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1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
A Limited Liability Partnership  
2 Including Professional Corporations  
JAMES M. CHADWICK, Cal. Bar No. 157114  
3 jchadwick@sheppardmullin.com  
GUYLYN R. CUMMINS, Cal. Bar No. 122445  
4 gcummins@sheppardmullin.com  
DAVID E. SNYDER, Cal. Bar No. 262001  
5 dsnyder@sheppardmullin.com  
379 Lytton Avenue  
6 Palo Alto, CA 94301  
Telephone: 650-815-2600  
7 Facsimile: 650-815-2601

8 Attorneys for SAN JOSE MERCURY NEWS,  
9 LLC

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF SANTA CLARA

13 PEOPLE OF THE STATE OF CALIFORNIA,  
14 Plaintiff,  
15 v.  
16 ANTOLIN GARCIA TORRES,  
17 Defendant.


Case No. ~~C1233134~~

**NOTICE OF MOTION AND MOTION OF  
MEDIA TO INTERVENE AND UNSEAL  
GRAND JURY TRANSCRIPT**

Date: April 16, 2014  
Time: 1:30 p.m.  
Dept: 27 28  
Judge: Hon. Thang N. Barrett

FILED

2014 APR -1 P 3:52

David H. Yamasaki, Clerk of the Superior Court  
County of Santa Clara, California  
By:  Deputy Clerk  
**Yan Tran**

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN THAT San Jose Mercury News, LLC (the "Media") will and hereby does move for an order unsealing the grand jury transcript filed by Santa Clara County District Attorney in this matter. Subject to the approval of the Court, the motion will be heard on April 16, 2014 at 1:30 p.m., in the above-entitled Court located at 190 W. Hedding St., San Jose, California 95110, in the Courtroom of the Honorable Thang N. Barrett, Department 27. This Motion is made on the following grounds:

1. The public and the press have a right of access to the grand jury transcript pursuant to the First Amendment, California's Constitution (Cal. Const., Art. I, §§ 2-3), California Penal Code section 938.1, subdivision (b) (the grand jury transcript "shall be open to the public" 10 days after delivery to the defendant unless the appropriate showing of prejudice to the defendant's fair trial right is made), and the common law.

2. The substantive requirements for sealing the grand jury transcript have not been and cannot be met. No party has met or can meet either the First Amendment-based "compelling interest" test or the test set forth in *Alvarez v. Superior Court* (2007) 154 Cal.App.4th 642 (a "reasonable likelihood" of prejudice to Defendant's fair trial rights).

This Motion is based upon this Notice of Motion, the accompanying Memorandum of Points and Authorities, the accompanying Declaration in Support of the Motion and Request for Judicial Notice, all papers and documents in the Court's file, as well as any additional authority, argument or evidence that may be presented prior to or at the hearing on the Motion.

Dated: April 1, 2014

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By  \_\_\_\_\_  
JAMES M CHADWICK  
Attorneys for SAN JOSE MERCURY NEWS, LLC