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 County of Santa Barbara  
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**FILED**  
 SUPERIOR COURT of CALIFORNIA  
 COUNTY of SANTA BARBARA  
 FEB 10 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

11			
12	THE PEOPLE OF THE STATE OF CALIFORNIA.	)	No. 1133605
13		)	PLAINTIFF'S NOTICE OF
14	Plaintiff,	)	MOTION THAT PLAINTIFF'S
15		)	OPPOSITION TO DEFENDANT'S
16	v.	)	REQUEST THAT "FOOTAGE"
17	MICHAEL JOE JACKSON,	)	VIDEO BE INCLUDED AS PART
18		)	OF PLAINTIFF'S CASE IN CHIEF
19		)	BE MAINTAINED UNDER
20		)	CONDITIONAL SEAL:
21	Defendant.	)	DECLARATION OF GERALD
22		)	McC. FRANKLIN IN SUPPORT
23		)	THEREOF; MEMORANDUM
24		)	OF POINTS AND AUTHORITIES

DATE: ~~February 21, 2005~~  
 TIME: ~~9:30 a.m.~~  
 DEPT: TBA (Melville)

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 ~~February 21, 2005, at 9:30 a.m.~~ or as soon  
 26 thereafter as the matter may be heard, in the Department to be assigned, Plaintiff will, and  
 27 hereby does, move for an order directing that Plaintiff's Opposition to Defendant's Request  
 28 That Plaintiff Be Required To Present The Hearsay Evidence Of Defendant's Response To

1 "Living With Michael Jackson" As Part Of Its Case In Chief, filed contemporaneously with  
2 this Request for Conditional Sealing, be maintained under conditional seal until further order of  
3 court, pursuant to California Rules of Court, rule 243.1 et seq.

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

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

11 DATED: February 10, 2005

12 THOMAS W. SNEDDON, JR.  
13 District Attorney

14 By:   
15 Gerald McC. Franklin, Senior Deputy

16 Attorneys for Plaintiff  
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MEMORANDUM OF POINTS AND AUTHORITIES

The procedure for sealing records under California Rules of Court, rule 243.1 et seq. applies only to records that are deemed public. (*Id.*, rule 243.1(a)(2).) 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 documents 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."

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