

FEB 07 2005

GARY M. BLAIR, Executive Officer  
BY: *[Signature]*  
Clerk of Court

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  
FAX: (805) 568-2398

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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  
15 v.

16  
17 MICHAEL JOE JACKSON,  
18 Defendant.

No. 1133603

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20 PLAINIFF'S NOTICE OF  
21 MOTION AND MOTION FOR  
22 COURT'S REVIEW OF  
23 PLAINTIFF'S CONCURRENCE  
24 WITH ACCESS PROPONENTS'  
25 REQUEST THAT COMPLETED  
26 JURY QUESTIONNAIRES BE  
27 BE MADE AVAILABLE TO  
28 THEM WHETHER SEALING  
IS APPROPRIATE; DECLARATION  
OF GERALD McC. FRANKLIN;  
MEMORANDUM OF POINTS  
AND AUTHORITIES

DATE: February 7, 2005  
TIME: 8:30 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 February 7, 2005, at 8:30 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, request the Court to review Plaintiff's Concurrence with Access Proponents'


1 Request that Completed Jury Questionnaires Be Made Available To Them, filed  
2 contemporaneously with this Motion, to determine for itself whether an order directing that the  
3 Concurrence is an appropriate document for sealing, and that the Concurrence be maintained  
4 under conditional seal until further order of court, pursuant to California Rules of Court, rule  
5 243.1 et seq.

6 The motion will be made on the ground that the discussion of law in Plaintiff's  
7 Concurrence with Access Proponents' Request that Completed Jury Questionnaires Be Made  
8 Available To Them, as established by the accompanying declaration of Gerald McC. Franklin,  
9 may not be sufficient to justify sealing the specified motion pursuant to California Rules of  
10 Court, rule 243.1 et seq.

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

15 DATED: February 6, 2005

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17 THOMAS W. SNEDDON, JR.  
District Attorney

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19 By:   
Gerald McC. Franklin, Senior Deputy

20 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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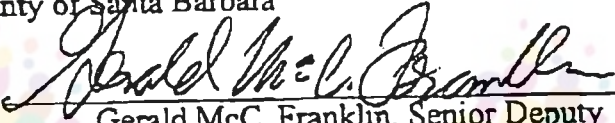
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1 DATED: February 6, 2005

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

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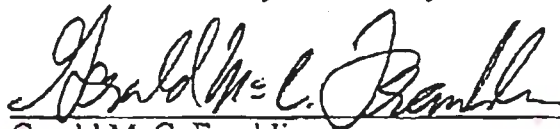
STATE OF CALIFORNIA }  
COUNTY OF SANTA BARBARA } SS

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 NOTICE OF MOTION FOR COURT'S REVIEW OF PLAINTIFF'S CONCURRENCE WITH ACCESS PROPONENTS' REQUEST THAT COMPLETED JURY QUESTIONNAIRES BE MADE AVAILABLE TO THEM TO DETERMINE WHETHER SEALING IS APPROPRIATE, ETC. and PROPOSED ORDER on THEODORE BOUTROUS, Media's counsel and on Defendant, by THOMAS A. MESEREAU, JR. and ROBERT SANGER, by transmitting a true copy thereof to Mr. Mesereau at his confidential FAX number in Santa Maria and to Mr. Boutrous at (213) 229-6758.

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

Executed at Santa Barbara, California on this 6th day of February, 2005.



Gerald McC. Franklin