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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION

15 THE PEOPLE OF THE STATE OF
16 CALIFORNIA,

17 Plaintiffs,

18 vs.

19 MICHAEL JOSEPH JACKSON,

20 Defendant.

) Case No. 1133603

)
) OPPOSITION TO THE ACCESS
) PROponent'S MOTION REQUESTING
) IMMEDIATE PUBLIC ACCESS TO
) BLANK JURY QUESTIONNAIRE FORMS
) AND TO THE COMPLETED FORMS
) SUBMITTED BY PROSPECTIVE JURORS

) ~~UNDER SEAL~~

) Honorable Rodney S. Melville
) Date: February 7, 2005
) Time: 8:30 a.m.
) Dept.: 8

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24 **MEMORANDUM OF POINTS AND AUTHORITIES**

25 **INTRODUCTION**

26 It appears as though the Court has already ruled on the bulk of the requests made by the

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PROSPECTIVE JURORS**

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

FEB 09 2005

GARY M. BLAIR, Executive Officer
BY *Carrie L. Wagner*
CARRIE L. WAGNER, Deputy Clerk

1 Access Proponents in their "Motion Requesting Immediate Public Access to Blank Jury
2 Questionnaire Forms and to the Completed Forms Submitted by Prospective Jurors" and "Motion
3 of Certain Non-Party News Organizations to Modify Order Filed January 31, 2005 Re Jury
4 Venire." In general, defense counsel oppose anything that would compromise Mr. Jackson's
5 rights to due process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the
6 United States Constitution and Article I, Sections 1, 7, and 15 of the California Constitution or
7 the rights of the jurors to serve without undue influence, invasion of privacy or potential for
8 harassment by the entertainment industry.

9 **ARGUMENT**

10 **I.**

11 **THE COURT SHOULD NOT RELEASE THE COMPLETED JURY**

12 **QUESTIONNAIRES**

13 It appears that the one matter the Court has not ruled on is the request to release the
14 completed jury questionnaires. As with any judicial record, the Court may seal the
15 questionnaires provided that it complies with the criteria outlined in Rule of Court 243.1 "[T]he
16 content of juror questionnaires are publicly accessible unless the reason for ordering them sealed
17 outweighs the presumption of open access to records of judicial proceeding, the limitation on
18 access is tailored as narrowly as possible, and the trial court's findings are articulated with
19 enough specificity." (*Bellas v. Superior Court* (2000) 85 Cal.App. 4th 636, 645.)

20 The defense strongly opposes the release of the completed jury questionnaires at anytime
21 prior to the completion of the entire jury service. The release of the completed jury
22 questionnaires does not serve any purpose other than to add to the sensationalist coverage of this
23 case. The publication of personal information regarding the prospective jurors does nothing to
24 enhance the fairness of the trial and instead serves to send a message that prospective jurors

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PROSPECTIVE JURORS**

1 should think twice before answering the questionnaire candidly.¹ If, for any reason, an impartial
2 jury cannot be selected from the first pool of prospective jurors, it may be necessary to call in
3 additional jurors to fill out questionnaires. These jurors will be less likely to be candid in their
4 answers because they will be fully aware that their questionnaires will be subject to public
5 scrutiny.

6 There is no legitimate interest of the public in knowing the detailed information
7 pertaining to jurors or potential jurors which would override any defendant's right to an
8 unintimidated jury. If the documents must be turned over, they can be released where the case is
9 over.

10 The Court should find that Mr. Jackson's rights to due process and a fair trial under the
11 Fifth, Sixth and Fourteenth Amendments to the United States Constitution and Article I, Sections
12 1, 7, and 15 of the California Constitution, and the rights of the jurors to serve without
13 harassment, outweigh the presumption of access to completed jury questionnaires, at this time.

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25 ¹ The questionnaires contain identifying information regarding the jurors. Some jurors
26 did not understand the Court's instructions and wrote down their names. Other jurors listed
27 identifying information in the form of the names of their relatives and friends.

1 II.

2 CONCLUSION

3 For the above stated reasons, the Court should deny the Access Proponent's motion.

4 Dated: February 3, 2005

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