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

SEP 08 2004

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

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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 FOR THE COUNTY OF SANTA BARBARA  
9 (COOK DIVISION)  
10

11 **PEOPLE OF THE STATE OF CALIFORNIA,**

12 Plaintiffs,

13  
14  
15 vs.

16 **MICHAEL JOE JACKSON,**

17 Defendant.  
18  
19

Case No: 1133603

**RESPONSE OF SHERIFF JIM ANDERSON TO DEFENDANT'S ORDER TO SHOW CAUSE RE CONTEMPT AND/OR OTHER SANCTIONS**

Date: September 8, 2004  
Time: 1:00 p.m.  
Dept: SM 2

Assigned Judge: Hon. Rodney S. Melville

20 **INTRODUCTION**

21 Defendant has made application to the court for an Order to Show Cause re  
22 Contempt, directed at the Sheriff<sup>1</sup> and District Attorney. The Sheriff did not violate  
23 the protective order. Nor did any of his current employees. The conduct defendant  
24 claims warrants contempt are purported violations of the Court's Protective Order by  
25 the former Sheriff, Jim Thomas.

26 Jim Thomas was the Sheriff of Santa Barbara County when the 1993-1994

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28 <sup>1</sup> Counsel for the Sheriff was not served with the OSC.

1 child molestation allegations first surfaced against this defendant. The Sheriff's  
2 Department investigated those charges. As the Sheriff in 1993-1994, Mr. Thomas  
3 would have had access to the files and reports generated by his agency.

4 The comments made by the former Sheriff on NBC's Dateline program last  
5 Friday evening, September 3, are part of the basis for the pending OSC. Nothing in  
6 his comments indicate he based his remarks on anything other than whatever  
7 knowledge of the contents of investigative files he may have obtained in his capacity  
8 as the former Sheriff.

9 **II**

10 **IT IS NOT IMPERMISSIBLE FOR A FORMER GOVERNMENT EMPLOYEE TO**  
11 **DISCLOSE INFORMATION OBTAINED DURING THEIR EMPLOYMENT**

12 Defendant asserts, without any supporting facts that "Someone from the  
13 Sheriff's Department...is leaking to Mr. Thomas information regarding the current  
14 investigation..." [¶ 10, Sanger Declaration] The defendant further asserts that the  
15 current Sheriff, Jim Anderson "...is responsible for the conduct of the current and  
16 former employees of the Sheriff's Department. He has the duty to maintain  
17 confidentiality of prior confidential reports and records and to require compliance  
18 with the protective order...." [¶ 14, Sanger Declaration]

19 Neither of those assertions is correct. And the defendant provides no legal  
20 support for the assertion the Sheriff has a duty as it relates to the conduct of former  
21 employees. The Sheriff denies anyone from his Department is leaking information.  
22 All department employees have been made aware of the Protective Order. Absent  
23 any specific evidence of violation, contempt against the Sheriff is clearly improper.

24 Also, the current Sheriff has no legal control over the conduct of his former  
25 employees, let alone the former elected Sheriff, Jim Thomas. While current  
26 employees are prohibited from disclosing confidential information obtained in the  
27 course of their official duties for financial gain, there is no such prohibition as to  
28 former employees. [see Government Code § 1098, "(a) Any current public officer or

1 employee who willfully and knowingly discloses for pecuniary gain, to any other  
2 person, confidential information acquired by him or her in the course of his or her  
3 official duties, or uses any such information for the purpose of pecuniary gain, is  
4 guilty of a misdemeanor.”]

5 Some local governments have adopted what are known as “revolving door”  
6 policies that prohibit former employees from using information gained in the course  
7 of their duties for financial gain for a certain number of years after the end of their  
8 employment. Santa Barbara County has not adopted such a policy.

9 Thus the Sheriff cannot legally prohibit his employees from disclosing  
10 information obtained while employed by the Sheriff’s Department.

11 To the extent the former Sheriff disclosed confidential child abuse  
12 information, he may have violated Penal Code § 11167, which provides “(a) The  
13 reports required by Sections 11166 and 11166.2 shall be confidential and may be  
14 disclosed only as provided in subdivision (b). Any violation of the confidentiality  
15 provided by this article is a misdemeanor punishable by imprisonment in a county jail  
16 not to exceed six months, by a fine of five hundred dollars (\$500), or by both that  
17 imprisonment and fine.”

18 As to information Mr. Thomas disclosed during the Dateline interview, there is  
19 no evidence he obtained it other than by virtue of his access to investigative reports  
20 and documents while he was Sheriff. His comments were, for the most part, of a  
21 general nature and did not disclose specific details, or information that has not  
22 previously been reported.

23 **III**

24 **THE PROTECTIVE ORDER DOES NOT INCLUDE FORMER SHERIFF’S**  
25 **EMPLOYEES**

26 The Protective Order does not appear to specifically include within its reach  
27 former employees of the Sheriff’s Department. It does include “any law enforcement  
28 employee of any agency involved in this case.”

1 While the Sheriff expresses no opinion as to whether or not former employees  
2 may or should be included under the order, any breach of the order by former  
3 employees should not invoke the penalty provisions of the order against the Sheriff.  
4 He has no control over their conduct. He has no legal duty to prevent them from  
5 disclosing information. Any disclosure of confidential information may violate some  
6 other provision of law, and should be dealt with accordingly, but the Sheriff should  
7 not be penalized for conduct he cannot prevent.

8 The Sheriff respectfully requests the Order to Show Cause be denied.

9 Dated: Sept 8, 2004

STEPHEN SHANE STARK  
COUNTY COUNSEL

10  
11 By [Signature]  
12 Stephen D. Underwood  
13 Chief Assistant County Counsel  
14 Attorneys for Jim Anderson, Sheriff,  
15 COUNTY OF SANTA BARBARA  
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