

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
4 GERALD McC. FRANKLIN (State Bar No. 40171)
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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

DEC 15 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,

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15 v.

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18 MICHAEL JOE JACKSON,

19 Defendant.
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No. 1133603

PLAINTIFF'S NOTICE OF
MOTION FOR ORDER
DIRECTING THAT PLAINTIFF'S
OPPOSITION TO DEFENDANT'S
MOTIONS TO DISMISS FOR
"VINDICTIVE PROSECUTION"
AND "OUTRAGEOUS
GOVERNMENT CONDUCT,"
AND TO SUPPRESS EVIDENCE
FOR THOSE REASONS, ETC. BE
MAINTAINED UNDER SEAL
UNTIL FURTHER ORDER OF
COURT; DECLARATION OF
GERALD McC. FRANKLIN IN
SUPPORT OF SEALING;
MEMORANDUM OF POINTS
AND AUTHORITIES

23 DATE: December 23, 2004
24 TIME: 8:30 a.m.
25 DEPT: TBA (Mcville)

26 TO: MICHAEL JOE JACKSON, AND TO THOMAS A. MESEREAU, JR.,
27 ROBERT SANGER AND BRIAN OXMAN, HIS ATTORNEYS OF RECORD, AND TO
28 THEODORE J. BOUTROUS, JR., ESQ., GIBSON, DUNN & CRUTCHER, LLP:

PLAINTIFF'S REQUEST TO SEAL REPLY TO SUPPLEMENTAL BRIEF

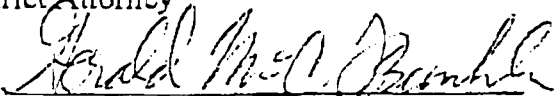
1 PLEASE TAKE NOTICE that on December 23, 2004, at 8:30 a.m. or as soon
2 thereafter as the matter may be heard, in the Department to be assigned, Plaintiff will, and
3 hereby does, move for an order directing that the People's Opposition to Defendant's Motions
4 to Dismiss for "Vindictive Prosecution" and "Outragous Government Conduct," Etc., filed
5 under seal, be maintained under conditional seal until further order of court, pursuant to
6 California Rules of Court, rule 243.1 et seq.

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

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

14 DATED: December 14, 2004

15 THOMAS W. SNEDDON, JR.
16 District Attorney

17 By: 
18 Gerald McC. Franklin, Senior Deputy

19 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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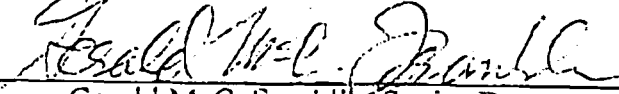
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1 DATED: December 14, 2004

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
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3 **PROOF OF SERVICE**

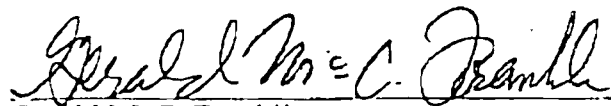
4 STATE OF CALIFORNIA }
5 COUNTY OF SANTA BARBARA } SS

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

10 On December 14, 2004, I served the within PLAINTIFF'S MOTION FOR ORDER
11 DIRECTING THAT PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTIONS TO
12 DISMISS FOR "VINDICTIVE PROSECUTION" AND "OUTRAGEOUS GOVERNMENT
13 CONDUCT," ETC. BE MAINTAINED UNDER SEAL on Media's counsel and on Defendant,
14 by THOMAS A. MESEREAU, JR., ROBERT SANGER and BRIAN OXMAN, by personally
15 delivering a true copy thereof the Attorney Robert SANGER, and by faxing a true copy to
16 Media's counsel and Mr. Sanger's co-counsel (except Mr. Oxman) at the facsimile number
17 shown with the address for counsel on the attached Service List.

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

19 Executed at Santa Barbara, California on this 14th day of December, 2004.

20 
21 _____
22 Gerald McC. Franklin

SERVICE LIST

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