

1 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY
County of Santa Barbara
2 By: RONALD J. ZONEN (State Bar No. 85094)
Senior Deputy District Attorney
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Senior Deputy District Attorney
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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA
JAN 31 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

12 THE PEOPLE OF THE STATE OF CALIFORNIA,
13 Plaintiff,
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15
16 v.
17 MICHAEL JOE JACKSON,
18 Defendant.

No. 1133603
PLAINTIFF'S NOTICE OF
MOTION THAT MOTION TO
EXCLUDE REFERENCE TO
JANE DOE'S REFUSAL TO
WAIVE THE CONFIDENTIALITY
OF HER CONVERSATIONS WITH
ATTORNEY [REDACTED] BE
MAINTAINED UNDER
CONDITIONAL SEAL;
DECLARATION OF GERALD
McC. FRANKLIN IN SUPPORT
THEREOF; MEMORANDUM
OF POINTS AND AUTHORITIES

19
20 DATE: February 10, 2005
TIME: 8:30 a.m.
21 DEPT: TBA (Melville)
22

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

26 PLEASE TAKE NOTICE that on February 10, 2005, at 8:30 a.m. 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 Motion to Exclude Reference to Jane


1 Doe's Refusal to Waive the Confidentiality of Her Conversations With Attorney [REDACTED]
2 [REDACTED] Etc., filed contemporaneously with this Request for Conditional Sealing, be
3 maintained under conditional seal until further order of court, pursuant to California Rules of
4 Court, rule 243.1 et seq.

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

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

12 DATED: January 31, 2005

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14 THOMAS W. SNEDDON, JR.
District Attorney

15 By: 
16 Gerald McC. Franklin, Senior Deputy
17 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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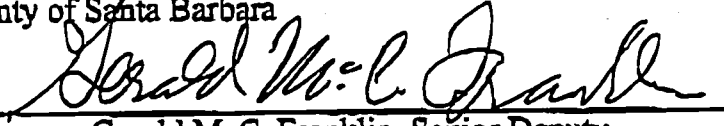
27 ////

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1 DATED: January 31, 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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PROOF OF SERVICE

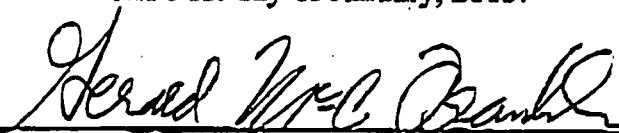
STATE OF CALIFORNIA
COUNTY OF SANTA BARBARA } SS

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; 1112 Santa Barbara Street, Santa Barbara, California 93101.

On January 31, 2005, I served the within PLAINTIFF'S REQUEST THAT PLAINTIFF'S MOTION TO EXCLUDE REFERENCE TO JANE DOE'S REFUSAL TO WAIVE THE CONFIDENTIALITY OF HER CONVERSATIONS WITH ATTORNEY [REDACTED] ETC. BE MAINTAINED UNDER SEAL on Media's counsel and on Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER and BRIAN OXMAN, by serving a true copy thereof on defendant's counsel in open court and by transmitting a true copy there of by facsimile to to Media's counsel at the facsimile number shown with the address for counsel on the attached Service List .

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

Executed at Santa Barbara, California on this 31st day of January, 2005.


Gerald McC. Franklin

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SERVICE LIST

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Co-counsel for Defendant

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