

1 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY
County of Santa Barbara
2 By: RONALD J. ZONEN (State Bar No. 85094)
Senior Deputy District Attorney
3 J. GORDON AUCHINCLOSS (State Bar No. 150251)
Senior Deputy District Attorney
4 GERALD McC. FRANKLIN (State Bar No. 40171)
Senior Deputy District Attorney
5 1112 Santa Barbara Street
Santa Barbara, CA 93101
6 Telephone: (805) 568-2300
FAX: (805) 568-2398
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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

JAN 25 2005

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

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SANTA BARBARA
10 SANTA MARIA DIVISION

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12
13 THE PEOPLE OF THE STATE OF CALIFORNIA,) No. 1133603
14 Plaintiff,)
15 v.) PLAINIFF'S NOTICE OF
16 MICHAEL JOE JACKSON,) MOTION AND MOTION
17 Defendant.) FOR REVIEW OF COURT
18) TO DETERMINE IF
19) SEALING OF PLAINTIFF'S
20) REPLY TO DEFENDANT'S
21) OPPOSITION RE: MOTION
22) TO CLOSE THE
23) COURTROOM PURSUANT
24) TO PENAL CODE §859.1 IS
25) APPROPRIATE

Date: January 28, 2005
Time: 9:30 a.m.
Dept.: SM2 (Melville)

26 TO: MICHAEL JOE JACKSON, AND TO THOMAS A. MESEREAU, JR.,
27 ROBERT SANGER AND BRIAN OXMAN, HIS ATTORNEYS OF RECORD, AND TO
28 THEODORE J. BOUTROUS, JR., ESQ., GIBSON, DUNN & CRUTCHER, LLP:

PLEASE TAKE NOTICE that on January 28, 2005, at 9:30 a.m. or as soon

PLAINTIFF'S REQUEST THAT COURT DETERMINE APPROPRIATENESS OF SEALING MOTION FOR CLOSED COURTROOM

RECEIVED
05 JAN 25 PM 2:15
SUPERIOR COURT
SANTA BARBARA COUNTY
JULIEN DIVISION


1 thereafter as the matter may be heard, in the Department to be assigned, Plaintiff will, and
2 hereby does, request the Court to review PLAINTIFF'S REPLY TO DEFENDANT'S
3 OPPOSITION RE: MOTION TO CLOSE THE COURTROOM PURSUANT TO PENAL
4 CODE §859.1, filed contemporaneously with this Motion, to determine for itself whether an
5 order directing that the PLAINTIFF'S REPLY TO DEFENDANT'S OPPOSITION RE:
6 MOTION TO CLOSE THE COURTROOM PURSUANT TO PENAL CODE §859.1
7 is an appropriate document for sealing, and that the Motion be maintained under conditional
8 seal until further order of court, pursuant to California Rules of Court, rule 243.1 et seq.
9

10 The motion will be made on the ground that the facts, as established by the
11 accompanying declaration of Gordon Auchincloss, may not be sufficient to justify sealing the
12 specified motion pursuant to California Rules of Court, rule 243.1 et seq.

13 The motion will be based on this notice of motion, on the declaration of Gordon
14 Auchincloss and the memorandum of points and authorities served and filed herewith, on the
15 records and the file herein, and on such evidence as may be presented at the hearing of the
16 motion.

17 DATED: January 25, 2005

18 THOMAS W. SNEDDON, JR.
19 District Attorney

20 By: 
21 Gordon Auchincloss, Senior Deputy
22 Attorney for Plaintiff
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MEMORANDUM OF POINTS AND AUTHORITIES

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2 The procedure for sealing records under California Rules of Court, rule 243.1 et seq.
3 applies only to records that are deemed public. (*Id.*, rule 243.1(2)(2).) Motions and responsive
4 pleadings in criminal cases are, ordinarily, "public" records of the court.

5 Rule 243.1(d) provides that

6 The court may order that a record be filed under seal only if it
7 expressly finds facts that establish:

8 (1) There exists an overriding interest that overcomes the right of
9 public access to the record;

10 (2) The overriding interest supports sealing the record;

11 (3) A substantial probability exists that the overriding interest will
12 be prejudiced if the record is not sealed;

13 (4) The proposed sealing is narrowly tailored; and

14 (5) No less restrictive means exist to achieve the overriding interest.

15 Rule 243.1(e) provides, in pertinent part:

16 (1) An order sealing the record must (i) specifically set forth the
17 facts findings that support the findings and (ii) direct the sealing of
18 only those documents and pages, or, if reasonably practicable,
19 portions of those documents and pages, that contain the material that
20 needs to be placed under seal. All other portions of each documents
or page must be included in the public file.

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."

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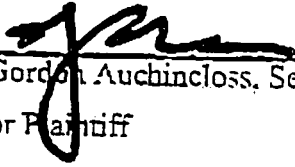
28 :///

1 DATED: January 25, 2005

2 Respectfully submitted,

3 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY
4 County of Santa Barbara

5 By: _____

6  _____
7 Gordon Auchincloss, Senior Deputy

8 Attorneys for Plaintiff
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PROOF OF SERVICE


STATE OF CALIFORNIA }
COUNTY OF SANTA BARBARA } SS

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, California 93101.

On January 25, 2004, I served the within PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR REVIEW OF COURT TO DETERMINE IF SEALING OF PLAINTIFF'S REPLY TO DEFENDANT'S OPPOSITION RE: MOTION TO CLOSE THE COURTROOM PURSUANT TO PENAL CODE §859.1 IS APPROPRIATE on THEODORE BOUTROUS, Media's counsel and on Defendant, by THOMAS A. MESEREAU, JR. and ROBERT SANGER, by personally delivering a true copy to Mr. Sanger's Office and then transmitting a true copy thereof to Mr. Mesereau by facsimile, at (310) 284-3122.

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

Executed at Santa Barbara, California on this 25th day of January, 2005.



Gordon Auchincloss

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SERVICE LIST

THOMAS A. MESEREAU, JR.
Collins, Mesereau, Reddock & Yu, LLP
1875 Century Park East, No. 700
Los Angeles, CA 90067
FAX: (310) 284-3133
Attorney for Defendant Michael Jackson

OXMAN & JAROSCAK
Brian Oxman State Bar Number 072172
14126 East Rosecrans
Santa Fe Springs, CA 90670
Tel.: (562) 921-5058, Fax: (562) 921-2298
Co-counsel for Defendant

ROBERT SANGER, ESQ.
Sanger & Swysen, Lawyers
233 E. Carrillo Street, Suite C
Santa Barbara, CA 93001
FAX: (805) 963-7311
Co-counsel for Defendant

GIBSON, DUNN & CRUTCHER, LLP
Theodore J. Boutros, Jr., Esq.
Julian W. Poon, Esq.
333 S. Grand Avenue
Los Angeles, CA 90071-3917
FAX: (213) 229-6758
Counsel for, collectively, "Media"