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

24 THE PEOPLE OF THE STATE OF
25 CALIFORNIA,

26 Plaintiffs,

27 vs.

28 MICHAEL JOSEPH JACKSON,

Defendant.

Case No. 1133603

EX PARTE APPLICATION TO FILE UNDER
SEAL

~~UNDER SEAL~~

Honorable Rodney S. Melville

Date: September 16, 2004

Time: 10:00 am.

Dept: SM 8

TO THE CLERK OF THE ABOVE ENTITLED COURT:

Defendant requests that the Court issue an order that the accompanying SUPPLEMENTAL
BRIEF IN SUPPORT OF MOTION TO TRAVERSE AFFIDAVITS TO QUASH WARRANTS AND

EX PARTE APPLICATION TO FILE UNDER SEAL

1 TO SUPPRESS EVIDENCE UNDER PENAL CODE SECTION 1538.5 and accompanying
2 documents, be filed under seal and for such other such further relief as the Court may deem just and
3 proper. This request is based on the overriding interests of Mr. Jackson's rights to due process and
4 a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and
5 Article I, Sections 1, 7, and 15 of the California Constitution.

6 Dated: September 3, 2004


7 Respectfully submitted,

8 COLLINS, MESEREAU, REDDOCK & YU
9 Thomas A. Mesereau, Jr.
Susan C. Yu

10 SANGER & SWYSEN
11 Robert M. Sanger

12 OXMAN & JAROSCAK
13 Brian Oxman

14 By:

15 
16 Robert M. Sanger
17 Attorneys for Defendant
18 MICHAEL JOSEPH JACKSON

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 documents will reveal that they disclose the testimony of witnesses
23 or 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 accompanying document is not filed under seal. A person accused of a crime
27 is entitled to due process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the
28 United States Constitution and Article I, Sections 1, 7, and 15 of the California Constitution.

1 Material contained the accompanying document pertains to evidence and the testimony of
2 witnesses that, if made public, would compromise Mr. Jackson's these rights and would result in
3 prejudice to Mr. Jackson. In order to protect these overriding interests, it is necessary that the
4 accompanying document be filed under seal.

5 **CONCLUSION**

6 For the reasons stated above, Mr. Jackson requests that the Court issue an order that the
7 accompanying SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION TO TRAVERSE
8 AFFIDAVITS TO QUASH WARRANTS AND TO SUPPRESS EVIDENCE UNDER PENAL
9 CODE SECTION 1538.5 and accompanying documents, be filed under seal.


10 Dated: September 3, 2004

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