

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

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

13 **OXMAN & JAROSCAK**
14 Brian Oxman, State Bar No. 072172
15 14126 East Rosecrans
16 Santa Fe Springs, CA 90670
17 Tel.: (562) 921-5058, Fax: (562) 921-2298

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 CALIFORNIA,

23 Plaintiffs,

24 vs.

25 MICHAEL JOSEPH JACKSON,

26 Defendant.

27 Case No. 1133603

28 EX PARTE APPLICATION FOR AN
ORDER THAT RESPONSE TO DISTRICT
ATTORNEY'S OPPOSITION TO
DEFENDANT'S REQUEST THAT
PLAINTIFF BE REQUIRED TO PRESENT
THE HEARSAY EVIDENCE OF
DEFENDANT'S RESPONSE TO "LIVING
WITH MICHAEL JACKSON" AS PART
OF ITS CASE IN CHIEF BE FILED
UNDER SEAL

Honorable Rodney S. Melville

Date: February 22, 2005

Time: 9:30 a.m.

Dept: SM 8

TO THE CLERK OF THE ABOVE ENTITLED COURT:

EX PARTE APPLICATION FOR AN ORDER THAT RESPONSE TO DISTRICT ATTORNEY'S OPPOSITION TO
DEFENDANT'S REQUEST THAT PLAINTIFF BE REQUIRED TO PRESENT THE HEARSAY EVIDENCE OF
DEFENDANT'S RESPONSE TO "LIVING WITH MICHAEL JACKSON" AS PART OF ITS CASE IN CHIEF
BE FILED UNDER SEAL

1 Defendant requests that the Court issue an order that Mr. Jackson's pleading entitled EX
2 PARTE APPLICATION FOR AN ORDER THAT RESPONSE TO DISTRICT ATTORNEY'S
3 OPPOSITION TO DEFENDANT'S REQUEST THAT PLAINTIFF BE REQUIRED TO PRESENT
4 THE HEARSAY EVIDENCE OF DEFENDANT'S RESPONSE TO "LIVING WITH MICHAEL
5 JACKSON" AS PART OF ITS CASE IN CHIEF and accompanying documents be filed under seal
6 and for such other such further relief as the Court may deem just and proper. This request is based
7 on the overriding interests of Mr. Jackson's rights to due process and a fair trial under the Fifth,
8 Sixth and Fourteenth Amendments to the United States Constitution and Article I, Sections 1, 7, and
9 15 of the California Constitution.

10 Dated: February 15, 2005

11 Respectfully submitted,

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

14 SANGER & SWYSEN
15 Robert M. Sanger

16 OXMAN & JAROSCAK
17 Brian Oxman

18 By: 

19 Robert M. Sanger
20 Attorneys for Defendant
MICHAEL JOSEPH JACKSON

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28 EX PARTE APPLICATION FOR AN ORDER THAT RESPONSE TO DISTRICT ATTORNEY'S OPPOSITION TO
DEFENDANT'S REQUEST THAT PLAINTIFF BE REQUIRED TO PRESENT THE HEARSAY EVIDENCE OF
DEFENDANT'S RESPONSE TO "LIVING WITH MICHAEL JACKSON" AS PART OF ITS CASE IN CHIEF
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 EX
8 PARTE APPLICATION FOR AN ORDER THAT RESPONSE TO DISTRICT ATTORNEY'S
9 OPPOSITION TO DEFENDANT'S REQUEST THAT PLAINTIFF BE REQUIRED TO
10 PRESENT THE HEARSAY EVIDENCE OF DEFENDANT'S RESPONSE TO "LIVING
11 WITH MICHAEL JACKSON" AS PART OF ITS CASE IN CHIEF and accompanying
12 documents be filed under seal.

13 Dated: February 15, 2005

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

16 SANGER & SWYSEN
17 Robert M. Sanger

18 OXMAN & JAROSCAK
19 Brian Oxman

20 By: _____

21 Robert M. Sanger
22 Attorneys for
23 MICHAEL JOSEPH JACKSON

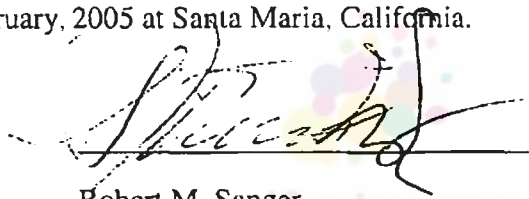
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DECLARATION OF ROBERT M. SANGER

I, Robert Sanger, declare:

1. I am an attorney at law duly licensed to practice law in the courts of the State of California, a partner in the law firm of Sanger & Swysen, and co-counsel for Michael Jackson.
2. It is necessary that Mr. Jackson's pleading entitled EX PARTE APPLICATION FOR AN ORDER THAT RESPONSE TO DISTRICT ATTORNEY'S OPPOSITION TO DEFENDANT'S REQUEST THAT PLAINTIFF BE REQUIRED TO PRESENT THE HEARSAY EVIDENCE OF DEFENDANT'S RESPONSE TO "LIVING WITH MICHAEL JACKSON" AS PART OF ITS CASE IN CHIEF and accompanying documents, be filed under seal in order to protect the overriding interests of Mr. Jackson's rights to due process and a fair trial, as well as to prevent the disclosure of witnesses, potential witnesses and potential evidence.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 15th day of February, 2005 at Santa Maria, California.



Robert M. Sanger

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 301 East Cook Street, Suite A, Santa Maria, California 93454.

On February 15, 2005, I served the foregoing document EX PARTE APPLICATION FOR AN ORDER THAT RESPONSE TO DISTRICT ATTORNEY'S OPPOSITION TO DEFENDANT'S REQUEST THAT PLAINTIFF BE REQUIRED TO PRESENT THE HEARSAY EVIDENCE OF DEFENDANT'S RESPONSE TO "LIVING WITH MICHAEL JACKSON" AS PART OF ITS CASE IN CHIEF BE FILED UNDER SEAL 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

Tom Sneddon
Gerald Franklin
Ron Zonen
Gordon Auchincloss
District Attorney
1112 Santa Barbara Street
Santa Barbara, CA 93101
Fax - 805-568-2398

___ 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.

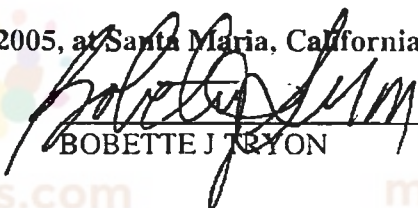
X BY FACSIMILE - I caused the above-referenced document(s) to be transmitted via facsimile to the interested parties at the above-referenced numbers.

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

X 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 February 15, 2005, at Santa Maria, California.


BOBETTE J TRYON