

1 BRUCE A. OWDOM - 077670  
2 DIETRICH, GLASRUD, MALLEK & AUNE  
3 An Association Including Law Corporations  
4 5250 North Palm Avenue, Suite 402  
5 Fresno, California 93704  
6 (559) 435-5250  
7 (559) 435-8776 [fax]

8 Attorneys for Non-party media entity The McClatchy Company,  
9 doing business as *The Fresno Bee*

RECEIVED  
FRESNO COUNTY  
SUPERIOR COURT

2004 MAY 18 PM 3:56

FILED

MAY 18 2004

FRESNO SUPERIOR COURT

By \_\_\_\_\_ DEPT. 53 - DEPUTY

10 SUPERIOR COURT OF CALIFORNIA  
11 COUNTY OF FRESNO, CENTRAL DIVISION

12 In the Matter of:

13 Four Sealed Search Warrants.

14 AND RELATED ACTION.

15 PEOPLE OF THE STATE OF CALIFORNIA,

16 Plaintiff,

17 v.

18 MARCUS WESSON,

19 Defendant.

) W04912037-9

) W04912038-7

) W04912039-5

) W04912450-4

) CASE NO. F049017856

) **THE FRESNO BEE'S MOTION TO  
STRIKE PEOPLE'S RESPONSE IN  
OPPOSITION TO 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

22 The McClatchy Company, doing business as *The Fresno Bee* ("*The Fresno Bee*"),  
23 submits this motion to strike the People's response in opposition to motion to unseal search warrant  
24 records on the ground that it was untimely.

25 Pursuant to the court's order in open court on April 26, 2004, and the court's minute  
26 order dated April 27, 2004, the opposition, if any, to *The Fresno Bee's* motion to unseal search  
27 warrant records, was ordered to be filed and served no later than February 14, 2004, at 4:00 p.m. In  
28 the present case, the People's opposition was not served on *The Fresno Bee* until Monday, May 17,

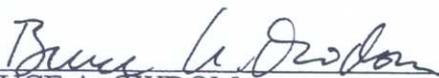
1 2004, at approximately 2:04 p.m., by facsimile. (Declaration of Bruce A. Owdom in Support of *The*  
2 *Fresno Bee*'s Motion to Strike People's Response in Opposition to Motion to Unseal Search Warrant  
3 Records.)

4 Since the service and presumably filing of the People's opposition was untimely, it  
5 should be stricken from the court's files and not considered. (*Buck v. Morrossis* (1952) 114  
6 Cal.App.2d 461, 464 [250 P.2d 270]; *Lincoln Holding Corp. v. Union Indem. Co.* (1933) 129  
7 Cal.App. 399 [18 P.2d 744].)

8  
9 DATED: May 18, 2004.

10 Respectfully submitted,

11 DIETRICH, GLASRUD, MALLEK & AUNE

12  
13 BY:   
14 BRUCE A. OWDOM  
15 Attorneys for The McClatchy Company,  
16 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 May 18, 2004, I served the within document described as **THE FRESNO BEE'S**  
6 **MOTION TO STRIKE PEOPLE'S RESPONSE IN OPPOSITION TO MOTION TO**  
7 **UNSEAL 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 May 18, 2004, at Fresno, California.

25  
26 Lori L. Bailey  
27 LORI L. BAILEY  
28

SERVICE LIST

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LARRY A DONALDSON ESQ\*  
POLICE LEGAL ADVISOR  
FRESNO CITY ATTORNEY'S OFFICE  
2600 FRESNO ST  
FRESNO CA 93721-3602  
Facsimile: (559) 488-1084

PETER JONES ESQ\*  
CHIEF DEFENSE ATTORNEY  
FRESNO PUBLIC DEFENDER'S OFFICE  
2220 TULARE ST STE 300  
FRESNO CA 93721  
Facsimile: (559) 262-4104

LISA GAMOIAN ESQ\*  
CHIEF DEPUTY  
FRESNO COUNTY DISTRICT ATTORNEY'S OFFICE  
2220 TULARE ST STE 1000  
FRESNO CA 93721  
Facsimile: (559) 488-1867