

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

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FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA

OCT 29 2004

GARY M. BLAIR, Executive Officer

By *Carrie L. Wagner*  
CARRIE L. WAGNER, Deputy Clerk

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

12 THE PEOPLE OF THE STATE OF CALIFORNIA,

13 Plaintiff,

14 v.

15 MICHAEL JOE JACKSON,

16 Defendant.

No. 1133603

PLAINTIFF'S NOTICE OF  
MOTION FOR ORDER  
DIRECTING THAT PLAINTIFF'S  
RESPONSE TO DEFENDANT'S  
MOTION TO REDUCE BAIL  
BE MAINTAINED UNDER SEAL  
UNTIL FURTHER ORDER OF  
COURT; DECLARATION OF  
RONALD J. ZONEN IN SUPPORT  
OF SEALING; MEMORANDUM  
OF POINTS AND AUTHORITIES

~~UNDER SEAL~~

DATE: November 4, 2004

TIME: 8:30 a.m.

DEPT: TBA (Melville)

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 November 4, 2004, at 8:30 a.m. or as soon  
27 thereafter as the matter may be heard, in Department SM 2, Plaintiff will, and hereby docs,  
28 move for an order directing that Plaintiff's Response to Defendant's Motion to Reconsider

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

4 The motion will be made on the ground that the facts, as established by the  
5 accompanying declaration of Ronald J. Zonen, are sufficient to justify sealing the specified  
6 motion pursuant to California Rules of Court, rule 243.1 et seq.

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

10 DATED: October 25, 2004

11 THOMAS W. SNEDDON, JR.  
12 District Attorney

13 By:   
14 Ronald J. Zonen, Senior Deputy  
15 Attorneys for Plaintiff  
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DECLARATION OF RONALD J. ZONEN

I, Ronald J. Zonen, say:

1. I am a lawyer admitted to practice in the State of California. I am a Senior Deputy of the District Attorney of Santa Barbara County. I am one of the lawyers of record for the People, Plaintiff in this action.

2. This motion to conditionally seal Plaintiff's Response to Defendant's Motion to Reconsider Order Denying Bail Reduction is made on the ground that the Response makes reference to evidence and events not previously made public in this proceeding.

3. I believe that the interest of each party to a fair trial overrides the public's prompt access to Plaintiff's Response to Defendant's Motion to Reconsider Order Denying Bail Reduction until the appropriateness of the release of a redacted version of the Response is determined by the court.

4. I believe an order maintaining this Response under seal in the interim would avert the probability of prejudice, and that no more narrowly tailored order with respect to that pleading could be drafted to achieve the overriding interest in a fair trial.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct, except as to matters stated upon my information and belief, and as to such matters I believe it to be true. I execute this declaration at Santa Barbara, California on October 25, 2004.

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Ronald J. Zonen

MEMORANDUM OF POINTS AND AUTHORITIES

1  
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: October 25, 2004

2 Respectfully submitted,

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

5 By: 

6 Ronald J. Zonen, Senior Deputy

7 Attorneys for Plaintiff  
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**PROOF OF SERVICE**

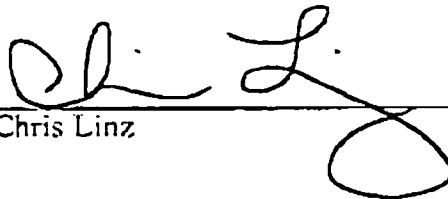
STATE OF CALIFORNIA                    }  
COUNTY OF SANTA BARBARA        } SS

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; 1105 Santa Barbara Street, Santa Barbara, California 93101.

On October 18, 2004, I served the within PLAINTIFF'S NOTICE OF MOTION FOR ORDER DIRECTING THAT PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO RECONSIDER ORDER DENYING BAIL REDUCTION, ETC. on Media's counsel and on Defendant, by THOMAS A. MESEREAU, JR. and ROBERT SANGER, by personally delivering a true copy thereof to Mr. Sanger at his office in Santa Barbara, then faxing a true copy to other counsel at the facsimile number shown with the address of each on the attached Service List (except Mr. Sanger and Mr. Oxman), and then by causing to be mailed a true copy to each counsel at those addresses.

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

Executed at Santa Barbara, California on this 25th day of October, 2004.

  
Chris Linz

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**SERVICE LIST**

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Co-counsel for Defendant