

1 DAVID L. NYE (Bar #67009)  
2 NYE, PEABODY & STIRLING, LLP  
3 33 West Mission St., Suite 201  
4 Santa Barbara, California 93101  
5 Telephone: (805) 963-2345  
6 Facsimile: (805) 563-5385

7 DIANE M. MATSINGER (Bar #96826)  
8 HATCH & PARENT, A Law Corporation  
9 21 East Carrillo Street  
10 Santa Barbara, CA 93101  
11 Telephone: (805) 963-7000  
12 Facsimile: (805) 965-4333

13 **Attorneys for Gary M. Blair**  
14 **as Court Administrator/Jury Commissioner**

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

DEC 08 2004

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

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

16 **For the County of Santa Barbara, Cook Division**

17 PEOPLE OF THE STATE OF  
18 CALIFORNIA,

19 Plaintiff,

20 v.

21 MICHAEL JACKSON,

22 Defendant.

Case No. 1133603

**NOTICE OF MOTION AND MOTION  
FOR COURT'S REVIEW OF  
RESPONSE TO DEFENDANT'S  
SUBPOENA DUCES TECUM AND  
NOTICE OF MOTION AND MOTION  
FOR PROTECTIVE ORDER TO  
DETERMINE WHETHER SEALING  
IS APPROPRIATE; MEMORANDUM  
OF POINTS AND AUTHORITIES;  
DECLARATION OF DAVID L. NYE**

Date: December 20, 2004

Time: ~~TBA~~ 9:30 AM

Dept.: SM2

Assigned for All Purposes to the  
Hon. Rodney Mellville

1 TO: MICHAEL JOE JACKSON, AND TO THOMAS A. MESEREAU, JR.,  
2 STEVE COCHRAN, ROBERT SANGER AND BRIAN OXMAN, HIS ATTORNEYS  
3 OF RECORD, AND TO THEODORE J. BOUTROUS, JR., ESQ., GIBSON, DUNN &  
4 CRUTCHER, LLP:

5 PLEASE TAKE NOTICE that on December 20, 2004, at a time to be  
6 announced, in the Department to be assigned, Gary M. Blair will, and hereby does,  
7 request that the Court review his Response To Subpoena and Motion for Protective  
8 Order, filed contemporaneously with this Motion, to determine for itself whether an  
9 order directing that the Response, Motion and Attached Declarations are  
10 appropriate documents for sealing., and that the Request be maintained under  
11 conditional seal until further order of court, pursuant to California Rules of Court,  
12 rule 243.1 et seq.

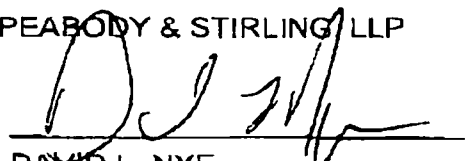
13 The motion will be made on the ground that the facts, as established by the  
14 accompanying declaration of David Nye, may not be sufficient to justify sealing the  
15 specified motion pursuant to California Rules of Court, rule 243.1 et seq.

16 The motion will be based on this notice of motion, on the declaration of David  
17 Nye, and the memorandum of points and authorities served and filed herewith, on  
18 the records and the file herein, and on such evidence as may be presented at the  
19 hearing of the motion.

20  
21 DATED: December 3, 2004

NYE, PEABODY & STIRLING LLP

22  
23 By:

  
24 DAVID L. NYE  
Attorneys for GARY M. BLAIR

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

DECLARATION OF DAVID NYE

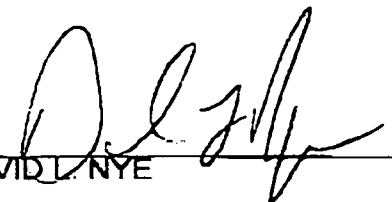
I, David Nye, declare:

1. I am a lawyer admitted to practice in the State of California, and am one of the lawyers representing Gary M. Blair, Jury Commissioner, in various proceedings involving challenges to the jury selection process in Santa Barbara County.

2. This motion to conditionally seal the contemporaneously-filed Response to Subpoena and Motion for Protective Order, and requesting that the Court determine for itself whether the Response is suitable for sealing, is made on the ground that the Response and Motion does not, in the undersigned's opinion, itself reveal any information that would warrant sealing.

3. I believe that the interest of each party to a fair trial dictates that the Response to Subpoena and Motion for Protective Order should remain under conditional seal until the appropriateness of sealing the document and, if sealing is ordered, of the release of a redacted version of the opposition is determined by the court.

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 December 3, 2004.

  
\_\_\_\_\_  
DAVID L. NYE

**PROOF OF SERVICE**

I am employed in the County of Santa Barbara, State of California. I am over the age of eighteen years and not a party to this action. My business address is 33 West Mission Street, Suite 201, Santa Barbara, California 93101.

On the date stated below, I served the following document: NOTICE OF MOTION AND MOTION FOR COURT'S REVIEW OF RESPONSE TO DEFENDANT'S SUBPOENA DUCES TECUM AND NOTICE OF MOTION AND MOTION FOR PROTECTIVE ORDER TO DETERMINE WHETHER SEALING IS APPROPRIATE; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF DAVID L. NYE on the interested parties in this action, by placing COPY thereof in sealed envelope(s) addressed as follows:

Collins, Mesereau, Reddock & Yu  
Thomas A. Mesereau, Jr.  
Susan C. Yu  
1875 Century Park East, 7th Floor  
Los Angeles, CA 90067  
Tel.: (310) 284-3120, Fax: (310) 284-3133

Co-Counsel for Defendant  
**By Facsimile Service Only**

Sanger & Swysen  
Robert M. Sanger  
233 East Carrillo Street, Suite C  
Santa Barbara, CA 93101  
Tel.: (805) 962-4887, Fax: (805) 963-7311

Co-Counsel for Defendant  
**By Personal Service**

Oxman & Jaroscak  
Brian Oxman  
14126 East Rosecrans  
Santa Fe Springs, CA 90670  
Tel.: (562) 921-5058, Fax: (562) 921-2298

Co-Counsel for Defendant  
**By Facsimile Service Only**

Thomas W. Sneddon, Jr.  
Santa Barbara District Attorney  
1112 Santa Barbara Street  
Santa Barbara, CA 93101  
Tel.: (805) 568-2300, Fax: (805) 568-2453

Santa Barbara District Attorney  
**By Personal Service**

Diane Matsinger  
Hatch & Parent  
21 East Carrillo Street  
Santa Barbara, CA 93101  
Tel.: (805) 963-7000, Fax: (805) 965-4333

Co-Counsel for Gary M. Blair, as Court  
Administrator/Jury Commissioner  
**By Personal Service**

- By Mail.** I deposited such envelope(s) with postage thereon fully prepared in the United States mail at Santa Barbara, California on December 6, 2004.
- By Personal Service.** I delivered such envelope(s) by hand to the office(s) of the addressee(s) on December 6, 2004.
- By Fax Service.** I transmitted such document via facsimile transmission machine to the above-listed addressee(s) on December 6, 2004.
- By Express Service Carrier.** I delivered such envelope(s) to a driver of Federal Express, an express service carrier, with delivery fees provided for on December 6, 2004 for next day delivery.

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

Dated: December 6, 2004

  
RENEE FAIRBANKS