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10 Post and *USA Today*

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

JUN 03 2005

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

11
12 SUPERIOR COURT, STATE OF CALIFORNIA
13 FOR THE COUNTY OF SANTA BARBARA

14 THE PEOPLE OF THE STATE OF
15 CALIFORNIA,

16 Plaintiff,

17 vs.

18 MICHAEL JOE JACKSON,

19 Defendant.

Case No.: 1133603

**ACCESS PROPONENTS' REQUEST FOR
IMMEDIATE RELEASE OF IN CAMERA
HEARING TRANSCRIPT**

Date: Not set
Time: Not set
Place: Department SM-8,
Judge Rodney S. Melville

[VIA FACSIMILE]

20 Access Proponents¹ understand that on Monday, May 23, 2005, the Court conducted an
21 in camera hearing, transcribed by a court reporter, related to potential juror misconduct. The Court,
22 however, did not hold a hearing or make express findings that would justify this restriction on public
23 access. Access Proponents respectfully submit that this procedure is improper, and request that the
24 Court immediately release a full or redacted version of the transcript.

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26
27 ¹ NBC Universal, Inc.; CBS Broadcasting Inc.; Fox News Network L.L.C.; ABC, Inc.; Cable News
28 Network LP, LLLP; The Associated Press; *Los Angeles Times*; The New York Times Company;
The Washington Post; and *USA Today*.

1 In *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal. 4th 1178, the California
2 Supreme Court recognized that “traditional Anglo-American jurisprudence distrusts secrecy in
3 judicial proceedings and favors a policy of maximum public access to proceedings and records of
4 judicial tribunals.” 20 Cal. 4th at 1211 n.28 (quoting *Estate of Hearst*, 67 Cal. App. 3d 777, 784
5 (1977)). Accordingly, there is a strong presumption, rooted in the First Amendment, that everything
6 that happens in the courtroom will be open to public view and scrutiny. See *id.* at 1200 (noting that a
7 “presumption of openness inheres in the very nature of a criminal trial under our system of justice”)
8 (quoting *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 573 (1980) (plurality)); see also
9 Cal. Code Civ. Proc. 124 (noting that with limited exceptions, “the sittings of every court shall be
10 public”).

11 Regarding the May 23 in camera hearing, the Court provided neither the notice nor the
12 findings that are required before proceedings may be closed to the public. Accordingly, the transcript
13 of the proceedings should be released immediately. See *NBC Subsidiary*, 20 Cal. 4th at 1211, 1219
14 (emphasizing right to “contemporaneous access,” and rejecting argument that delayed release of
15 transcripts could remedy improper closure of hearings); see also *Sammartino v. First Judicial Dist.*
16 *Court*, 303 F.3d 959, 973 (9th Cir. 2002) (noting that the “Supreme Court has made clear that ‘[t]he
17 loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes
18 irreparable injury’”) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). If the Court believes
19 that the transcript contains information that should not be disclosed to the public, it should
20 immediately issue a redacted version of the transcript.

21 For the foregoing reasons, this Court should grant Access Proponents’ request for the
22 immediate release of a full or redacted transcript of the May 23 in camera hearing.

1 DATED: June 3, 2005

2 Respectfully submitted,

3 GIBSON, DUNN & CRUTCHER LLP

4 Theodore J. Boutros, Jr.

5 Michael H. Dore

6 By:

7 Theodore J. Boutros, Jr.

8 Attorneys for NBC Universal, Inc.; CBS
9 Broadcasting Inc.; Fox News Network
10 L.L.C.; ABC, Inc.; Cable News Network
11 LP, LLLP; The Associated Press;
12 *Los Angeles Times*; The New York Times
13 Company; The Washington Post; and
14 *USA Today*

CERTIFICATE OF SERVICE
BY FAX AND REGULAR MAIL

I, Jess Fernandez, hereby certify as follows:

I am employed in the County of Los Angeles, State of California; I am over the age of eighteen years and am not a party to this action; my business address is Gibson, Dunn & Crutcher LLP, 333 South Grand Avenue, Los Angeles, California 90071, in said County and State; I am employed in the office of Michael H. Dore, a member of the bar of this Court, and on June 3, 2005, I served the following:

ACCESS PROPONENTS' REQUEST FOR IMMEDIATE RELEASE OF IN CAMERA HEARING TRANSCRIPT

on the interested parties in this action, by the following means of service:

BY MAIL: I placed a true copy in a sealed envelope addressed as indicated below, on the above-mentioned date. I am familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Thomas W. Sneddon District Attorney Santa Barbara County 1105 Santa Barbara Street Santa Barbara, CA 93101-2007 Attorneys for Plaintiffs	Tel.: (805) 568-2300 Fax: (805) 568-2398
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1 **BY FACSIMILE:** From facsimile number (213) 229-7520, I caused each such document to be
2 transmitted by facsimile machine, to the parties and numbers indicated below, pursuant to
3 Rule 2008. The facsimile machine I used complied with Rule 2003(3) and no error was reported
4 by the machine. Pursuant to Rule 2008(e)(4), I caused the machine to print a transmission record
5 of the transmission, a copy of which is attached to the original of this declaration.

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23 I certify under penalty of perjury under the laws of the State of California that the foregoing is
24 true and correct, that the foregoing document(s), and all copies made from same, were printed on
25 recycled paper, and that this Certificate of Service was executed by me on June 3, 2005, at
26 Los Angeles, California.

27 
28 _____
Jess Fernandez

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