

**CERTIFIED FOR PUBLICATION**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

ALBERTO ALVAREZ,

Petitioner and Defendant,

v.

THE SUPERIOR COURT OF  
SAN MATEO COUNTY,

Respondent;

SAN JOSE MERCURY NEWS, INC.,  
et al.

Real Parties in Interest.

A117202

(San Mateo County  
Super. Ct. No. SC061861)

**ORDER MODIFYING OPINION**

**[CHANGE IN JUDGMENT]**

THE COURT:

It is ordered that the opinion filed herein on August 24, 2007, be modified as follows:

On page 16, the disposition should be changed so the paragraph reads:

“Let a peremptory writ of mandate issue directing the superior court to vacate its order (1) denying defendant’s motion to seal the grand jury transcripts until after the completion of his trial and (2) granting Mercury News’s motion to unseal the grand jury transcripts. Thereafter, the superior court is directed to reconsider the motions using the “reasonable likelihood” standard of prejudice in Penal Code section 938.1, subdivision (b). The documents at issue shall remain under seal pending such reconsideration.”

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Marchiano, P.J.

**Trial Court:** San Mateo County Superior Court

**Trial Judge:** Honorable John Runde

**Attorneys:**

Charles Robinson, Eric Liberman and John Halley for Petitioner and Defendant.

Stephen Wagstaffe for Respondent.

Edmund G. Brown, Jr., Attorney General, Ronald S. Matthias, Senior Assistant Attorney General for Real Party in Interest, Office of the Attorney General.

Sheppard, Mullin, Richter & Hampton, James M. Chadwick and Guylyn R. Cummins for Real Party in Interest, San Jose Mercury News, Inc.

*Alvarez v. Superior Ct. of San Mateo County;  
San Jose Mercury News Inc., et al., A117202*