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The Associated Press; *Los Angeles Times*; The
8 New York Times Company; The Washington
9 Post; and *USA Today*

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY OF SANTA BARBARA

JUN 09 2005

GARY M. BLAIR, Executive Officer

By *Carrie L. Wagner*
CARRIE L. WAGNER, District Clerk

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

12 THE PEOPLE OF THE STATE OF
13 CALIFORNIA,

14 Plaintiff,

15 vs.

16 MICHAEL JOE JACKSON,

17 Defendant.

Case No.: 1133603

**REQUEST FOR ORDER IMMEDIATELY
GRANTING ACCESS PROPONENTS'
REQUESTS FOR PUBLIC ACCESS, OR, IN
THE ALTERNATIVE, EXPEDITING
HEARING OF ACCESS PROPONENTS'
REQUESTS TO FRIDAY, JUNE 10, 2005,
AT 8:30 A.M.**

Date: June 16, 2005

Time: 8:30 a.m.

Place: Department SM-8,

Judge Rodney S. Meville

[VIA FACSIMILE]

18 On Monday, Access Proponents¹ made three requests relating to the jury's ongoing
19 deliberations seeking immediate relief due to the nature of the information sought and the procedural
20 posture of the case: (1) a motion seeking immediate release of a copy of the blank verdict form; (2) a
21 motion seeking immediate release of the transcript of Monday's in camera hearing addressing a
22 question posed by the jury; and (3) a request to allow contemporaneous public access to all other jury
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25
26 ¹ NBC Universal, Inc.; CBS Broadcasting Inc.; Fox News Network L.L.C.; ABC, Inc.; Cable News
27 Network LP, LLLP; The Associated Press; *Los Angeles Times*; The New York Times Company;
28 The Washington Post; and *USA Today*.

1 questions and the judicial proceedings related thereto. The Court has set these requests for hearing
2 next Thursday, June 16, 2005. But if the jury reaches a verdict before next week's scheduled hearing
3 date this timeframe will render moot Access Proponents' requests for relief, or at the very least
4 substantially defeat the whole purpose of these requests.² Even if the jury does not reach a verdict by
5 next Thursday, the delay before the public has the opportunity to obtain the relief it seeks would
6 result in serious harm to the public's rights of access, which are intended to allow contemporaneous
7 scrutiny of the judicial process. See, e.g., *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court*, 20
8 Cal. 4th 1178, 1211, 1219 (1999) (emphasizing right to "contemporaneous access," and rejecting
9 argument that delayed release of transcripts could remedy improper closure of hearings); *Washington*
10 *Post v. Robinson*, 935 F.2d 282, 287 (D.C. Cir. 1991) (emphasizing "the critical importance of
11 contemporaneous access . . . to the public's role as overseer of the criminal justice process")
12 (emphasis in original).

13 Indeed, "[t]imeliness of publication is the hallmark of 'news' and the difference between
14 'news' and 'history' is merely a matter of hours." *United States v. Dickinson*, 465 F.2d 496, 512
15 (5th Cir. 1972); see also, e.g., *Grove Fresh Distrib., Inc. v. Everfresh Juice Co.*, 24 F.3d 893, 897
16 (7th Cir. 1994) ("The newsworthiness of a particular story is often fleeting. To delay or postpone
17 disclosure undermines the benefit of public scrutiny and may have the same result as complete
18 suppression."). Access Proponents' request, if granted, will assist the public in understanding what is
19 happening in the courtroom because it will allow the press to ensure that their contemporaneous
20 reporting about these proceedings is as accurate as possible. This is in the best interests of the public,
21 the Court, the defendant and the People, and no countervailing interests have been asserted or
22 articulated.

23 Accordingly, Access Proponents respectfully ask the Court immediately to grant, without a
24 hearing, their requests for the release of the blank jury form, for the release of Monday's in camera

25
26 ² For example, Access Proponents have sought the blank verdict form so they can use it to ensure
27 they understand and accurately report to the public the verdict as it is read in open court. If the
28 verdict is rendered before June 16, this request will be mooted.

1 hearing transcript; and for contemporaneous access to future jury questions and the judicial
2 proceedings related thereto absent express findings justifying closure under *NBC Subsidiary*. To the
3 extent the Court is not inclined to grant any or all of these requests immediately without a hearing,
4 Access Proponents respectfully request that the Court re-calendar these matters for Friday, June 10,
5 2005, at 8:30 a.m., or as soon as possible at a time convenient for the Court.

6 DATED: June 9, 2005

Respectfully submitted,

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8 GIBSON, DUNN & CRUTCHER LLP
Theodore J. Boutros, Jr.
Michael H. Dore

9
10 By: *Theodore J. Boutros, Jr.*
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14 LP, LLLP; The Associated Press;
15 *Los Angeles Times*; The New York Times
16 Company; The Washington Post; and
17 *USA Today*

18 The request to advance the hearing is denied.

19 DATED: JUN 9 9 2005

20 *Rodney S. Melville*
21 RODNEY S. MELVILLE
22 JUDGE OF THE SUPERIOR COURT

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 9, 2005, I served the following:

REQUEST FOR IMMEDIATE ORDER GRANTING ACCESS PROPONENTS' REQUESTS FOR PUBLIC ACCESS, OR, IN THE ALTERNATIVE, EXPEDITING HEARING OF ACCESS PROPONENTS' REQUESTS

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

[X] 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.

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Thomas A. Mesereau, Jr. Collins, Mesereau, Reddock & Yu LLP 1875 Century Park East, 7th Floor Los Angeles, CA 90067 Attorneys for Defendant Michael Jackson	Tel.: (310) 284-3120 Fax:

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7 **BY FACSIMILE:** From facsimile number (213) 229-7520, I caused each such document to be
8 transmitted by facsimile machine, to the parties and numbers indicated below, pursuant to
9 Rule 2008. The facsimile machine I used complied with Rule 2003(3) and no error was reported
10 by the machine. Pursuant to Rule 2008(e)(4), I caused the machine to print a transmission record
11 of the transmission, a copy of which is attached to the original of this declaration.

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1 I certify under penalty of perjury under the laws of the State of California that the foregoing is
2 true and correct, that the foregoing document(s), and all copies made from same, were printed on
3 recycled paper, and that this Certificate of Service was executed by me on June 9, 2005, at
4 Los Angeles, California.

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8 Jess Fernandez

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