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

16 THE PEOPLE OF THE STATE OF
17 CALIFORNIA,

18 Plaintiffs,

19 vs.

20 **MICHAEL JOSEPH JACKSON,**

21 Defendant.
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) Case No. 1133603

) EX PARTE APPLICATION TO SUBMIT TO
) THE COURT THE ISSUE OF FILING
) UNDER SEAL

) Honorable Rodney Melville

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26 TO THE CLERK OF THE ABOVE ENTITLED COURT AND TO THE DISTRICT
27 ATTORNEY OF THE COUNTY OF SANTA BARBARA, TOM SNEDDON, AND DEPUTY
28 DISTRICT ATTORNEYS GERALD FRANKLIN, RON ZONEN, AND GORDON

EX PARTE APPLICATION TO SUBMIT TO THE COURT THE ISSUE OF FILING UNDER SEAL

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Pursuant to California Rule of Court 243.1(d), the Court has the authority to order a
3 record be filed under seal if it expressly finds that:

4 1. There exists an overriding interest that overcomes the right of public access to the
5 record;

6 2. The overriding interest supports sealing the record;

7 3. A substantial probability exists that the overriding interest will be prejudiced if the
8 record is not sealed;

9 4. The proposed sealing is narrowly tailored; and

10 5. No less restrictive means exist to achieve the overriding interest.

11 (California Rule of Court 243.1(d).)

12 Pursuant to the Court's prior instructions, including instructions reiterated on May 28,
13 2004, we are submitting the Transcript of Defense Exhibit 40 to the Penal Code Section 1538.5
14 out of an abundance of caution so that the Court may determine whether or not it may be filed
15 under seal. It does not appear that this particular document makes references to statements of
16 witnesses, documents, exhibits, photographs or other evidence that may be subject to the pretrial
17 rule regarding the filing of documents under seal. (Exhibit 1, Declaration of Robert M. Sanger.)

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1 **CONCLUSION**

2 For the reasons stated above, Mr. Jackson submits the matter for the Court's determination as
3 to whether it should be ordered that the accompanying Transcript of Defense Exhibit 40 to the Penal
4 Code Section 1538.5 be filed under seal.

5 Dated: September 10, 2004

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

8 SANGER & SWYSEN
9 Robert M Sanger

10 OXMAN & JAROSCAK
11 Brian Oxman

12 By: 

13 Robert M. Sanger
14 Attorneys for
15 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. Pursuant to the Court's prior instructions, including instructions reiterated on May 28, 2004, we are submitting the Transcript of Defense Exhibit 40 to the Penal Code Section 1538.5 out of an abundance of caution so that the Court may determine whether or not it may be filed under seal. It does not appear that this particular document makes references to statements of witnesses, documents, exhibits, photographs or other evidence that may be subject to the pretrial rule regarding the filing of documents under seal.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 10th day of September, 2004 at Santa Barbara, California.



Robert M. Sanger