network L.L.C.;  
20 ABC, Inc.; Cable News Network, Inc.; and The New  
21 York Times Company

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.  
3 INTRODUCTION

4 National Broadcasting Company, Inc.; CBS Broadcasting Inc.; Fox News Network L.L.C.;  
5 ABC, Inc.; Cable News Network, Inc.; and The New York Times Company (collectively, the  
6 "Access Proponents") respectfully move this Court pursuant to California Rule of Court 243.2(h)<sup>1</sup> to  
7 unseal certain court records related to Search Warrant # 884686, including the return thereto, the  
8 inventory of items seized, the affidavit in support thereof, and any other documents of which the  
9 Access Proponents are unaware because of the sealing order (collectively, the "Warrant Records").  
10 The Santa Barbara Sheriff's Department and District Attorney's Office executed the Search Warrant  
11 on November 18, 2003, at Neverland Ranch, in connection with the now-filed criminal action *People*  
12 *v. Michael Jackson*, Case No. 1133603. This Court initially ordered the Warrant Records sealed for  
13 45 days from the date of issuance on November 17, 2003, and subsequently ordered on December 26,  
14 2003, that the Warrant Records remain sealed "until, at a minimum, the arraignment in this matter."

15 The First Amendment to the United States Constitution, Article I, Section 2 of the California  
16 Constitution, the common law, and the plain text of California Rule of Court 243.1(d), which codifies  
17 the foregoing, establish a strong "presumption of openness [that] inheres in the very nature of a  
18 criminal trial under our system of justice" and a presumptive "right" on the part of members of the  
19 public "to inspect and copy public records and documents, including judicial records and  
20 documents." *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court*, 20 Cal. 4th 1178, 1200 (1999)  
21 (quoting *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 573 (1980) (plurality)); see also  
22 *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978). Penal Code § 1534(a) explicitly  
23 provides that "[t]he documents and records of the court relating to the warrant," which include the  
24 affidavit supporting the search warrant along with the return and inventory, "shall be open to the  
25 public as a judicial record." *Id.* (emphasis added). Thus, *NBC Subsidiary's* strong presumption of  
26

27 1 California Rule of Court 243.2(h) provides in relevant part: "A party or member of the public, or  
28 the court on its own motion, may move to unseal a record."

1 openness applies to the affidavit supporting the search warrant, the return, the inventory, this Court's  
2 initial statement of reasons in support of ordering the foregoing sealed for 45 days, and any other  
3 related documents of which the Access Proponents are currently unaware because of this sealing  
4 order.

5 That strong and constitutionally based presumption "may be overcome only by an *overriding*  
6 *interest* based on findings that closure is essential to preserve higher values and is narrowly tailored  
7 to serve that interest." *NBC Subsidiary*, 20 Cal. 4th at 1204 (quoting *Press-Enterprise Co. v.*  
8 *Superior Court*, 464 U.S. 501, 510 (1984)). See also Cal. R. Ct. 243.1(d) (specifying that records  
9 may be filed under seal "only if [the court] expressly finds that" several conditions—including the  
10 "exist[ence of] an *overriding interest* that overcomes the right of public access to the record"—have  
11 been satisfied) (emphases added). Indeed, such express findings must be "*specific enough that a*  
12 *reviewing court can determine whether the closure order was properly entered*" and must be made  
13 after the trial court conducts a hearing to consider specific evidence and arguments supporting such  
14 express findings. *NBC Subsidiary*, 20 Cal. 4th at 1204, 1181, 1217-18.

15 Absent such express and detailed findings by a court justifying and explaining the compelling and  
16 overriding need for even partial and selective closure of judicial proceedings and records, this  
17 presumption of openness, rooted in the Constitution, requires the immediate unsealing of all court records  
18 and access to any future proceedings and filings. As shown below, these principles require that the Court  
19 unseal the Warrant Records and make them available to the Access Proponents and the public.

## 20 II.

### 21 CALIFORNIA RULE OF COURT 243.1 ESTABLISHES A STRONG 22 PRESUMPTION OF OPENNESS THAT HAS NOT BEEN REBUTTED AND REQUIRES THAT THE COURT UNSEAL THE WARRANT RECORDS

23 California Rule of Court 243.1, which establishes that "court records are presumed to be open  
24 ... [u]nless confidentiality is required by law," states in no uncertain terms that:

25 The court may order that a record be filed under seal only if it expressly finds that:

- 26 (1) There exists an overriding interest that overcomes the right of public access  
27 to the record;  
28 (2) The overriding interest supports sealing the record;

///

- 1 (3) A substantial probability exists that the overriding interest will be  
prejudiced if the record is not sealed;  
2 (4) The proposed sealing is narrowly tailored; and  
3 (5) No less restrictive means exist to achieve the overriding interest.

4 Cal. R. Ct. 243.1(c), (d). Such express findings must be "specific enough that a reviewing court can  
5 determine whether the closure order was properly entered" and must be made after the trial court  
6 conducts a hearing to consider specific evidence and arguments supporting such express findings.  
7 *NBC Subsidiary*, 20 Cal. 4th at 1204, 1181, 1217-18. This Rule was adopted in 2001 with the  
8 specific purpose of implementing the constitutional mandates articulated in *NBC Subsidiary*.<sup>2</sup> It also  
9 tracks the specific requirement of Penal Code § 1534(a) that while "[t]he documents and records of  
10 the court relating to the warrant need not be open to the public until the execution and return of the  
11 warrant or the expiration of the 10-day period after issuance, . . . [t]hereafter, if the warrant has been  
12 executed, the documents and records shall be open to the public as a judicial record." *Id.*

13 Rule of Court 243.1 requires that the affidavit supporting the search warrant, the return, the  
14 inventory, and this Court's initial statement of reasons in support of sealing the foregoing for 45 days  
15 from the date of the search warrant's issuance, be unsealed. These are precisely the type of  
16 documents that are presumed to be open to the public. Indeed, the very statement of reasons in  
17 support of the initial order sealing these documents appears to be itself sealed and unavailable to the  
18 public.

19 As for the conclusory "findings" stipulated to by the parties and entered as an order by this  
20 Court on December 26, 2003, which largely simply repeat without analysis the language of Rule of  
21 Court 243.1, they are clearly inadequate under both Rule of Court 243.1 and the Supreme Court's  
22 decision in *NBC Subsidiary*. Not only do they lack findings "specific enough that a reviewing court  
23 can determine whether the [sealing] order was properly entered,"<sup>3</sup> but they also were not made at or

24  
25 <sup>2</sup> See Advisory Committee Comment to Cal. R. Ct. 243.1; *id.* ("These rules apply to civil and  
26 criminal cases. They recognize the First Amendment right of access to documents used at trial or  
as a basis of adjudication. . . . Rule 243.1(d)-(e) is derived from *NBC Subsidiary*.").

27 <sup>3</sup> For example, no explanation is given whatsoever for how the disclosure of documents and  
28 records relating to the search warrant could "irreparably harm both the prosecution's and  
defense's respective investigations . . . into the alleged activities upon which the [felony]

[Footnote continued on next page]

1 after the kind of hearing—to consider specific evidence and reasons for sealing—mandated by *NBC*  
2 *Subsidiary* and clearly intended by Rule of Court 243.1. *NBC Subsidiary*, 20 Cal. 4th at 1217-18  
3 (“[B]efore substantive courtroom proceedings are closed or transcripts are ordered sealed, a trial  
4 court must hold a hearing and expressly find that (i) there exists an overriding interest supporting  
5 closure and/or sealing; (ii) there is a substantial probability that the interest will be prejudiced absent  
6 closure and/or sealing; (iii) the proposed closure and/or sealing is narrowly tailored to serve the  
7 overriding interest; and (iv) there is no less restrictive means of achieving the overriding interest.”).

8 While in very rare instances privacy interests might justify the sealing of some portions of  
9 court documents, *see, e.g., NBC Subsidiary*, 20 Cal. 4th at 1223 n.46, there is, as yet, nothing in the  
10 public record to suggest that the information in the Search Warrant presents the sort of compelling or  
11 “overriding” privacy interests that might be sufficient, in exceptional circumstances, to overcome the  
12 public right of access and justify a *blanket* sealing order in this case. In fact, it does not appear that  
13 the Court has taken any evidence on the subject or conducted any other inquiry but instead simply  
14 accepted the stipulation between the District Attorney and the defense counsel. The affidavit, return,  
15 and inventory are official documents executed by public officials in the discharge of their public  
16 duties. The fact that both the District Attorney and defense counsel wish to keep this information  
17 sealed, while not surprising, hardly satisfies the requirements of Rule 243.1.

18 The fact that the Court sealed its own initial sealing Order is even more troubling. For 45  
19 days the public was not only denied access to the Warrant Records but was also denied access to the  
20 order that was required to contain the factual findings that would justify such an order. The  
21 subsequent Order entered by this Court on December 26, 2003, extending the duration of the initial  
22 sealing order is simply a stipulation between the parties that was approved by the Court. There is no  
23 information in the record to demonstrate that the Court made any specific, express, and non-  
24 conclusory findings based on evidence presented by the parties at a hearing conducted to consider

25 \_\_\_\_\_  
26 [Footnote continued from previous page]

27 complaint is predicated,” nor of how such disclosure could jeopardize the interest in a fair trial to  
28 such an extent as to override the public’s right of access to these documents and records under  
Rule 243.1(d) and *NBC Subsidiary*. Exhibit A to Declaration of Julian W. Poon (“Poon Decl.”)  
(Dec. 26, 2003 Stipulation and Order).

1 whether sufficient justification exists to seal the records. Thus, there is presently no way to know  
2 whether the original sealing order comported with Rule 243.1. Finally, even if the Court found that  
3 there was an interest that could justify the sealing of some portion of some of these documents and  
4 records, neither this Court's initial 45-day sealing order, nor its December 26, 2003 extension thereof,  
5 is "narrowly tailored" or the least restrictive means for protecting any such interest. Cal. R. Ct.  
6 243.1(d). Indeed, in the event that any portions of any of these documents did implicate an interest to  
7 such an extent as to overcome the strong presumption of openness and right of public access to  
8 criminal-court records that arises from the First Amendment and the common law, such portions  
9 could be selectively redacted. See e.g., *Washington Post v. Robinson*, 935 F.2d 282, 289 n.9 (D.C.  
10 Cir. 1991); *In re Providian Credit Card Cases*, 96 Cal. App. 4th 292, 309 (2002).

### 11 III.

#### 12 THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION 13 AND ITS CALIFORNIA COUNTERPART MANDATE THE UNSEALING OF 14 THE WARRANT RECORDS, AS DOES THE WELL-ESTABLISHED 15 COMMON-LAW RIGHT OF ACCESS TO THIS COURT'S RECORDS

16 In its decision extending to civil cases the First Amendment right of access to court  
17 proceedings and records, the California Supreme Court canvassed the United States Supreme Court  
18 precedents that established the public right of access to criminal trials. *NBC Subsidiary (KNBC-TV),*  
19 *Inc. v. Superior Court*, 20 Cal. 4th 1178, 1197-1212 (1999) (citing, *inter alia*, *Globe Newspaper Co.*  
20 *v. Superior Court*, 457 U.S. 596 (1982), *Press-Enterprise Co. v. Superior Court*, 464 U.S. 501  
21 (1984), *Press-Enterprise Co. v. Superior Court*, 478 U.S. 1 (1986)). The Court unanimously held  
22 that such access is a fundamental part of our judicial system not only in criminal trials but also in  
23 civil trials.

24 "[A] presumption of openness inheres in the very nature of a criminal trial under our system  
25 of justice." *NBC Subsidiary*, 20 Cal. 4th at 1200 (quoting *Richmond Newspapers, Inc. v. Virginia*,  
26 448 U.S. 555, 573 (1980) (plurality)). This "presumption of openness may be overcome only by an  
27 *overriding interest* based on findings that closure is essential to preserve higher values and is  
28 narrowly tailored to serve that interest. *The interest is to be articulated along with findings specific*  
*enough that a reviewing court can determine whether the closure order was properly entered."* 20

1 Cal. 4th at 1204 (citing *Press-Enterprise Co. v. Superior Court*, 464 U.S. 501, 510 (1984)). See also  
2 *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978) ("It is clear that the courts of this  
3 country recognize a general right to inspect and copy public records and documents, including  
4 judicial records and documents.") (footnote omitted); *Globe Newspaper*, 457 U.S. at 606-07 ("Where  
5 . . . the state attempts to deny the right of access in order to inhibit the disclosure of sensitive  
6 information, it must be shown that the denial is necessitated by a *compelling* governmental interest,  
7 and is *narrowly tailored* to serve that interest.") (emphases added); *Copley Press, Inc. v. Superior*  
8 *Court*, 6 Cal. App. 4th 106, 111 (1992) ("in general" the First Amendment provides "broad access  
9 rights to judicial hearings and records . . . both in criminal and civil cases").

10 In recognition of this powerful First Amendment right of access, the California Supreme  
11 Court in *NBC Subsidiary* upheld the Court of Appeal's issuance of a writ directing the trial court to  
12 overturn its closure order despite the defendant's argument that press coverage of the celebrity civil  
13 trial might taint the jury and thus compromise the defendant's right to a fair trial. See 20 Cal. 4th at  
14 1223. It did so for many of the reasons that apply squarely to the instant case:

15 Public access to [judicial] proceedings serves to (i) demonstrate that justice is meted  
16 out fairly, thereby promoting public confidence in such governmental proceedings; (ii)  
17 provide a means by which citizens scrutinize and check the use and possible abuse of  
18 judicial power; and (iii) enhance the truthfinding function of the proceeding. . . .

18 20 Cal. 4th at 1219.

19 "[T]he public has a legitimate interest in access to . . . court documents . . . . If public  
20 court business is conducted in private, it becomes impossible to expose corruption,  
21 incompetence, inefficiency, prejudice, and favoritism. For this reason traditional  
22 Anglo-American jurisprudence distrusts secrecy in judicial proceedings and favors a  
23 policy of maximum public access to proceedings and records of judicial tribunals."

22 20 Cal. 4th at 1211 n.28 (quoting *Estate of Hearst*, 67 Cal. App. 3d 777, 784 (1977)).

23 Indeed, as the Ninth Circuit held in issuing a writ of mandate directing the trial court to  
24 disclose to a newspaper the "presentence report, the psychiatric report, [and] the postsentence  
25 probation report" of a criminal defendant:

26 The interest in disclosure asserted by the newspaper has its roots in the common law  
27 right "to inspect and copy public records and documents, including judicial records  
28 and documents." . . . [A] common law right of access has been acknowledged when  
the party seeking access has manifested a "desire to keep a watchful eye on the  
workings of public agencies." *Nixon [v. Warner Communications, Inc.]* 435 U.S.



1 [589,] 598 [(1978)]. Similarly, access to court records has been justified by "a  
2 newspaper publisher's intention to publish information concerning the operation of  
government." . . .

3 In *CBS, Inc. v. United States Dist. Court*, 765 F.2d 823 (9th Cir. 1985),] we observed  
4 that "the penal structure is the least visible, least understood, least effective part of the  
5 justice system; and each . . . failure is consequent from the others. Public  
6 examination, study, and comment is essential if the corrections process is to improve."  
7 *CBS*, 765 F.2d at 826. The newspaper has a legitimate interest in explaining to a  
8 concerned public the means by which sentencing decisions are made. Making the  
public aware of how the criminal justice system functions surely serves the ends of  
justice. Publishing sufficient information to allow the public to join in a dialogue  
about the courts and the treatment of defendants can only have a positive impact on  
the public's perception of our judicial system. If the system has flaws, it is all the  
better that these flaws be exposed and subjected to public comment.

9 *United States v. Schlette*, 842 F.2d 1574, 1582-83 (9th Cir. 1988).

10 The United States Supreme Court likewise has observed:

11 [T]he right of access to criminal trials plays a particularly significant role in the  
12 functioning of the judicial process and the government as a whole. Public scrutiny of  
13 a criminal trial enhances the quality and safeguards the integrity of the factfinding  
14 process, with benefits to both the defendant and to society as a whole. Moreover,  
15 public access to the criminal trial fosters an appearance of fairness, thereby  
heightening public respect for the judicial process. And in the broadest terms, public  
access to criminal trials permits the public to participate in and serve as a check upon  
the judicial process—an essential component in our structure of self-government.

16 *Globe Newspapers*, 457 U.S. at 606 (footnotes omitted).

17  
18 In short, openness is vital to both the public confidence in and the effectiveness of the  
19 criminal justice system, including the preliminary phases leading up to the filing of formal criminal  
20 charges. For the reasons discussed above regarding Rule 243.1 and Penal Code § 1534(a), the  
21 constitutional presumption of openness requires that the Court unseal the Warrant Records. No  
22 express findings have yet been made in any publicly accessible, verifiable, and sufficiently specific  
23 and non-conclusory format, following a hearing, that might justify the sealing order. No overriding,  
24 compelling reason to seal any portion of these documents and records has yet been shown, and  
25 certainly there would appear to be no reason to justify sealing the entire text of all of them.

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IV.  
CONCLUSION

The First Amendment to the United States Constitution, Article I, Section 2 of the California Constitution, Penal Code § 1534(a), the common law, and California Rule of Court 243.1 all mandate the unsealing of the Warrant Records. Consequently, this Court should grant the Access Proponents' motion to unseal these records.

DATED: January 7, 2004

Respectfully submitted,

GIBSON, DUNN & CRUTCHER LLP  
Theodore J. Boutrous, Jr.  
Julian W. Poon

By:   
Theodore J. Boutrous, Jr.

Attorneys for National Broadcasting Company, Inc.;  
CBS Broadcasting Inc.; Fox News Network L.L.C.;  
ABC, Inc.; Cable News Network, Inc.; and The New  
York Times Company

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**DECLARATION OF JULIAN W. POON**

I, Julian W. Poon, declare as follows:

1. I am an associate with Gibson, Dunn & Crutcher LLP, which has been retained by movants National Broadcasting Company, Inc.; CBS Broadcasting Inc.; Fox News Network L.L.C.; ABC, Inc.; Cable News Network, Inc.; and The New York Times Company (collectively, the "Access Proponents"). I make this declaration in support of the Access Proponents' Motion to Unseal Certain Court Records Related to Search Warrant # 884686. I have personal knowledge of the facts stated in this declaration, unless the context indicates otherwise, and, if called as a witness, could and would testify competently thereto.

2. Attached hereto as Exhibit "A" is a copy of a stipulation and order entered into by the prosecution and defense in *People v. Michael Jackson*, Case No. 1133603 and signed by Presiding Judge Clifford R. Anderson, III, extending the earlier sealing order "until, at a minimum, the arraignment in this matter."

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct and was executed by me at Los Angeles, California, on January 7, 2004.



---

Julian W. Poon

**EXHIBIT A**

NO. 645 P. 13/22

JAN. 7. 2004 12:23PM GDC LA 7

1 **GERAGOS & GERAGOS**

2 A PROFESSIONAL CORPORATION  
3 LAWYERS

3 35TH FLOOR

4 950 S. GRAND AVENUE

4 LOS ANGELES, CALIFORNIA 90071-9480

5 TELEPHONE (213) 625-2900

5 FACSIMILE (213) 625-1600

6 **MARK J. GERAGOS' SEN 108325**  
7 **Attorney for Defendant, MICHAEL JACKSON**

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

DEC 26 2003

GARY M. BLAIR, EXEC. OFFICER

By *[Signature]*  
**E. CAHADIMY**  
Deputy Clerk

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **FOR THE COUNTY OF SANTA BARBARA**  
12 **(COOK DIVISION)**

14 **THE PEOPLE OF THE STATE OF**  
15 **CALIFORNIA,**

16 **Plaintiff,**

17 **vs.**

18 **MICHAEL JACKSON, et al.,**

19 **Defendant.**

Case No.: 1133603

**AGREEMENT OF PARTIES AND  
ORDER SEALING SEARCH  
WARRANTS, AFFIDAVITS IN  
SUPPORT THEREOF, AND  
RETURNS**

[Cal. Rules of Court rule 243.1]

Continued Date: January 16, 2004  
[Previously set for January 9, 2004]  
Time: 8:30 a.m.  
Dept: TBA

22 **IT IS HEREBY AGREED** by and between the undersigned, that all Search  
23 **Warrants; Arrest Warrants; Affidavits in Support Thereof; Returns; and any other**  
24 **addenda thereto (collectively "the Materials") should remain sealed until, at a minimum,**  
25 **until the arraignment in this matter. The undersigned further agree that California Rule of**  
26 **Court 243.1 authorizes such sealing for the following reasons:**

27 **1. Prior to November 2003 an investigation into the allegations underlying the**  
28 **criminal complaint in this matter was commenced by the District Attorney;**


STIPULATION AND ORDER

2. The District Attorney's investigation is ongoing;
3. Counsel for defendant Michael Jackson is also conducting an investigation into the alleged activities upon which the complaint is predicated;
4. The materials contain confidential and other information that, if made public, would irreparably harm both the prosecution's and defense's respective investigations;
5. The prosecution's and defense's right to conduct their investigations and to a fair trial are overriding interests that overcome the right public access to the Materials;
6. The overriding interest set forth in paragraph 5 supports sealing the Materials;
7. A substantial probability exists that the overriding interest set forth in paragraph 5 will be prejudiced if the Materials are not sealed;
8. The proposed sealing is narrowly tailored; and
9. No less restrictive means exist to achieve the overriding interest.

IT IS SO AGREED.

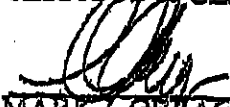
Dated: 1/24, 2003

THOMAS W. SNEDDON  
District Attorney

  
THOMAS W. SNEDDON  
District Attorney for the  
COUNTY OF SANTA BARBARA

Dated: 12/24, 2003

MARK J. GERAGOS  
GERAGOS & GERAGOS

  
MARK J. GERAGOS  
Attorney for Defendant  
Michael Jackson

ORDER

Having read and considered the agreement of the parties, the Court makes the following factual findings:

1. Prior to November 2003 an investigation into the allegations underlying the criminal complaint in this matter was commenced by the District Attorney;
2. The District Attorney's investigation is ongoing;
3. Counsel for defendant Michael Jackson is also conducting an investigation into the alleged activities upon which the complaint is predicated;
4. The Materials contain confidential and other information that, if made public, would irreparably harm both the prosecution's and defense's respective investigations;
5. The prosecution's and defense's right to conduct their investigations and to a fair trial are overriding interests that overcome the right public access to the Materials;
6. The overriding interest set forth in paragraph 5 supports sealing the Materials;
7. A substantial probability exists that the overriding interest set forth in paragraph 5 will be prejudiced if the Materials are not sealed;
8. The proposed sealing is narrowly tailored; and
9. No less restrictive means exist to achieve the overriding interest.

The Court, having made such findings hereby orders that pursuant to California Rule of Court 243.1 all Search Warrants; Arrest Warrants; Affidavits in Support Thereof; Returns; and any other addenda thereto (collectively "the Materials") shall remain sealed until, at a minimum, the arraignment in this matter.

IT IS HEREBY ORDERED.

Dated: 12/26/03

  
JUDGE OF THE SUPERIOR COURT

Clifford Anderson

14-

STIPULATION AND ORDER

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**CERTIFICATE OF SERVICE**

**MAIL, COMMERCIAL OVERNIGHT MESSENGER, FAX, HAND DELIVERY**

I, Lindie S. Joy, hereby certify as follows:

I am employed in the County of Los Angeles, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 333 South Grand Avenue, Los Angeles, California 90071, in said County and State; I am employed in the office of Julian W. Poon, a member of the bar of this Court, and at his/her direction, on January 7, 2004, I served the following:

**NOTICE OF MOTION AND MOTION, FILED BY NATIONAL BROADCASTING COMPANY, INC.; CBS BROADCASTING INC.; FOX NEWS NETWORK L.L.C.; ABC, INC.; CABLE NEWS NETWORK, INC.; AND THE NEW YORK TIMES COMPANY, SEEKING TO UNSEAL CERTAIN COURT RECORDS RELATED TO SEARCH WARRANT #884686**

on the interested parties in this action, by:

**Service by Mail:** placing true and correct copy(ies) thereof in an envelope addressed to the attorney(s) of record, addressed as follows:

Thomas W. Sneddon, Jr.  
District Attorney  
Santa Barbara County  
1105 Santa Barbara Street  
Santa Barbara, CA 93101-2007

Hon. Thomas R. Adams  
Santa Barbara Superior Court  
1100 Anacapa Street, Dept. 2  
Santa Barbara, CA 93101

Judge Clifford R. Anderson, III  
Santa Barbara Superior Court  
118 E. Figueroa Street  
Santa Barbara, CA 93101

Mark John Geragos  
Geragos & Geragos  
350 S. Grand Avenue, Suite 3900  
Los Angeles, CA 90071-3480

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business.

**Service by Commercial Overnight Messenger:** placing true and correct copy(ies) thereof in an envelope addressed to the attorney(s) of record, addressed as follows:



1 and after sealing said envelope I caused same to be delivered to the aforementioned attorney(s) by  
2 qualified commercial overnight messenger.

3  **Service by Fax:** causing a true copy thereof to be sent via facsimile to the attorney(s) of  
4 record at the telecopier number(s) so indicated, addressed as follows:

5 **Attorney Name & Address**

**Fax and Callback Number**

6 Thomas W. Sneddon, Jr.  
7 District Attorney  
8 Santa Barbara County  
1105 Santa Barbara Street  
9 Santa Barbara, CA 93101-2007

Facsimile: (805) 568-2398  
Telephone: (805) 568-2306

10 Hon. Thomas R. Adams  
11 Santa Barbara Superior Court  
1100 Anacapa Street, Dept. 2  
12 Santa Barbara, CA 93101

Facsimile: (805) 568-2219  
Telephone: (805) 568-3180

13 Judge Clifford R. Anderson, III  
14 Santa Barbara Superior Court  
118 E. Figueroa Street  
15 Santa Barbara, CA 93101

Facsimile: (805) 568-2847  
Telephone: (805) 568-2735

16 Mark John Geragos  
17 Geragos & Geragos  
350 S. Grand Avenue, Suite 3900  
18 Los Angeles, CA 90071-3480

Facsimile: (213) 625-1600  
Telephone: (213) 625-3900

19 and that the transmission was reported as completed and without error.

20  **Service by Hand Delivery:** delivering true and correct copy(ies) thereof and sufficient  
21 envelope(s) addressed to the attorney(s) of record, addressed as follows:

22 to a messenger or messengers for personal delivery.

23 I certify under penalty of perjury that the foregoing is true and correct, that the foregoing  
24 document(s), and all copies made from same, were printed on recycled paper, and that this Certificate  
25 of Service was executed by me on January 7, 2004 at Los Angeles, California.

26  
27   
28 \_\_\_\_\_  
Lindie S. Joy

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