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County of Santa Barbara  
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**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA

JAN 18 2005

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

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

12 THE PEOPLE OF THE STATE OF CALIFORNIA,

13 Plaintiff,

14 v.

17 MICHAEL JOE JACKSON,

18 Defendant.

No. 1133603

19 PLAINIFF'S NOTICE OF  
20 REQUEST FOR ORDER  
21 DIRECTING THAT PLAINTIFF'S  
22 MOTION FOR ADMISSION OF  
23 EVIDENCE OF MARTIN  
24 BASHIR'S "LIVING WITH  
25 MICHAEL JACKSON" ETC. BE  
26 MAINTAINED UNDER  
27 CONDITIONAL SEAL;  
28 DECLARATION OF GERALD  
McC. FRANKLIN IN SUPPORT  
THEREOF; MEMORANDUM  
OF POINTS AND AUTHORITIES

DATE: January 28, 2005  
TIME: 9:30 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 January 28, 2005, at 9:30 a.m. or as soon  
27 thereafter as the matter may be heard, in the Department to be assigned, Plaintiff will, and  
28 hereby does, move for an order directing that Plaintiff's Motion for Admission of Martin

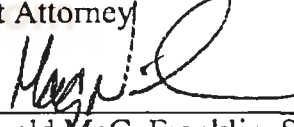
1 Bashir's Documentary "Living with Michael Jackson," Etc., filed contemporaneously with this  
2 Request for Conditional Sealing, be maintained under conditional seal until further order of  
3 court, pursuant to California Rules of Court, rule 243.1 et seq.

4 The motion will be made on the ground that the facts, as established by the  
5 accompanying declaration of Gerald McC. Franklin, are sufficient to justify sealing the  
6 Response 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 Gerald  
8 McC. Franklin and the memorandum of points and authorities served and filed herewith, on the  
9 records and the file herein, and on such evidence as may be presented at the hearing of the  
10 motion.

11 DATED: January 18, 2005

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13 THOMAS W. SNEDDON, JR.  
District Attorney

14 By:   
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16 Gerald McC. Franklin, Senior Deputy  
17 Attorneys for Plaintiff  
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MEMORANDUM OF POINTS AND AUTHORITIES

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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).) Motions and responsive pleadings in criminal cases are, ordinarily, “public” records of the court.

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.”

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DATED: January 18, 2005

Respectfully submitted,

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

By:   
Gerald McC. Franklin, Senior Deputy

Attorneys for Plaintiff



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SERVICE LIST

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