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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

EX PARTE APPLICATION FOR AN
ORDER THAT MOTION TO SEAL
MOTION TO DISMISS FOR
OUTRAGEOUS GOVERNMENT
CONDUCT AND TO SUPPRESS ALL
EVIDENCE SEIZED PURSUANT TO SW
5192 AND 5196 BE FILED UNDER SEAL

Honorable Rodney S. Melville

Date: December 23, 2004

Time: 8:30 a.m.

Dept: SM 8

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

30 Defendant requests that the Court issue an order that Mr. Jackson's pleading entitled

31 **EX PARTE APPLICATION FOR AN ORDER THAT**
32 **MOTION TO SEAL MOTION TO DISMISS FOR OUTRAGEOUS GOVERNMENT CONDUCT AND TO SUPPRESS ALL**
33 **EVIDENCE SEIZED PURSUANT TO SW 5192 AND 5196 BE FILED UNDER SEAL**

1 an MOTION TO DISMISS FOR OUTRAGEOUS GOVERNMENT CONDUCT AND TO
2 SUPPRESS ALL EVIDENCE SEIZED PURSUANT TO SW 5192 AND 5196 and accompanying
3 documents be filed under seal and for such other such further relief as the Court may deem just and
4 proper. This request is based on the overriding interests of Mr. Jackson's rights to due process and
5 a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and
6 Article I, Sections 1, 7, and 15 of the California Constitution.

7 Dated: December 10, 2004

8 Respectfully submitted,

9 COLLINS, MESEREAU, REDDOCK & YU
10 Thomas A. Mescreau, Jr.
Susan C. Yu

11 SANGER & SWYSEN
12 Robert M. Sanger

13 OXMAN & JAROSCAK
14 Brian Oxman

15 By: _____

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

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EVIDENCE SEIZED PURSUANT TO SW 5192 AND 5196 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
8 MOTION TO DISMISS FOR OUTRAGEOUS GOVERNMENT CONDUCT AND TO
9 SUPPRESS ALL EVIDENCE SEIZED PURSUANT TO SW 5192 AND 5196 and
10 accompanying documents be filed under seal.

11 Dated: December 10, 2004

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