

1 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY

County of Santa Barbara

2 By: RONALD J. ZONEN (State Bar No. 85094)

Senior Deputy District Attorney

3 J. GORDON AUCHINCLOSS (State Bar No. 150251)

Senior Deputy District Attorney

4 GERALD McC. FRANKLIN (State Bar No. 40171)

Senior Deputy District Attorney

5 1112 Santa Barbara Street

Santa Barbara, CA 93101

6 Telephone: (805) 568-2300

7 FAX: (805) 568-2398

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA

JAN 31 2005

GARY M. BLAIR, 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

11 THE PEOPLE OF THE STATE OF CALIFORNIA,

12 Plaintiff,

13 v.

14 MICHAEL JOE JACKSON,

15 Defendant.

No. 1133603

16 PLAINTIFF'S NOTICE OF  
17 MOTION THAT MOTION TO  
18 EXCLUDE REFERENCE BY  
19 DEFENSE COUNSEL TO JANE  
20 DOE'S USE OF "[REDACTED]"  
21 "[REDACTED]" BE MAINTAINED  
22 UNDER CONDITIONAL SEAL;  
23 DECLARATION OF GERALD  
24 McC. FRANKLIN IN SUPPORT  
25 THEREOF; MEMORANDUM  
26 OF POINTS AND AUTHORITIES

DATE: February 10, 2005  
TIME: 8:30 a.m.  
DEPT: TBA (Melville)

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

PLEASE TAKE NOTICE that on February 10, 2005, at 8:30 a.m. or as soon  
thereafter as the matter may be heard, in the Department to be assigned, Plaintiff will, and  
hereby does, move for an order directing that Plaintiff's Motion to Limit Any Reference By  
Defense Counsel to Jane Doe's Use Of (Or Failure To Use) "[REDACTED]" Etc.,

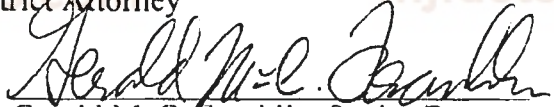
1 filed contemporaneously with this Request for Conditional Sealing, be maintained under  
2 conditional seal until further order of court, pursuant to California Rules of Court, rule 243.1 et  
3 seq.

4 The Request 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 Motion  
6 pursuant to California Rules of Court, rule 243.1 et seq.

7 The Request 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 31, 2005

12  
13 THOMAS W. SNEDDON, JR.  
District Attorney

14 By:   
15 Gerald McC. Franklin, Senior Deputy

16 Attorneys for Plaintiff  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



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."

////

////

////

////

////



1 DATED: January 31, 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

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

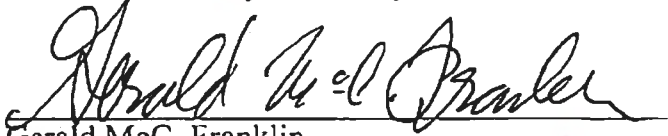
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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 31, 2005, I served the within PLAINTIFF'S REQUEST THAT PLAINTIFF'S MOTION TO LIMIT ANY REFERENCE BY DEFENSE COUNSEL TO JANE DOE'S USE OF (OR FAILURE TO USE) "[REDACTED]" ETC. BE MAINTAINED UNDER SEAL on Media's counsel and on Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER and BRIAN OXMAN, by serving a true copy thereof on defendant's counsel in open court and by transmitting a true copy thereof by facsimile to Media's counsel at the facsimile number shown with the address for counsel on the attached Service List.

I declare under penalty of perjury that the foregoing is true and correct.  
Executed at Santa Maria, California on this 31st day of January, 2005.

  
Gerald McC. Franklin

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

SERVICE LIST

GIBSON, DUNN & CRUTCHER, LLP  
Theodore J. Boutrous, Jr., Esq.  
William E. Thomson, Esq.  
Julian Poon, Esq.  
333 S. Grand Avenue  
Los Angeles, CA 90071-3197  
FAX: (213) 229-6758  
Attorneys for (collectively) "Media"

THOMAS A. MESEREAU, JR.  
Collins, Mesereau, Reddock & Yu, LLP  
1875 Century Park East, No. 700  
Los Angeles, CA 90067  
FAX: [SANTA MARIA - CONFIDENTIAL]  
Attorney for Defendant Michael Jackson

ROBERT SANGER, ESQ.  
Sanger & Swysen, Lawyers  
233 E. Carrillo Street, Suite C  
Santa Barbara, CA 93001  
FAX: (805) 963-7311  
Co-counsel for Defendant

BRIAN OXMAN, ESQ.  
Oxman & Jaroscak, Lawyers  
14126 E. Rosecrans Blvd.,  
Santa Fe Springs, CA 90670  
Co-counsel for Defendant