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18 Attorneys for Defendant  
19 **MICHAEL JOSEPH JACKSON**

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THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiffs,

vs.

MICHAEL JOSEPH JACKSON,

Defendant.

) Case No. 1133603

)  
) 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  
21 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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27 EX PARTE APPLICATION FOR AN ORDER THAT RESPONSE TO DISTRICT ATTORNEY'S OPPOSITION TO  
28 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 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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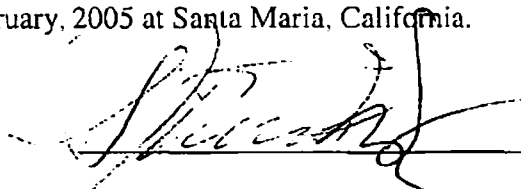
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28 EX PARTE APPLICATION FOR AN ORDER THAT RESPONSE TO DISTRICT ATTORNEY'S OPPOSITION TO  
DEFENDANT'S REQUEST THAT PLAINTIFF BE REQUIRED TO PRESENT THE HEARSAY EVIDENCE OF  
DEFENDANT'S RESPONSE TO "LIVING WITH MICHAEL JACKSON" AS PART OF ITS CASE IN CHIEF  
BE FILED UNDER SEAL

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. Boutros 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.

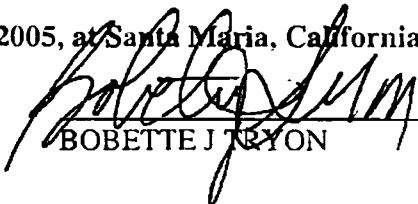
  **X**   **BY FACSIMILE** - I caused the above-referenced document(s) to be transmitted via facsimile to the interested parties at the above-referenced numbers.

       **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