

1 BILL LOCKYER  
Attorney General of the State of California  
2 ROBERT R. ANDERSON  
Chief Assistant Attorney General  
3 PAMELA C. HAMANAKA  
Senior Assistant Attorney General  
4 ROBERT M. SNIDER  
Deputy Attorney General  
5 STEVEN D. MATTHEWS  
Supervising Deputy Attorney General  
6 State Bar No. 137375  
300 South Spring Street  
7 Los Angeles, CA 90013  
Telephone: (213) 897-2367  
8 Fax: (213) 897-6496  
Attorneys for the Attorney General  
9

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA

OCT 28 2004

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

10 SUPERIOR COURT OF CALIFORNIA  
11 COUNTY OF SANTA BARBARA  
12 SANTA MARIA DIVISION  
13

14 THE PEOPLE OF THE STATE OF  
15 CALIFORNIA,

16 Plaintiff,

17  
18 v.

19  
20  
21 MICHAEL JOE JACKSON,

22 Defendant.

Case No. 1133603

ATTORNEY GENERAL'S NOTICE OF  
MOTION AND MOTION FOR ORDER  
DIRECTING THAT ATTORNEY  
GENERAL'S OPPOSITION TO  
DEFENDANT'S MOTION TO RECUSE  
THE DISTRICT ATTORNEY'S  
OFFICE BE MAINTAINED UNDER  
SEAL UNTIL FURTHER ORDER OF  
COURT; MEMORANDUM OF POINTS  
AND AUTHORITIES; DECLARATION  
OF STEVEN D. MATTHEWS IN  
SUPPORT OF SEALING

~~(FILED UNDER SEAL)~~

Date: November 4, 2004  
Time: 8:30 a.m.  
Dept: TBA (Melville)

23  
24  
25  
26  
27  
28

1 PLEASE TAKE NOTICE that on November 4, 2004, at 8:30 a.m. or as soon as thereafter  
2 as the matter may be heard, in Department SM 2, the Attorney General will, and hereby does, move  
3 for an order directing that the Attorney General's Opposition to Motion to Recuse the District  
4 Attorney's Office, filed under seal and contemporaneously with this Request for Conditional Sealing,  
5 be maintained under conditional seal until further order of court, pursuant to California Rules of  
6 Court, rule 243.1 et seq.

7 The motion will be made on the ground that the facts, as established by the accompanying  
8 declaration of Steven D. Matthews, are sufficient to justify sealing the specified motion pursuant to  
9 California Rules of Court, rule 243.1 et seq.

10 The motion will be based on this notice of motion and motion, the attached memorandum  
11 of points and authorities, Declaration of Steven D. Matthews, the concurrently filed [Proposed]  
12 Order Granting the Attorney General's Motion, the records and the files herein, and on such evidence  
13 and argument as may be presented at the hearing of the motion.

14 Dated: October 27, 2004

15 Respectfully submitted,

16 BILL LOCKYER  
Attorney General of the State of California

17 ROBERT R. ANDERSON  
Chief Assistant Attorney General

18 PAMELA C. HAMANAKA  
Senior Assistant Attorney General

19 ROBERT M. SNIDER  
Deputy Attorney General

20  
21 

22 STEVEN D. MATTHEWS  
23 Supervising Deputy Attorney General  
24 Attorneys for the Attorney General

25  
26 SDM:mol  
LA2004RE0012

27

28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 The Court has entered a protective order in this matter concerning the filing and  
3 maintaining of filed documents under seal. (See Declaration of Steven D. Matthews ("Matthews  
4 Decl."), ¶ 2.)

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

8 Rule 243.1(d) provides that

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

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

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

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

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

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

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

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

24 Rule 243.2(b)(4) provides, in pertinent part, that "Pending the determination of the motion  
25 [of a party to file a record under seal], or application, the lodged record will be conditionally under  
26 seal."

27 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CONCLUSION**

To comply with the Court's protective order and procedures to maintain the sealed nature of filed pleadings and in accordance with rule 234.2 of the California Rules of Court, the Attorney General has concurrently filed under seal the Attorney General's Opposition to Defendant's Motion to Recuse the Santa Barbara County District Attorney's Office. Pursuant to the Court's protective order and procedures, the Attorney General respectfully requests that the Court enter an order directing that the Attorney General's Opposition be maintained under seal until further order of the Court.

Dated: October 27, 2004

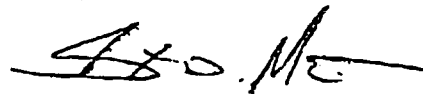
Respectfully submitted,

**BILL LOCKYER**  
Attorney General of the State of California

**ROBERT R. ANDERSON**  
Chief Assistant Attorney General

**PAMELA C. HAMANAKA**  
Senior Assistant Attorney General

**ROBERT M. SNIDER**  
Deputy Attorney General



**STEVEN D. MATTHEWS**  
Supervising Deputy Attorney General  
Attorneys for the Attorney General

SDM:mol  
LA2004RE0012

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DECLARATION OF STEVEN D. MATTHEWS**

1. I am a lawyer admitted to practice in the State of California and a Supervising Deputy Attorney General assigned the responsibility of representing the Attorney General's Office in responding to the defendant's motion to recuse the Santa Barbara County District Attorney's Office.

2. On Thursday, October 21, 2004, I spoke with Deputy District Attorney Gerald Franklin, who informed me of the Court's protective order in this matter and the procedures in place concerning the filing and maintaining of filed documents under seal.

3. This motion to conditionally seal the Attorney General's Opposition to Defendant's Motion to Recuse the District Attorney's Office is made on the ground that the Opposition makes reference to the names of certain witnesses.

4. I believe that the interest of each party in a fair trial overrides the public's prompt access to the Attorney General's Opposition to Defendant's Motion to Recuse until the appropriateness of the release of a redacted version of the Opposition is determined by the Court.

5. I believe an order maintaining this Opposition 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 Los Angeles, California on October 27 2004.



STEVEN D. MATTHEWS  
Supervising Deputy Attorney General

DECLARATION OF SERVICE

Case Name: *People v. Michael Joe Jackson*

Case No.: 1133603

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the Bar of this Court at which member's direction this service is made. I am 18 years of age or older and not a party to the within entitled cause; I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On October 28, 2004, I placed the attached

ATTORNEY GENERAL'S NOTICE OF MOTION AND MOTION FOR ORDER DIRECTING THAT ATTORNEY GENERAL'S OPPOSITION TO DEFENDANT'S MOTION TO RECUSE THE DISTRICT ATTORNEY'S OFFICE BE MAINTAINED UNDER SEAL UNTIL FURTHER ORDER OF COURT; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF STEVEN D. MATTHEWS IN SUPPORT OF SEALING (FILED UNDER SEAL)

in the internal mail collection system at the Office of the Attorney General, 300 S. Spring Street, Los Angeles, California, 90013, for deposit in the United States Postal Service that same day in the ordinary course of business, in a sealed envelope, postage thereon fully prepaid, addressed as follows:

PLEASE SEE ATTACHED SERVICE LIST

I certify that the document was produced on paper purchased as recycled paper.

I declare under penalty of perjury the foregoing is true and correct and that this declaration was executed on October 28, 2004, at Los Angeles, California.

\_\_\_\_\_  
M.O. LEGASPI

  
\_\_\_\_\_  
Signature

SDM:mol  
LA2004RE0012

**SERVICE LIST**

THOMAS A. MESEREAU, JR.  
Collins, Mesereau, Reddock & Yu, LLP  
1875 Century Park East, No. 700  
Los Angeles, CA 90067  
(Attorney for Defendant Michael Jackson)

ROBERT SANGER, ESQ.  
Sanger & Swysen, Lawyers  
233 E. Carrillo Street, Suite C  
Santa Barbara, CA 93001  
(Co-counsel for Defendant)

Thomas W. Sneddon, Jr.  
District Attorney of Santa Barbara  
ATTN.: RONALD ZONEN  
Deputy District Attorney  
1105 Santa Barbara Street  
Santa Barbara, CA 93101

GIBSON, DUNN & CRUTCHER, LLP  
Theodore J. Boutrous, Jr., Esq.  
William E. Thomson, Esq.  
Julian Poon, Esq.  
333 S. Grand Avenue  
Los Angeles, CA 90071-3197  
(Attorneys for (Collectively) "Media")