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County of Santa Barbara
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Senior Deputy District Attorney
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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

JAN 24 2005

GARY M. SLAIR, Executive Officer

Carrie L. Wagner
CARRIE L. WAGNER, Deputy Clerk

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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.

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18 MICHAEL JOE JACKSON,

19 Defendant.

No. 1133603

20 } PLAINTIFF'S NOTICE OF
21 } MOTION FOR ORDER DIRECTING
22 } THAT PLAINTIFF'S RESPONSE
23 } TO DEFENDANT'S IN LIMINE
24 } MOTION TO PRECLUDE
25 } REFERENCE TO HIS
26 } COLLECTION OF SEXUALLY
27 } EXPLICIT MATERIALS AS
28 } "PORNOGRAPHY" BE
MAINTAINED UNDER
CONDITIONAL SEAL;
DECLARATION OF GERALD
McC. FRANKLIN IN SUPPORT
THEREOF; MEMORANDUM
OF POINTS AND AUTHORITIES

DATE: January 28, 2005

TIME: ~~8:30~~ 9:30 a.m.

DEPT: TBA (Melville)

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

27 PLEASE TAKE NOTICE that on January 28, 2005, at 9:30 a.m. or as soon
28 thereafter as the matter may be heard, in the Department to be assigned, Plaintiff will, and

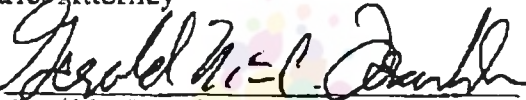
1 hereby does, move for an order directing that Plaintiff's Response to Defendant's In Limine
2 Motion to Preclude Reference To His Collection of Sexually Explicit Materials As
3 "Pornography," filed contemporaneously with this Request for Conditional Sealing, be
4 maintained under conditional seal until further order of court, pursuant to California Rules of
5 Court, rule 243.1 et seq.

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

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

13 DATED: January 24, 2005

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15 THOMAS W. SNEDDON, JR.
16 District Attorney

17 By: 
18 Gerald McC. Franklin, Senior Deputy

19 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).) 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 24, 2005

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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PROOF OF SERVICE

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STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) SS

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years and I am not a party to the within-entitled action. My business address is: District Attorney's Office; Courthouse; 1112 Santa Barbara Street, Santa Barbara, California 93101.

On January 24, 2005, I served the within PLAINTIFF'S REQUEST THAT PLAINTIFF'S RESPONSE TO DEFENDANT'S IN LIMINE MOTION TO PRECLUDE REFERENCE TO HIS COLLECTION OF SEXUALLY EXPLICIT MATERIALS AS "PORNOGRAPHY," BE MAINTAINED UNDER SEAL on Media's counsel and on Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER and BRIAN OXMAN, by personally delivering a true copy thereof to Attorney Robert Sanger's office and by causing a true copy to be transmitted by facsimile to Defendant's co-counsel (except Mr. Sanger and Mr. Oxman) and to Media's counsel at the facsimile number shown with the address for counsel on the attached Service List, and then causing that copy to be mailed to each (except Mr. Sanger and Mr. Oxman) at the address shown on the Service List.

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

Executed at Santa Barbara, California on this 24th day of January, 2005.


Gerald McC. Franklin



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SERVICE LIST

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