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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.)

Cusc No. 1133603

EX PARTE APPLICATION FOR AN
ORDER THAT OPPOSITION TO
DISTRICT ATTORNEY'S MOTION FOR
ORDER ALLOWING USE OF EXPERT
TESTIMONY ON THE SUBJECT OF
CHILD ABUSE TRAUMA BE FILED
UNDER SEAL

Honorable Rodney S. Mcville

Date: January 21, 2005

Time: 9:30 a.m.

Dept: SM 8

28 TO THE CLERK OF THE ABOVE ENTITLED COURT:

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

30 EX PARTE APPLICATION FOR AN ORDER THAT OPPOSITION TO DISTRICT ATTORNEY'S MOTION
31 FOR ORDER ALLOWING USE OF EXPERT TESTIMONY ON THE SUBJECT OF CHILD ABUSE TRAUMA
32 BE FILED UNDER SEAL

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

JAN 18 2005

GARY M. BLAIR, Executive Officer

BY *Carrie L. Wagner*
CARRIE L. WAGNER, Deputy Clerk

1 OPPOSITION TO DISTRICT ATTORNEY'S MOTION FOR ORDER ALLOWING USE OF
2 EXPERT TESTIMONY ON THE SUBJECT OF CHILD ABUSE TRAUMA 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: January 18, 2005


8 Respectfully submitted,

9 COLLINS, MESEREAU, REDDOCK & YU
10 Thomas A. Mesereau, 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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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

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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

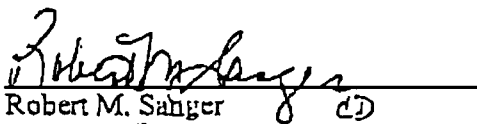
7 For the reasons stated above, Mr. Jackson requests that the Court issue an order that
8 OPPOSITION TO DISTRICT ATTORNEY'S MOTION FOR ORDER ALLOWING USE OF
9 EXPERT TESTIMONY ON THE SUBJECT OF CHILD ABUSE TRAUMA and accompanying
10 documents be filed under seal.

11 Dated: January 18, 2005

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20 Attorneys for
21 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 OPPOSITION TO DISTRICT ATTORNEY'S MOTION FOR ORDER ALLOWING USE OF EXPERT TESTIMONY ON THE SUBJECT OF CHILD ABUSE TRAUMA 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 18th day of January, 2005 at Santa Barbara, California.



Robert M. Sanger