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9 doing business as *The Fresno Bee*

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FRESNO COUNTY
SUPERIOR COURT

2004 APR 27 PM 3:48

FILED

APR 27 2004

FRESNO COUNTY SUPERIOR COURT

By _____
SUPERIOR COURT OF CALIFORNIA

DEPUTY

COUNTY OF FRESNO, CENTRAL DIVISION

10 In the Matter of:

11 Four Sealed Search Warrants.

12 _____)
13 AND RELATED ACTION.)

14 _____)
15 PEOPLE OF THE STATE OF CALIFORNIA,)

16 Plaintiff,)

17 v.)

18 MARCUS WESSON,)

19 Defendant.)
20 _____)

) W04912037-9
) W04912038-7
) W04912039-5
) W04912450-4

) CASE NO. F049017856

) **NON-PARTY MEDIA ENTITY *THE***
) ***FRESNO BEE'S* NOTICE OF**
) **MOTION AND MOTION TO**
) **UNSEAL SEARCH WARRANT**
) **RECORDS**

) HEARING
) DATE: May 20, 2004
) TIME: 8:30 a.m.
) DEPT: 53

) (Honorable R. L. Putnam)

) Estimated time for hearing: 30 minutes

21
22 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

23 PLEASE TAKE NOTICE that on May 20, 2004, at 8:30 a.m., or as soon thereafter
24 as the matter may be heard, in Department 53 of the above-entitled court, non-party media entity The
25 McClatchy Company, doing business as *The Fresno Bee*, will, and hereby does, move for an order
26 vacating the orders sealing search warrant documents entered in this case and unsealing search
27 warrant file numbers W04912037-9, W04912038-7, W04912039-5 and W04912450-4.

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The motion is based on the ground that the sealing orders are in violation of state and federal law, including, but not limited to, the First Amendment of the United States Constitution, Penal Code section 1534, California Rules of Court and federal common law.

The motion is further be based on this notice of motion and motion, the accompanying memorandum of points and authorities and declaration of Bruce A. Owdom, on the records and file herein, and on such evidence and argument as may be presented at the hearing of this motion.

DATED: April 27, 2004.

DIETRICH, GLASRUD, MALLEK & AUNE

BY: Bruce A. Owdom
BRUCE A. OWDOM
Attorneys for The McClatchy Company,
doing business as *The Fresno Bee*

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1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF FRESNO

3 I am employed in the County of Fresno, State of California. I am 18 years of age or
4 over and not a party to the within action; my business address is 5250 North Palm Avenue, Suite
402, Fresno, California, 93704.

5 On April 27, 2004, I served the within document described as **NON-PARTY MEDIA**
6 **ENTITY THE FRESNO BEE'S NOTICE OF MOTION AND MOTION TO UNSEAL**
7 **SEARCH WARRANT RECORDS** on the interested parties in this action by placing a true copy
thereof enclosed in a sealed envelope at Fresno, California, addressed as follows:

8 **See attached Service List.**

9
10 _____ (BY MAIL) depositing the sealed envelope with the United States Postal Service with
the postage fully prepaid.

11 X (BY MAIL) placing the envelope for collection and mailing on the date and at my
12 address shown above following our ordinary business practices. I am completely
13 familiar with Dietrich, Glasrud, Mallek & Aune's practice of collection and processing
14 of correspondence for mailing. I am aware that on motion of the party served, service
is presumed invalid if postal cancellation date or postage meter date is more than one
day after date of deposit for mailing in declaration.

15 _____ (BY OVERNIGHT MAIL SERVICE) by placing the envelope for collection
16 following our ordinary business practices for collection and processing
17 correspondence for mailing by express or overnight mail to the person(s) by whose
name an asterisk is affixed.

18 X (BY FACSIMILE) In addition to service by mail as set forth above, the person(s)
19 by whose name an asterisk is affixed was also forwarded a copy of said documents
by facsimile.

20 _____ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the
21 offices of the addressee(s).

22
23 I declare under penalty of perjury under the laws of the State of California that the
24 above is true and correct. Executed on April 27, 2004, at Fresno, California.

25
26 Lori L. Bailey
LORI L. BAILEY

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SERVICE LIST

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