

DEC 13 2004

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

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF SANTA BARBARA
12 SANTA MARIA DIVISION

13
14 THE PEOPLE OF THE STATE OF CALIFORNIA,
15 Plaintiff,
16 vs.
17 MICHAEL JOE JACKSON,
18 Defendant.
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No. 1133603
NOTICE OF MOTION AND
MOTION FOR ORDER THAT
A CERTAIN REQUEST FOR
ORDER TO SHOW CAUSE BE
MAINTAINED UNDER SEAL
UNTIL FURTHER ORDER OF
THE COURT; DECLARATION
OF GORDON AUCHINCLOSS;
MEMORANDUM OF POINTS
AND AUTHORITIES

Date: December 23, 2004
Time: ~~8:30 AM~~ 9:30 AM
Dept.: SM2 (Melville)

24 TO: MICHAEL JOE JACKSON, AND TO THOMAS A. MESEREAU, JR., BRIAN OXMAN,
25 AND ROBERT SANGER, HIS ATTORNEYS OF RECORD, AND TO GIBSON, DUNN &
26 CRUTCHER, LLP, ATTORNEYS FOR "MEDIA":
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PLEASE TAKE NOTICE that on December 23, 2004, at ~~8:30~~ a.m. or as soon thereafter as the matter may be heard, in Department SM 2, Plaintiff will, and hereby does, move for an order directing that the following records be maintained under conditional seal until further order of court, pursuant to California Rules of Court, rule 243.1 et seq:


"REQUEST FOR ORDER TO SHOW CAUSE," filed Decemeber 13, 2004.

The motion will be based on this notice of motion, on the declaration of Gordon Auchincloss and the memorandum of points and authorities served and filed herewith, on the records and the file herein, and on such evidence as may be presented at the hearing of the motion.

A proposed redacted version of the Request for Clarification is submitted, under seal, with this request for sealing.

DATED: Decemeber 13, 2004

THOMAS W. SNEDDON, JR.
District Attorney

By: 
Gordon Auchincloss,
Senior Deputy District Attorney
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).)

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."

DATED: December 4, 2004

Respectfully submitted,

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

By: _____


Gordon Auchincloss,
Senior Deputy District Attorney

