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FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

NOV 30 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
MOTION FOR ORDER
DIRECTING THAT PLAINTIFF'S
PROPOSED PROTOCOL FOR
EXPERTS' EXAMINATION OF
EnCase COMPUTER HARD
DRIVES; DECLARATION OF
GERALD McC. FRANKLIN IN
SUPPORT OF SEALING;
MEMORANDUM OF POINTS
AND AUTHORITIES

19 DATE: November 29, 2004

20 TIME: 10:00 a.m.

21 DEPT: TBA (Mcville)

22
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 Plaintiff hereby moves for an order directing that
27 "Plaintiff's Proposed Protocol For Experts' Examination Of EnCase Computer Harddrives,"
28 filed under seal on November 29, 2004, be maintained under conditional seal until further order

1 of court, pursuant to California Rules of Court, rule 243.1 et seq.

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

5 The motion is made on this notice of motion, on the declaration of Gerald McC.
6 Franklin and the memorandum of points and authorities served and filed herewith, on the
7 records and the file herein, and on such evidence as may be presented at the hearing of the
8 motion on the next calendared appearance in this matter.

9 DATED: November 30, 2004

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11 THOMAS W. SNEDDON, JR.
District Attorney

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13 By: 
Gerald McC. Franklin, Senior Deputy

14 Attorneys for Plaintiff
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MEMORANDUM OF POINTS AND AUTHORITIES

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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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26 ////

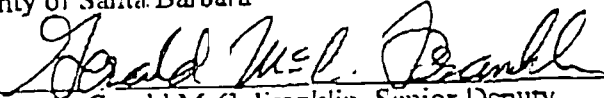
27 ////

28 ////

1 DATED: November 30, 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 Attornycs for Plaintiff
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