

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

DEC 08 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

11  
12 THE PEOPLE OF THE STATE OF CALIFORNIA,

13 Plaintiff,

14 v.

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16 MICHAEL JOE JACKSON,

17 Defendant.

No. 1133603

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PLAINTIFF'S NOTICE OF  
REQUEST FOR ORDER  
DIRECTING THAT PLAINTIFF'S  
OBJECTION TO THE SUBPOENA  
OF PSYCHIATRIC RECORDS,  
AND REQUEST THAT COURT  
LIMIT THE SCOPE OF MEDICAL  
RECORDS; ETC BE MAINTAINED  
UNDER CONDITIONAL SEAL;  
DECLARATION OF RONALD J.  
ZONEN IN SUPPORT THEREOF;  
MEMORANDUM OF POINTS  
AND AUTHORITIES

DATE: December 20, 2004  
TIME: ~~9:30 AM~~ 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 9:30 AM~~ 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 Objection to the Subpoena of

1 Psychiatric Records, Etc., filed contemporaneously with this Request for Conditional Sealing,  
2 be maintained under conditional seal until further order of court, pursuant to California Rules  
3 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 Ronald J. Zonen, are sufficient to justify sealing the Response  
6 pursuant to California Rules of Court, rule 243.1 et seq.

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

10 DATED: December 8, 2004

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THOMAS W. SNEDDON, JR.  
District Attorney

By:   
Ronald J. Zonen, Senior Deputy  
Attorneys for Plaintiff



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(c) 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: December 8, 2004

2 Respectfully submitted,

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

5 By: RJZ  
6 Ronald J. Zonen, Senior Deputy

7 Attorneys for Plaintiff  
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3 **PROOF OF SERVICE**


4 STATE OF CALIFORNIA  
5 COUNTY OF SANTA BARBARA } SS

6 I am a citizen of the United States and a resident of the County aforesaid; I am over  
7 the age of eighteen years and I am not a party to the within-entitled action. My business  
8 address is: District Attorney's Office; Courthouse: 1105 Santa Barbara Street, Santa Barbara,  
9 California 93101.

10 On December 8, 2004, I served the within PLAINTIFF'S MOTION THAT  
11 PLAINTIFF'S OBJECTION TO THE SUBPOENA OF PSYCHIATRIC RECORDS, ETC. BE  
12 MAINTAINED UNDER SEAL on Media's counsel and on Defendant, by THOMAS A.  
13 MESEREAU, JR., ROBERT SANGER and BRIAN OXMAN, by causing a true copy to be  
14 transmitted to Defendant's co-counsel and to Media's counsel at the facsimile number shown  
15 with the address for counsel on the attached Service List, and then causing that copy to be  
16 mailed to each at the address shown on the Service List.

17 I declare under penalty of perjury that the foregoing is true and correct.

18 Executed at Santa Barbara, California on this 8th day of December, 2004.

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22 Ronald J. Zonen  
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SERVICE LIST

1  
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26 Co-counsel for Defendant