

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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FILED
SUPERIOR COURT of CALIFORNIA
COUNTY OF SANTA BARBARA

OCT 19 2004

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

12 THE PEOPLE OF THE STATE OF CALIFORNIA,

13 Plaintiff,

14 v.

16 MICHAEL JOE JACKSON,

17 Defendant.

No. 1133603

PLAINTIFF'S NOTICE OF
REQUEST FOR ORDER
DIRECTING THAT PLAINTIFF'S
AUGUST STATUS REPORT ON
PLAINTIFF'S DISCOVERY TO
DEFENDANT BE MAINTAINED
UNDER CONDITIONAL SEAL
DECLARATION OF GERALD
McC. FRANKLIN IN SUPPORT
THEREOF; MEMORANDUM OF
POINTS AND AUTHORITIES

~~EXHIBIT~~

DATE: November 4, 2004
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 November 4, 2004, 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, move for an order directing that Plaintiff's Status Report on Plaintiff's Discovery

1 to Defendant, dated August 13, 2004, be maintained under conditional seal until further order
2 of court, pursuant to California Rules of Court, rule 243.1 et seq.

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

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

10 DATED: October 19, 2004

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12 THOMAS W. SNEDDON, JR.
District Attorney

13 By: 
14 Gerald McC. Franklin, Senior Deputy

15 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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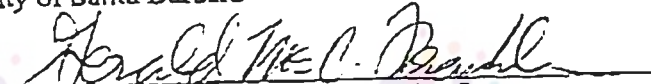
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DATED: October 19, 2004

Respectfully submitted,

THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY
County of Santa Barbara

By: 
Gerald McC. Franklin, Senior Deputy
Attorneys for Plaintiff

SERVICE LIST

1
2 GIBSON, DUNN & CRUTCHER, LLP
3 Theodore J. Boutros, Jr., Esq.
4 William E. Thomson, Esq.
5 Julian Poon, Esq.
6 333 S. Grand Avenue
7 Los Angeles, CA 90071-3197
8 FAX: (213) 229-6758
9 Attorneys for (collectively) "Media"

10 THOMAS A. MESEREAU, JR.
11 Collins, Mesereau, Reddock & Yu, LLP
12 1875 Century Park East, No. 700
13 Los Angeles, CA 90067
14 FAX: [CONFIDENTIAL]

15 Attorney for Defendant Michael Jackson

16 STEVE COCHRAN, ESQ.
17 Katten, Muchin, Zavis & Rosenman, Lawyers
18 2029 Century Park East, Suite 2600
19 Los Angeles, CA 90067-3012
20 FAX: (310) 712-8455
21 Co-counsel for Defendant

22 ROBERT SANGER, ESQ.
23 Sanger & Swysen, Lawyers
24 233 E. Carrillo Street, Suite C
25 Santa Barbara, CA 93001
26 FAX: (805) 963-7311
27 Co-counsel for Defendant

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