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11 Attorneys for Defendant
MICHAEL JOSEPH JACKSON
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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

22 Defendant.
23
24

) Case No. 1133603

) EX PARTE APPLICATION TO FILE
) UNDER SEAL

) Honorable Rodney S. Melville
) Date: September 17, 2004
) Time: 1:00 p.m.
) Dept: SM 8

25 TO THE CLERK OF THE ABOVE ENTITLED COURT:

26 Defendant requests that the Court issue an order that Mr. Jackson's pleading entitled
27 EMERGENCY EX PARTE APPLICATION FOR AN ORDER DIRECTING THAT
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EX PARTE APPLICATION TO FILE UNDER SEAL

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

SEP 16 2004

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

1 MATERIALS SEIZED FROM SEARCH WARRANT NUMBER 5135 BE SEALED AND
2 THAT THE PROVISIONS OF PENAL CODE SECTION 1524(C) BE IMPLEMENTED;
3 DECLARATION OF ROBERT M. SANGER AND [PROPOSED] ORDER and accompanying
4 documents be filed under seal and for such other such further relief as the Court may deem just
5 and proper. This request is based on the overriding interests of Mr. Jackson's rights to due
6 process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United States
7 Constitution and Article I, Sections 1, 7, and 15 of the California Constitution.

8 Dated: September 16, 2004

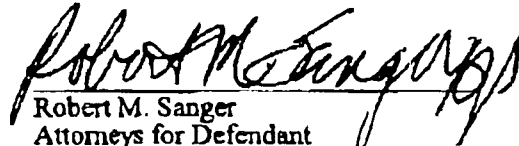
9 Respectfully submitted,

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

12 SANGER & SWYSEN
13 Robert M. Sanger

14 OXMAN & JAROSCAK
Brian Oxman

15
16 By:


17 Robert M. Sanger
18 Attorneys for Defendant
19 MICHAEL JOSEPH JACKSON
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EX PARTE APPLICATION TO FILE 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
19 on the overriding interests of Mr. Jackson's rights to due process and a fair trial under the
20 Fifth, Sixth and Fourteenth Amendments to the United States Constitution and Article I,
21 Sections 1, 7, and 15 of the California Constitution.

22 An inspection of the documents will reveal that they disclose the testimony of
23 witnesses or potential witnesses and disclose possible evidence, the admissibility of which, is
24 yet to be determined.

25 The overriding interests of Mr. Jackson's rights to a fair trial and due process would be
26 compromised if the accompanying document is not filed under seal. A person accused of a
27 crime is entitled to due process and a fair trial under the Fifth, Sixth and Fourteenth
28

EX PARTE APPLICATION TO FILE UNDER SEAL

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

6 **CONCLUSION**

7 For the reasons stated above, Mr. Jackson requests that the Court issue an order that
8 Mr. Jackson's previously filed pleading entitled EMERGENCY EX PARTE APPLICATION
9 FOR AN ORDER DIRECTING THAT MATERIALS SEIZED FROM SEARCH
10 WARRANT NUMBER 5135 BE SEALED AND THAT THE PROVISIONS OF PENAL
11 CODE SECTION 1524(C) BE IMPLEMENTED; DECLARATION OF ROBERT M.
12 SANGER AND [PROPOSED] ORDER AND ACCOMPANYING DOCUMENTS, be filed
13 under seal.

14 Dated: September 16, 2004

15 COLLINS, MESEREAU, REDDOCK & YU
16 Thomas A. Mesereau, Jr.
Susan C. Yu

17 SANGER & SWYSEN
18 Robert M. Sanger

19 OXMAN & JAROSCAK
Brian Oxman

20 By: 

21 Robert M. Sanger
22 Attorneys for
MICHAEL JOSEPH JACKSON

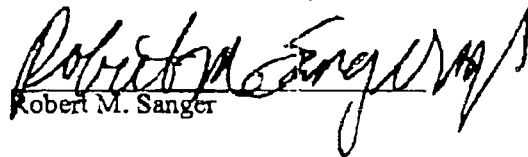
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EX PARTE APPLICATION TO FILE UNDER SEAL

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 Emergency Ex Parte Application for an Order Directing That Materials Seized from Search Number Warrant 5135 Be Sealed and That the Provisions of Penal Code Section 1524(c) Be Implemented; Declaration of Robert M. Sanger and [Proposed] Order , filed on September 16, 2004, 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 16th day of September, 2004 at Santa Barbara, California.


Robert M. Sanger