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18 Attorneys for Defendant  
19 **MICHAEL JOSEPH JACKSON**

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

22 **THE PEOPLE OF THE STATE OF**  
23 **CALIFORNIA,**

24 Plaintiffs,

25 vs.

26 **MICHAEL JOSEPH JACKSON,**

27 Defendant.

28 Case No. 1133603

29 EX PARTE APPLICATION THAT  
30 MOTION FOR AN ORDER THAT THE  
31 DISTRICT ATTORNEY PROVIDE  
32 DEFENSE COUNSEL WITH WRITTEN  
33 COMMUNICATIONS BETWEEN THE  
34 GRAND JURORS AND THE DISTRICT  
35 ATTORNEY BE FILED UNDER SEAL

36 Honorable Rodney S. Melville

37 Date: November 29, 2004

38 Time: 10:00 am

39 Dept: SMX 2

40 **TO THE CLERK OF THE ABOVE ENTITLED COURT:**

41 Defendant requests that the Court determine whether it is appropriate to issue an order that  
42 the accompanying MOTION FOR AN ORDER THAT THE DISTRICT ATTORNEY PROVIDE

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45 DISTRICT ATTORNEY BE FILED UNDER SEAL

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

NOV 19 2004

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

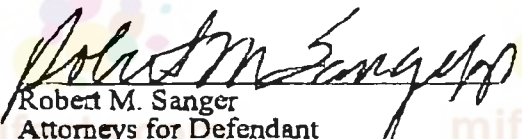
1 DEFENSE COUNSEL WITH WRITTEN COMMUNICATIONS BETWEEN THE GRAND  
2 JURORS AND THE DISTRICT ATTORNEY and accompanying documents be filed under seal.  
3 This request is based on the Orders of Judge Melville in this case.

4 Dated: November 19, 2004

5 Respectfully submitted,  
6 COLLINS, MESEREAU, REDDOCK & YU  
7 Thomas A. Mesereau, Jr.  
8 Susan C. Yu

9 SANGER & SWYSEN  
10 Robert M. Sanger

11 OXMAN & JAROSCAK  
12 Brian Oxman

13 By:   
14 Robert M. Sanger  
15 Attorneys for Defendant  
16 MICHAEL JOSEPH JACKSON

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28 EX PARTE APPLICATION THAT MOTION FOR AN ORDER THAT THE DISTRICT ATTORNEY PROVIDE  
DEFENSE COUNSEL WITH WRITTEN COMMUNICATIONS BETWEEN THE GRAND JURORS AND THE  
DISTRICT ATTORNEY BE FILED UNDER SEAL

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

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

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

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

12 Pursuant to the Court's prior instructions, including instructions reiterated on May 28,  
13 2004, we are submitting MOTION FOR AN ORDER THAT THE DISTRICT ATTORNEY  
14 PROVIDE DEFENSE COUNSEL WITH WRITTEN COMMUNICATIONS BETWEEN THE  
15 GRAND JURORS AND THE DISTRICT ATTORNEY out of an abundance of caution so that  
16 the Court may determine whether or not it may be filed under seal. It does not appear that this  
17 particular document makes references to statements of witnesses, documents, exhibits,  
18 photographs or other evidence that may be subject to the pretrial rule regarding the filing of  
19 documents under seal. (Exhibit 1, Declaration of Robert M. Sanger.)

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28 **EX PARTE APPLICATION THAT MOTION FOR AN ORDER THAT THE DISTRICT ATTORNEY PROVIDE  
DEFENSE COUNSEL WITH WRITTEN COMMUNICATIONS BETWEEN THE GRAND JURORS AND THE  
DISTRICT ATTORNEY BE FILED UNDER SEAL**

1 **CONCLUSION**

2 For the reasons stated above, Mr. Jackson submits the matter for the Court's  
3 determination as to whether it should be ordered that the accompanying MOTION FOR AN  
4 ORDER THAT THE DISTRICT ATTORNEY PROVIDE DEFENSE COUNSEL WITH  
5 WRITTEN COMMUNICATIONS BETWEEN THE GRAND JURORS AND THE DISTRICT  
6 ATTORNEY and accompanying documents be filed under seal.


7 Dated: November 19, 2004

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

10 SANGER & SWYSEN  
11 Robert M. Sanger

12 OXMAN & JAROSCAK  
13 Brian Oxman

14 By:

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

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**PROOF OF SERVICE**

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 233 East Carrillo Street, Suite C, Santa Barbara, California, 93101.

On November 19, 2004, I served the foregoing document **EXPARTE APPLICATION FOR ORDER THAT THE DISTRICT ATTORNEY PROVIDE DEFENSE COUNSEL WITH WRITTEN COMMUNICATIONS BETWEEN THE GRAND JURORS AND THE DISTRICT ATTORNEY** on the interested parties in this action by depositing a true copy thereof as follows:

**Gibson, Dunn & Crutcher LLP**

Theodore J. Boutrous, Jr.  
William E. Thomson  
Michael H. Dore  
333 South Grand Avenue  
Los Angeles, CA 91171  
Fax - 213-229-7520

**BY U.S. MAIL** - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.

**BY FACSIMILE** - I caused the above-referenced document(s) to be transmitted via facsimile to the interested parties

**BY HAND** - I caused the document to be hand delivered to the interested parties at the address above.

**STATE** - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

**FEDERAL** - I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed November 19, 2004, at Santa Barbara, California.

  
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BOBETTE J TRYON