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7

OFFICE OF THE CLERK  
SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA BARBARA  
DEC 15  
3  
Clerk of Court, Superior Court of  
Santa Barbara County, California  
Clerk's Office

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 v.

15  
16 MICHAEL JOE JACKSON,  
17 Defendant.

No. 1133603

18 PLAINTIFF'S NOTICE OF  
19 MOTION FOR ORDER  
20 DIRECTING THAT PLAINTIFF'S  
21 OPPOSITION TO DEFENDANT'S  
22 MOTION TO CONTINUE TRIAL  
23 BE MAINTAINED UNDER SEAL  
24 UNTIL FURTHER ORDER OF  
25 COURT; DECLARATION OF  
26 GERALD McC. FRANKLIN IN  
27 SUPPORT OF SEALING;  
28 MEMORANDUM OF POINTS  
AND AUTHORITIES

DATE: December 20, 2004  
TIME: ~~8:30 a.m.~~ 9:30 AM  
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 December 20, 2004, at <sup>9:30</sup>~~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 the People's Opposition to Defendant's Motion to

PLAINTIFF'S REQUEST TO SEAL OPPOSITION TO MOTION TO CONTINUE

1 Continue, filed under seal, be maintained under conditional seal until further order of court,  
2 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 specified motion 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 motion.

10 DATE: December 15, 2004

11 THOMAS W. SNEDDON, JR.  
12 District Attorney

13 By: 

14 Gerald McC. Franklin, Senior Deputy

15 Attorneys for Plaintiff



MEMORANDUM OF POINTS AND AUTHORITIES

1  
2 The procedure for sealing records under California Rules of Court, rule 243.1 et seq.  
3 applies only to records that are deemed public. (*Id.*, rule 243.1(a)(2).) Motions and responsive  
4 pleadings in criminal cases are, ordinarily, “public” records of the court.

5 Rule 243.1(d) provides that

6 The court may order that a record be filed under seal only if it  
7 expressly finds facts that establish:

8 (1) There exists an overriding interest that overcomes the right of  
9 public access to the record;

10 (2) The overriding interest supports sealing the record;

11 (3) A substantial probability exists that the overriding interest will  
12 be prejudiced if the record is not sealed;

13 (4) The proposed sealing is narrowly tailored; and

14 (5) No less restrictive means exist to achieve the overriding interest.

15 Rule 243.1(e) provides, in pertinent part:

16 (1) An order sealing the record must (i) specifically set forth the  
17 facts findings that support the findings and (ii) direct the sealing of  
18 only those documents and pages, or, if reasonably practicable,  
19 portions of those documents and pages, that contain the material that  
20 needs to be placed under seal. All other portions of each documents  
or page must be included in the public file.

21 Rule 243.2(b) provides, in pertinent part, that “Pending the determination of the  
22 motion [of a party to file a record under seal], the lodged record will be conditionally under  
23 seal.”

24 ////

25 ////

26 ////

27 ////

28 ////



1 DATED: December 15, 2004

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

PROOF OF SERVICE

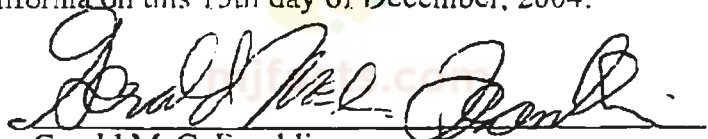
STATE OF CALIFORNIA }  
COUNTY OF SANTA BARBARA } SS

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; 1114 Santa Barbara Street, Santa Barbara, California 93101.

On December 14, 2004, I served the within PLAINTIFF'S MOTION FOR ORDER DIRECTING THAT PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO CONTINUE BE MAINTAINED UNDER SEAL on Media's counsel and on Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER and BRIAN OXMAN, by personally delivering a true copy thereof to the Attorney Robert SANGER, and by faxing a true copy to Media's counsel and Mr. Sanger's co-counsel (except Mr. Oxman) 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 Barbara, California on this 15th day of December, 2004.

  
Gerald McC. Franklin