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**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA

OCT 08 2004

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

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*unsealed, per order  
dated 11/4/04*

11 Attorneys for Defendant  
12 MICHAEL JOSEPH JACKSON

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

16 THE PEOPLE OF THE STATE OF  
17 CALIFORNIA,  
18 Plaintiffs,  
19 vs.  
20 MICHAEL JOSEPH JACKSON,  
21 Defendant.

Case No. 1133603  
APPLICATION TO FILE UNDER  
SEAL WITHOUT SERVICE TO  
PROSECUTION MR. JACKSON'S  
IN CAMERA EX PARTE  
APPLICATION FOR IN CAMERA  
HEARING ON OCTOBER 14, 2004  
FILED UNDER SEAL.  
Honorable Rodney Melville  
Trial Date: January 31, 2005  
Time: 8:30 am.  
Dept: SM 2

26 TO THE CLERK OF THE ABOVE ENTITLED COURT:  
27 Defendant Michael J. Jackson requests that the Court issue an order that the

1 accompanying *In Camera Ex Parte* Application for *In Camera* Hearing on  
2 October 14, 2004 be filed under seal; and that the prosecution not be served with  
3 said documents and that the public including the media, not be served with this  
4 application; and for such other such further relief as the Court may deem just and  
5 proper. This request is based on the overriding interests of attorney-client  
6 privilege and Mr. Jackson's rights to due process and a fair trial under the Fifth,  
7 Sixth and Fourteenth Amendments to the United States Constitution and Article  
8 I, Sections 1, 7, and 15 of the California Constitution.

9  
10 Dated: October 8, 2004


Respectfully submitted,

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

15 SANGER & SWYSEN  
16 Robert M. Sanger

17 OXMAN & JAROSCAK  
18 Brian Oxman

19 By:

  
20 Thomas A. Mesereau, Jr.  
21 Attorneys for defendant  
22 MICHAEL JOSEPH JACKSON  
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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  
6 authority to order a record be filed under seal if it expressly finds that:

- 7 1. There exists an overriding interest that overcomes the right of public  
8 access to the record;
- 9 2. The overriding interest supports sealing the record;
- 10 3. A substantial probability exists that the overriding interest will be  
11 prejudiced if the 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**  
17 **CRITERIA FOR SEALING A RECORD**

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

23 The overriding interest of attorney-client privilege justifies an order that  
24 the accompanying document be filed under seal. Confidential communications  
25 between a defendant and his or her lawyer relating to the attorney's  
26 representation of the defendant and the status of that relationship are

1 privileged. (California Evidence Code section 952.) There is no right of public  
2 access to materials covered by the attorney client privilege.

3 Furthermore, Mr. Jackson's rights to a fair trial and due process would  
4 be compromised if the accompanying document is disclosed to the public. A  
5 person accused of a crime is entitled to due process and a fair trial under the  
6 Fifth, Sixth and Fourteenth Amendments to the United States Constitution and  
7 Article I, Sections 1, 7, and 15 of the California Constitution. Releasing even  
8 the name of the pleading would be detrimental to Mr. Jackson because it would  
9 infringe upon Mr. Jackson's rights by tainting the jury pool with prejudicial  
10 information.

11 Moreover, disclosure of the information in the accompanying *ex parte*  
12 application information to the prosecutor would further compromise the rights.

13 In order to protect these overriding interests, it is necessary that the  
14 accompanying document be filed under seal and not be served on the  
15 prosecution nor that this application be served on the public and the media.

### 16 CONCLUSION

17 For the reasons stated above, Mr. Jackson requests that the Court issue  
18 an order that the accompanying *In Camera Ex Parte* Application for *In Camera*  
19 Hearing on October 14, 2004 be filed under seal and that the

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1 prosecution not be served with said documents and that the public including the  
2 media, not be served with this application.


3 Dated: October 8, 2004

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Attorneys for defendant  
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