

1 **COLLINS, MESEREAU, REDDOCK & YU**
2 Thomas A. Mesereau, Jr., State Bar Number 091182
3 Susan Yu, State Bar Number 195640
4 1875 Century Park East, 7th Floor
5 Los Angeles, CA 90067
6 Telephone (310)284-3120
7 Facsimile (310)284-3133

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

OCT 08 2004

GARY M. BLAIR, Executive Officer

BY *Carrie E. Winters*
CARRIE E. WINTERS, Deputy Clerk

5 **SANGER & SWYSEN**
6 Attorneys at Law
7 Robert M. Sanger, State Bar No. 058214
8 233 East Carrillo Street, Suite C
9 Santa Barbara, CA 93101
10 (805)962-4887 FAX(805)963-7311

8 **OXMAN & JAROSCAK**
9 Brian Oxman, State Bar Number 072172
10 14126 East Rosecrans
11 Santa Fe Springs, CA 90670
12 Tel.: (562)921-5058, Fax.: (562)921-2928

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

28 Application to file *In Camera Ex Parte* Application for *In Camera* Hearing

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 
21 Thomas A. Mesereau, Jr.
22 Attorneys for defendant
23 MICHAEL JOSEPH JACKSON
24
25
26
27
28

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. mifacts.com

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. mifacts.com

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

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28

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

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

5 SANGER & SWYSEN
Robert M. Sanger

7 OXMAN & JAROSCAK
Brian Oxman

9 By:


Thomas A. Mesereau, Jr.
Attorneys for defendant
MICHAEL JOSEPH JACKSON

1 DECLARATION OF THOMAS A. MESEREAU, JR.

2 mjfacts.com mjfacts.com mjfacts.com
3 I, Thomas A. Mesereau, Jr., declare:

4 1. I am an attorney at law duly licensed to practice law in the courts
5 of the State of California, a partner in the law firm of Collins, Mesereau,
6 Reddock & Yu, and lead counsel for Michael Jackson.

7 2. It is necessary that the accompanying *In Camera Ex Parte*
8 Application For *In Camera* Hearing On October 14, 2004 be filed under seal;
9 that it not be served on the prosecution, and that this application not be served
10 on the public or media in order to protect the overriding interests of attorney-
11 client privilege and Mr. Jackson's rights to due process and a fair trial.

12 I declare under penalty of perjury that the foregoing is true and correct
13 and that this declaration was executed this 8th day of October, 2004 at Los
14 Angeles, California.

15
16 
17 Thomas A. Mesereau, Jr.
18 mjfacts.com mjfacts.com