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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

EXPARTE APPLICATION TO FILE UNDER  
SEAL

Honorable Rodney S. Melville

Date: July 27, 2004

Time: 8:30 am.

Dept: SM 2

29 TO THE CLERK OF THE ABOVE ENTITLED COURT:

30 Defendant requests that the Court issue an order that the accompanying ERRATA FILING  
31 FOR MOTION TO SET ASIDE THE INDICTMENT (PENAL CODE § 995) and accompanying

32 EX PARTE APPLICATION TO FILE UNDER SEAL

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

5 Dated: July 26, 2004

6 Respectfully submitted,

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

9 SANGER & SWYSEN  
Robert M. Sanger

10 OXMAN & JAROSCAK  
11 Briar Oxman

12  
13 By: 

14 Robert M. Sanger  
15 Attorneys for Defendant  
16 MICHAEL JOSEPH JACKSON  
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EX PARTE APPLICATION TO FILE 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 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

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EX PARTE APPLICATION TO FILE UNDER SEAL

1 United States Constitution and Article I, Sections 1, 7, and 15 of the California Constitution.  
2 Material contained the accompanying document pertains to evidence and the testimony of  
3 witnesses that, if made public, would compromise Mr. Jackson's these rights and would result in  
4 prejudice to Mr. Jackson. In order to protect these overriding interests, it is necessary that the  
5 accompanying document be filed under seal.

6 **CONCLUSION**

7 For the ERRATA FILING FOR MOTION TO SET ASIDE THE INDICTMENT  
8 (PENAL CODE § 995) and accompanying documents, be filed under seal.

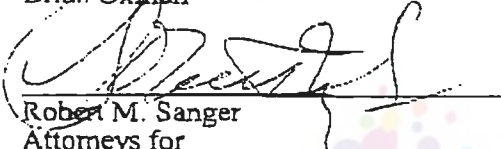
9 Dated: July 26, 2004

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16 By:

17   
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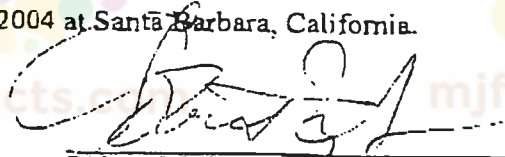
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EX PARTE APPLICATION TO FILE UNDER SEAL

1                                    **DECLARATION OF ROBERT M. SANGER**

2 I, Robert Sanger, declare:

- 3 1. I am an attorney at law duly licensed to practice law in the courts of the State of  
4 California, a partner in the law firm of Sanger & Swysen, and co-counsel for Michael  
5 Jackson.
- 6 2. It is necessary that the accompanying ERRATA FILING FOR MOTION TO SET ASIDE  
7 THE INDICTMENT (PENAL CODE § 995) and accompanying documents, be filed  
8 under seal in order to protect the overriding interests of Mr. Jackson's rights to due  
9 process and a fair trial, as well as to prevent the disclosure of witnesses, potential  
10 witnesses and potential evidence.

11 I declare under penalty of perjury that the foregoing is true and correct and that this  
12 declaration was executed this 26<sup>th</sup> day of July, 2004 at Santa Barbara, California.

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14 \_\_\_\_\_  
15 Robert M. Sanger