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2 Stanislaus County
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3 Modesto, California
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4 Attorney for Plaintiff
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FILED
03 JUN 20 AM 11:09
SUPERIOR COURT
COUNTY OF STANISLAUS

DEPUTY

8 STANISLAUS COUNTY SUPERIOR COURT
9 STATE OF CALIFORNIA

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10 D.A. No.1056770
11 THE PEOPLE OF THE STATE OF CALIFORNIA) No.1056770
12)
12 Plaintiff,) POINTS AND AUTHORITIES
13) IN SUPPORT OF
13 vs.) SEALING RECORDS, and
14) REQUEST FOR JUDICIAL
14 SCOTT LEE PETERSON,) NOTICE
15) Hrg: 6-26-03
15 Defendant.) Time: 8:30 a.m.
16) Dept: 2

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17 Comes now the People of the State of California to submit
18 the following Points and Authorities in support of SEALING
19 RECORDS, and make request for this court to take JUDICIAL NOTICE:

20 **FACTS**

21 See previous statements of fact.

22 **ARGUMENT**

23 1. The term "Public" does not automatically mean discoverable.
24 Any document that may allow the government to better do the
25 job can become public, but that does not mean that it is
26 discoverable. Examples abound, such as tax records, mental health
27 records, "rap sheets," and investigative records, which are
28 public records but are not subject to disclosure. (See Government

1 Code §6254.)

2 2. The defendant's right to a fair trial.

3 The defendant is entitled to a fair trial. (See previous
4 points and authorities.) The court is responsible for ensuring
5 this right is protected. The defendant is also entitled to
6 discovery. (Penal Code §1054.1.) This court has assumed control
7 over all discovery matters in this case and should decide these
8 issues. The media is not a "party" and is not entitled to
9 discovery, which is a separate process from the CPRA.

10 3. Prior Decision

11 The item before the court that is conditionally sealed is a
12 search warrant and affidavit. The People understand that it
13 contains much of the same information, if not all of the
14 information contained in the search warrants previously reviewed
15 by this court. It is a waste of judicial resources for this court
16 to constantly have to go to an in-camera hearing as sanctioned by
17 the Fifth District Court of Appeal in case F042848; this court
18 should take judicial notice of the prior in-camera hearing
19 conducted in this case and determine it to be binding on this
20 issue. Evidence Code §452(d) allows this court to do so.

21 This courts minute order of May 30, 2003 is dispositive of
22 this issue. This court has previously balanced the competing
23 interests in this case and found that no disclosure should occur;
24 that decision has not been appealed or challenged and is law of
25 the case.

26 4. Judicial Notice of Pleadings

27 If the court chooses not to judicially notice the previous
28

1 in-camera, the People request a new hearing in-camera on the
2 issue. The People also ask the court to take judicial notice of
3 all of the pleadings in this case filed by the People on the
4 issue of sealing documents. The People make this request pursuant
5 to Evidence Code §452(d) and to save the court file from being
6 filled with duplicate copies of prior pleadings that the People
7 would be required to attach as exhibits without the ability to
8 make this request. The People incorporate all of the previous
9 point's and authorities filed by the People regarding these
10 issues (including the prior declarations of witnesses) as if set
11 forth fully herein.

12 **Conclusion**

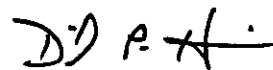
13
14 For all of the above-cited reasons, the People request the
15 court seal all of the documents in question pending use by the
16 parties in court, and deny the intervenor's request to have
17 access to the documents.

18
19 Dated: June 20, 2003

Respectfully submitted,

JAMES C. BRAZELTON
District Attorney

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22 By:



David P. Harris
Deputy District Attorney

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PROOF OF SERVICE BY FAX

Re: People v. Scott Lee Peterson No. 1056770

I, the undersigned, am over the age of eighteen years and not a party to the within above-entitled action. On April 18, 2003, I served the within POINTS AND AUTHORITIES IN SUPPORT OF SEALING RECORDS by faxing a true copy thereof to the fax numbers:

Kirk McAllister
1012 11th Street
Modesto, CA 95354
(209) 575-0240

Mark Geragos
350 S. Grand Avenue, #3900
Los Angeles, CA 90071
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Charity Kenyon
2500 Venture Oaks Way
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Karl Olson
639 Front Street, 4th Floor
San Francisco, CA 94111
(415) 433-7311

James M. Chadwick
1755 Embarcadero Rd.
Palo Alto, CA 94303
(650) 320-7401

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

Dated: 6-20-03

D. Hill

Confirmation Report - Memory Send

Page : 001
Date & Time: Jun-20-03 10:50
Line 1 : 209 525 5545
Line 2 :
Machine ID : Stanislaus Co DA

Job number : 396
Date : Jun-20 10:48
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FAX NO: (209) 525-5545

Date: June 20, 2003

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ATTN: Mark Geragos

FAX TELEPHONE NO: (213) 625-1600

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(209) 525-5550 immediately.

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OFFICE PHONE NO: (209) 525-5550

DEPARTMENT NAME: DA

COMMENTS: People v. Scott Lee Peterson, No. 1056770

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Page : 001
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Start time : Jun-20 10:51
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To : 295750240
Number of pages : 004
Start time : Jun-20 10:56
End time : Jun-20 10:58
Pages sent : 004
Status : OK

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ATTN: Kirk McAllister

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DEPARTMENT NAME: DA

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