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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 THE PRIVILEGE LOG FOR
ITEMS SEIZED PURSUANT TO SEARCH
WARRANT 5135 BE FILED UNDER SEAL

Honorable Rodney S. Melville

Date: October 14, 2004

Time: 8:30 am

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 THE
32 PRIVILEGE LOG FOR ITEMS SEIZED PURSUANT TO SEARCH WARRANT 5135 BE FILED UNDER SEAL

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

SEP 29 2004

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

1 PRIVILEGE LOG FOR ITEMS SEIZED PURSUANT TO SEARCH WARRANT 5135 and
2 accompanying documents be filed under seal and for such other such further relief as the Court may deem
3 just and proper. This request is based on the overriding interests of Mr. Jackson's rights to due process
4 and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and
5 Article I, Sections 1, 7, and 15 of the California Constitution.

6 Dated: September 29, 2004

7 Respectfully submitted,

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

10 SANGER & SWYSEN
11 Robert M. Sanger

12 OXMAN & JAROSCAK
13 Brian Oxman

14 By: 

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

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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

27
28 **EX PARTE APPLICATION FOR AN ORDER THAT THE
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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 Mr.
8 Jackson's previously filed pleading entitled PRIVILEGE LOG FOR ITEMS SEIZED
9 PURSUANT TO SEARCH WARRANT 5135 be filed under seal.

10 Dated: September 29, 2004

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

13 SANGER & SWYSEN
14 Robert M. Sanger

15 OXMAN & JAROSCAK
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17 By: 

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

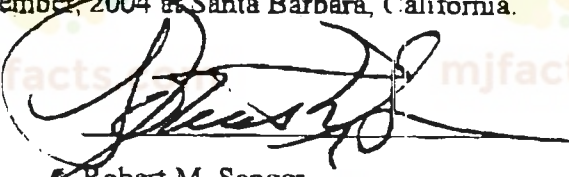
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1 **DECLARATION OF ROBERT M. SANGER**

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 Mr. Jackson's pleading entitled PRIVILEGE LOG FOR ITEMS
7 SEIZED PURSUANT TO SEARCH WARRANT 5135 and accompanying documents,
8 be filed under seal in order to protect the overriding interests of Mr. Jackson's rights to
9 due 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 29th day of September, 2004 at Santa Barbara, California.

13 
14
15 Robert M. Sanger