

1 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY  
County of Santa Barbara  
2 By: RONALD J. ZONEN (State Bar No. 85094)  
Senior Deputy District Attorney  
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Senior Deputy District Attorney  
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**FILED**  
SUPERIOR COURT of CALIFORNIA,  
COUNTY of SANTA BARBARA

FEB 22 2005

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  
11

12 THE PEOPLE OF THE STATE OF CALIFORNIA, )

13 Plaintiff, )

14 v. )

15 )  
16 )  
17 MICHAEL JOE JACKSON, )

18 Defendant. )  
19

No. 1133603

PLAINTIFF'S NOTICE OF  
MOTION FOR ORDER THAT  
PLAINTIFF'S MOTION IN  
LIMINE TO RESTRICT  
MENTION OF [CERTAIN  
ISSUES RE JANE DOE AND  
MAJOR JACKSON] BE  
MAINTAINED UNDER  
CONDITIONAL SEAL;  
DECLARATION OF GERALD  
McC. FRANKLIN IN SUPPORT  
THEREOF; MEMORANDUM  
OF POINTS AND AUTHORITIES

20 DATE: TBA

21 TIME: 8:30 a.m.

22 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 a date fixed by the Court for hearing certain  
27 Evidence Code section 402 motions, in the Department to be assigned, Plaintiff will, and  
28 hereby does, move for an order directing that Plaintiff's Motion In Limine to Restrict Mention

1 of [certain issues regarding Jane Doe and Major Jackson] , filed contemporaneously with this  
2 Request for Conditional Sealing, be maintained under conditional seal until further order of  
3 court, pursuant to California Rules of Court, rule 243.1 et seq.

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

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

11 DATED: February 22, 2005

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13 THOMAS W. SNEDDON, JR.  
District Attorney

14  
15 By:   
16 Gerald McC. Franklin, Senior Deputy

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28 Attorneys for Plaintiff

DECLARATION OF GERALD McC. FRANKLIN

I, Gerald McC. Franklin, say:


1. I am a lawyer admitted to practice in the State of California. I am a Senior Deputy of the District Attorney of Santa Barbara County. I am one of the lawyers of record for the People, Plaintiff in this action.

2. Plaintiff's Motion In Limine to Restrict Mention of [certain issues regarding Jane Doe and Major Jackson], Etc., filed contemporaneously with this Motion for Conditional Sealing, is made on the ground that the Plaintiff's Motion In Limine to Restrict Mention of [certain issues regarding Jane Doe and Major Jackson] makes reference to evidentiary facts not yet made public, and to the names of potential witnesses.

3. I believe that the interest of each party to a fair trial dictates that Plaintiff's Motion In Limine to Restrict Mention of [certain issues regarding Jane Doe and Major Jackson], Etc. should remain under conditional seal until the appropriateness of sealing the document and the release of a redacted version of the Motion is determined by the Court.

4. I believe an order maintaining Plaintiff's Motion In Limine to Restrict Mention of [certain issues regarding Jane Doe and Major Jackson], Etc. under seal in the interim would avert the probability of prejudice, and that no more narrowly tailored order with respect to that pleading could be drafted to achieve the overriding interest in a fair trial.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct, except as to matters stated upon my information and belief, and as to such matters I believe it to be true. I execute this declaration at Santa Maria, California on February 22, 2005.

  
\_\_\_\_\_  
Gerald McC. Franklin

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."

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1 DATED: February 22, 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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2 SERVICE LIST  
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