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19 **MICHAEL JOSEPH JACKSON**

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

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiffs,

vs.

MICHAEL JOSEPH JACKSON,

Defendant.

) Case No. 1133603

)
) **EX PARTE APPLICATION FOR AN**
) **ORDER THAT THE NOTICE OF MOTION**
) **AND MOTION TO SUPPRESS**
) **MATERIALS SEIZED PURSUANT TO**
) **SEARCH WARRANT NUMBER 5135**
) **PURSUANT TO PENAL CODE SECTION**
) **1538.5 AND NON-STATUTORY**
) **GROUND BE FILED UNDER SEAL**

) Honorable Rodney S. Melville

) Date: October 14, 2004

) Time: 8:30 am

) Dept: SM 8

TO THE CLERK OF THE ABOVE ENTITLED COURT:

EX PARTE APPLICATION FOR AN ORDER THAT THE NOTICE OF MOTION AND MOTION TO SUPPRESS MATERIALS SEIZED PURSUANT TO SEARCH WARRANT NUMBER 5135 PURSUANT TO PENAL CODE SECTION 1538.5 AND NON-STATUTORY GROUNDS BE FILED UNDER SEAL

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

SEP 29 2004

GARY M. BLAIR, Executive Officer

Carrie L. Wagner
CARRIE L. WAGNER, Deputy Clerk

1 Defendant requests that the Court issue an order that Mr. Jackson's pleading entitled
2 NOTICE OF MOTION AND MOTION TO SUPPRESS MATERIALS SEIZED PURSUANT TO
3 SEARCH WARRANT NUMBER 5135 PURSUANT TO PENAL CODE SECTION 1538.5 AND
4 NON-STATUTORY GROUNDS and accompanying documents be filed under seal and for such
5 other such further relief as the Court may deem just and proper. This request is based on the
6 overriding interests of Mr. Jackson's rights to due process and a fair trial under the Fifth, Sixth and
7 Fourteenth Amendments to the United States Constitution and Article I, Sections 1, 7, and 15 of the
8 California Constitution.

9 Dated: September 29, 2004

10 Respectfully submitted,

11 COLLINS, MESEREAU, REDDOCK & YU
12 Thomas A. Mesereau, Jr.
Susan C. Yu

13 SANGER & SWYSEN
14 Robert M. Sanger

15 OXMAN & JAROSCAK
16 Brian Oxman

17 By 

18 Robert M. Sanger
19 Attorneys for Defendant
20 MICHAEL JOSEPH JACKSON

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PENAL CODE SECTION 1538.5 AND NON-STATUTORY GROUNDS BE FILED UNDER SEAL

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 I.

3 **THE COURT HAS THE AUTHORITY TO ORDER THAT**
4 **A RECORD BE FILED UNDER SEAL**

5 Pursuant to California Rule of Court 243.1(d), the Court has the authority to order a
6 record be filed under seal if it expressly finds that:

- 7 1. There exists an overriding interest that overcomes the right of public access to the
8 record;
- 9 2. The overriding interest supports sealing the record;
- 10 3. A substantial probability exists that the overriding interest will be prejudiced if the
11 record is not sealed;
- 12 4. The proposed sealing is narrowly tailored; and
- 13 5. No less restrictive means exist to achieve the overriding interest.

14 (California Rule of Court 243.1(d).)

15 II.

16 **OVERRIDING INTERESTS EXIST THAT MEETS THE ABOVE CRITERIA FOR**
17 **SEALING A RECORD**

18 It is necessary to seal the record pursuant to California Rule of Court 243.1(d) based on
19 the overriding interests of Mr. Jackson's rights to due process and a fair trial under the Fifth,
20 Sixth and Fourteenth Amendments to the United States Constitution and Article I, Sections 1, 7,
21 and 15 of the California Constitution.

22 An inspection of the exhibits will reveal that they disclose the testimony of witnesses or
23 potential witnesses and disclose possible evidence, the admissibility of which, is yet to be
24 determined.

25 The overriding interests of Mr. Jackson's rights to a fair trial and due process would be
26 compromised if the exhibits are not filed under seal. A person accused of a crime is entitled to

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1 due process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United
2 States Constitution and Article I, Sections 1, 7, and 15 of the California Constitution. Material
3 contained the exhibits pertains to evidence and the testimony of witnesses that, if made public,
4 would compromise Mr. Jackson's these rights and would result in prejudice to Mr. Jackson. In
5 order to protect these overriding interests, it is necessary that the exhibits be filed under seal.

6 **CONCLUSION**

7 For the reasons stated above, Mr. Jackson requests that the Court issue an order that Mr.
8 Jackson's previously filed pleading entitled NOTICE OF MOTION AND MOTION TO
9 SUPPRESS MATERIALS SEIZED PURSUANT TO SEARCH WARRANT NUMBER 5135
10 PURSUANT TO PENAL CODE SECTION 1538.5 AND NON-STATUTORY GROUNDS, be
11 filed under seal.

12 Dated: September 29, 2004

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