

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

JAN 26 2005

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

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  
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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,

13 Plaintiff,

14  
15 v.

16 MICHAEL JOE JACKSON,

17 Defendant.  
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No. 1133603

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PLAINTIFF'S NOTICE OF  
MOTION FOR ORDER DIRECTING  
THAT PLAINTIFF'S REPLY TO  
DEFENDANT'S OPPOSITION TO  
MOTION TO ADMIT EXPERT  
TESTIMONY ON DEFENDANT'S  
FINANCES BE MAINTAINED  
UNDER CONDITIONAL SEAL;  
DECLARATION OF GERALD  
McC. FRANKLIN IN SUPPORT  
THEREOF; MEMORANDUM  
OF POINTS AND AUTHORITIES

DATE: ~~January 28, 2005~~  
TIME: 8:30 a.m.  
DEPT: TBA (Mcville)

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

25 PLEASE TAKE NOTICE that on ~~January 28, 2005~~, at 8:30 a.m. or as soon  
26 thereafter as the matter may be heard, in the Department to be assigned, Plaintiff will, and  
27 hereby docs, move for an order directing that Plaintiff's Reply to Defendant's Opposition to  
28 Plaintiff's Motion to Admit Expert Testimony on Defendant's Finances, filed


1 contemporaneously with this Request for Conditional Sealing, be maintained under conditional  
2 seal until further order of court, pursuant to California Rules of Court, rule 243.1 et seq.

3 The Request will be made on the ground that the facts, as established by the  
4 accompanying declaration of Gerald McC. Franklin, are sufficient to justify sealing the  
5 Response pursuant to California Rules of Court, rule 243.1 et seq.

6 The Request will be based on this notice of motion, on the declaration of Gerald  
7 McC. Franklin and the memorandum of points and authorities served and filed herewith, on the  
8 records and the file herein, and on such evidence as may be presented at the hearing of the  
9 motion.

10 DATED: January 26, 2005

11 THOMAS W. SNEDDON, JR.  
12 District Attorney

13 By:   
14 Gerald McC. Franklin, Senior Deputy

15 Attorneys 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(a)(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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1 DATED: January 26, 2005

2 Respectfully submitted,

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

5 By:   
6 Gerald McC. Franklin, Senior Deputy

7 Attorneys for Plaintiff  
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3 **PROOF OF SERVICE**

4 STATE OF CALIFORNIA }  
5 COUNTY OF SANTA BARBARA } SS

6 I am a citizen of the United States and a resident of the County aforesaid; I am over  
7 the age of eighteen years and I am not a party to the within-entitled action. My business  
8 address is: District Attorney's Office; Courthouse; 1112 Santa Barbara Street, Santa Barbara,  
9 California 93101.

10 On January 26, 2005, I served the within PLAINTIFF'S REQUEST THAT  
11 PLAINTIFF'S REPLY TO DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION TO  
12 ADMIT EXPERT TESTIMONY ON DEFENDANT'S FINANCES BE MAINTAINED  
13 UNDER SEAL on Media's counsel and on Defendant, by THOMAS A. MESEREAU, JR.,  
14 ROBERT SANGER and BRIAN OXMAN, by personally delivering a true copy thereof to  
15 Attorney Robert Sanger's office and by causing a true copy to be transmitted by facsimile to  
16 Defendant's co-counsel (except Mr. Sanger and Mr. Oxman) and to Media's counsel at the  
17 facsimile number shown with the address for counsel on the attached Service List, and then  
18 causing that copy to be mailed to each (except Mr. Sanger and Mr. Oxman) at the address  
19 shown on the Service List.

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

21 Executed at Santa Barbara, California on this 26th day of January, 2005.

22  
23   
24 Gerald McC. Franklin

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4 SERVICE LIST

5 GIBSON, DUNN & CRUTCHER, LLP  
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12 Attorneys for (collectively) "Media"

13 THOMAS A. MESEREAU, JR.  
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17 FAX: [SANTA MARIA - CONFIDENTIAL]

18 Attorney for Defendant Michael Jackson

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25 BRIAN OXMAN, ESQ.  
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Co-counsel for Defendant