

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

4 **SANGER & SWYSEN**
Attorneys at Law
5 Robert M. Sanger, State Bar No. 058214
6 233 East Carrillo Street, Suite C
Santa Barbara, CA 93101
7 Tel.: (805) 962-4887, Fax: (805) 963-7311

8 **OXMAN & JAROSCAK**
Brian Oxman, State Bar No. 072172
9 14126 East Rosecrans
Santa Fe Springs, CA 90670
10 Tel.: (562) 921-5058, Fax: (562) 921-2298

11 Attorneys for Defendant
MICHAEL JOSEPH JACKSON

12
13
14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION

15
16 THE PEOPLE OF THE STATE OF)
17 CALIFORNIA,)

18 Plaintiffs,)

19 vs.)

20 MICHAEL JOSEPH JACKSON,)

21 Defendant.)

Case No. 1133603

) EX PARTE APPLICATION FOR AN
) ORDER THAT NOTICE OF MOTION AND
) MOTION TO QUASH SUBPOENA DUCES
) TECUM BE FILED UNDER SEAL

) Honorable Rodney S. Melville

) Date: TBA
) Time: 9:30 a.m.
) Dept: SM 8

22
23
24
25 TO THE CLERK OF THE ABOVE ENTITLED COURT:

26 Defendant requests that the Court issue an order that the pleading entitled NOTICE OF
27 MOTION AND MOTION TO QUASH SUBPOENA DUCES TECUM and accompanying

28 EX PARTE APPLICATION FOR AN ORDER THAT NOTICE OF MOTION AND MOTION TO QUASH
SUBPOENA DUCES TECUM BE FILED UNDER SEAL

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

FEB 24 2005

GARY M. BLAIR, Executive Officer

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

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: February 9, 2005

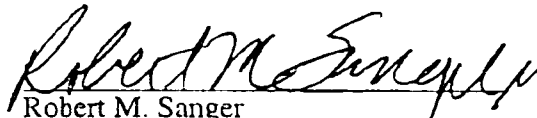
6 Respectfully submitted,

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

9 SANGER & SWYSEN
Robert M. Sanger

10 OXMAN & JAROSCAK
11 Brian Oxman

12
13 By:


14 Robert M. Sanger
15 Attorneys for Defendant
MICHAEL JOSEPH JACKSON

16
17
18
19
20
21
22
23
24
25
26
27
28

EX PARTE APPLICATION FOR AN ORDER THAT NOTICE OF MOTION AND MOTION TO QUASH
SUBPOENA DUCES TECUM 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
27 due process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United

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

5 CONCLUSION

6 For the reasons stated above, Mr. Jackson requests that the Court issue an order that
7 NOTICE OF MOTION AND MOTION TO QUASH SUBPOENA DUCES TECUM and
8 accompanying documents be filed under seal.

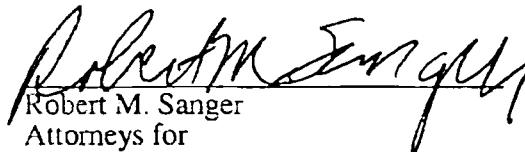
9 Dated: February 9, 2005

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

12 SANGER & SWYSEN
13 Robert M. Sanger

14 OXMAN & JAROSCAK
15 Brian Oxman

16 By:

17 
18 Robert M. Sanger
19 Attorneys for
20 MICHAEL JOSEPH JACKSON

21
22
23
24
25
26
27
28
EX PARTE APPLICATION FOR AN ORDER THAT NOTICE OF MOTION AND MOTION TO QUASH
SUBPOENA DUCES TECUM BE FILED UNDER SEAL.

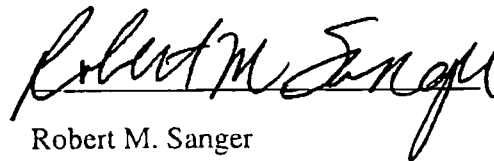
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 NOTICE OF MOTION AND MOTION TO QUASH SUBPOENA DUCES TECUM 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 9th 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 24, 2005, I served the foregoing document **EX PARTE APPLICATION FOR AN ORDER THAT MOTION TO QUASH SUBPOENA DUCES TECUM 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

 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.

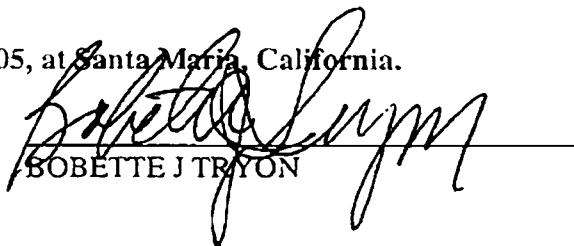
 X **BY FACSIMILE** - I caused the above-referenced document(s) to be transmitted via facsimile to the interested parties at the above-referenced numbers.

 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 24, 2005, at Santa Maria, California.



BOBETTE J TRYON