

1 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY
County of Santa Barbara
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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

DEC 18 2004

GARY J. ... Executive Officer
BY *[Signature]*
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. 1133603
13 Plaintiff,)
14 v.) PLAINIFF'S NOTICE OF
15) MOTION FOR ORDER
16 MICHAEL JOE JACKSON,) DIRECTING THAT PLAINTIFF'S
17 Defendant.) PROPOSED DISCOVERY ORDER
18) BE SEALED; DECLARATION OF
19) GERALD McC. FRANKLIN IN
20) SUPPORT OF SEALING;
21) MEMORANDUM OF POINTS
22) AND AUTHORITIES

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 Plaintiff hereby moves for an order directing that
27 "Plaintiff's Proposed Discovery Order," filed under seal contemporaneously with this Request
28 for Conditional Sealing, be maintained under conditional seal until further order of court,
pursuant to California Rules of Court, rule 243.1 et seq.

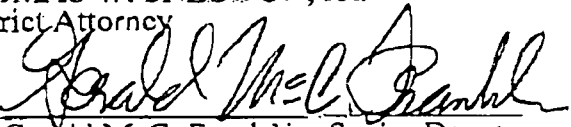
The motion will be made on the ground that the facts, as established by the
accompanying declaration of Gerald McC. Franklin, are sufficient to justify sealing the

1 specified motion pursuant to California Rules of Court, rule 243.1 et seq.

2 The motion will be based on this notice of motion, on the declaration of Gerald
3 McC. Franklin and the memorandum of points and authorities served and filed herewith, on the
4 records and the file herein, and on such evidence as may be presented at the hearing of the
5 motion.

6 DATED: December 6, 2004

7 THOMAS W. SNEDDON, JR.
8 District Attorney

9 By: 
10 Gerald McC. Franklin, Senior Deputy

11 Attorneys for Plaintiff

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(c) 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: December 6, 2004

2 Respectfully submitted,

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

5 By: Gerald McC. Franklin
6 Gerald McC. Franklin, Senior Deputy

7 Attorneys for Plaintiff
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3 AMENDED 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; 1105 Santa Barbara Street, Santa Barbara,
9 California 93101.

10 On December 6, 2004, I served the within PLAINTIFF'S PROPOSED
11 DISCOVERY ORDER; REDACTED VERSION THEREOF; NOTICE OF MOTION FOR
12 ORDER DIRECTING THAT "PLAINTIFF'S PROPOSED DISCOVERY ORDER" and
13 PROPOSED ORDER THEREON on Media's counsel and on Defendant, by THOMAS A.
14 MESEREAU, JR., ROBERT SANGER and BRIAN OXMAN, by personally delivering a true
15 copy thereof to Mr. Sanger's office in Santa Barbara, by faxing a true copy to other counsel at
16 the facsimile number shown with the address of each on the attached Service List, and then by
17 causing to be mailed a true copy to each counsel at that address.

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

19 Executed at Santa Barbara, California on this 6th day of December, 2004.

20 
21 _____
22 Gerald McC. Franklin

SERVICE LIST

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