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

7  
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,

13 Plaintiff,

14 v.

15  
16 MICHAEL JOE JACKSON,

17 Defendant.

No. 1133603

18 PLAINTIFF'S NOTICE OF  
19 REQUEST FOR ORDER  
20 DIRECTING THAT PLAINTIFF'S  
21 MOTION FOR ADMISSION OF  
22 EROTIC MATERIALS AS  
23 EVIDENCE OF INTENT, ETC. BE  
24 MAINTAINED UNDER  
25 CONDITIONAL SEAL:  
26 DECLARATION OF GERALD  
27 McC. FRANKLIN IN SUPPORT  
28 THEREOF; MEMORANDUM  
OF POINTS AND AUTHORITIES

DATE: January 28, 2005  
TIME: 9:30 a.m.  
DEPT: TBA (Melville)

22 TO: MICHAEL JOE JACKSON, AND TO THOMAS A. MESEREAU, JR.,  
23 ROBERT SANGER AND BRIAN OXMAN, HIS ATTORNEYS OF RECORD, AND TO  
24 THEODORE J. BOUTROUS, JR., ESQ., GIBSON, DUNN & CRUTCHER, LLP:

25 PLEASE TAKE NOTICE that on January 28, 2005, at 9:30 a.m. or as soon  
26 thereafter as the matter may be heard, in the Department to be assigned. Plaintiff will, and  
27 hereby does, move for an order directing that Plaintiff's Motion for Admission of Seized  
28 Evidence of Erotic Materials, filed contemporaneously with this Request for Conditional

1 Sealing, be maintained under conditional seal until further order of court, pursuant to California  
2 Rules of Court, rule 243.1 et seq.

3 The motion will be made on the ground that the facts, as established by the  
4 accompanying declaration of Gerald McC. Franklin, are sufficient to justify sealing the  
5 Response pursuant to California Rules of Court, rule 243.1 et seq.

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

10 DATED: January 18, 2005

11 THOMAS W. SNEDDON, JR.  
12 District Attorney

13 By: 

14 Gerald McC. Franklin, Senior Deputy

15 Attorneys for Plaintiff



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).) 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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1 DATED: January 18, 2005

2 Respectfully submitted,

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

5 By: 

6 Gerald McC. Franklin, Senior Deputy

7 Attorneys for Plaintiff

1  
2 **PROOF OF SERVICE**

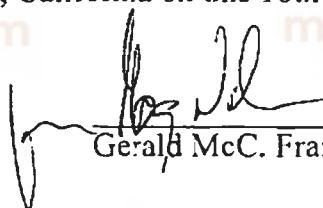
3 STATE OF CALIFORNIA )  
4 COUNTY OF SANTA BARBARA ) SS

5  
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 January 18, 2005, I served the within PLAINTIFF'S MOTION THAT  
11 PLAINTIFF'S MOTION FOR ADMISSION OF EROTIC MATERIALS, ETC., BE  
12 MAINTAINED UNDER SEAL on Media's counsel and on Defendant, by THOMAS A.  
13 MESEREAU, JR., ROBERT SANGER and BRIAN OXMAN, by causing a true copy to be  
14 transmitted to Defendant's co-counsel and to Media's counsel at the facsimile number shown  
15 with the address for counsel on the attached Service List, and then causing that copy to be  
16 mailed to each at the address shown on the Service List.

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

18 Executed at Santa Barbara, California on this 18th day of January, 2005.

19  
20   
21 \_\_\_\_\_  
22 Gerald McC. Franklin

SERVICE LIST

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