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11 Attorneys for Defendant  
MICHAEL JOSEPH JACKSON  
12

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 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. )

) Case No. 1133603

) EX PARTE APPLICATION FOR AN  
) ORDER THAT EX PARTE APPLICATION  
) FOR AN ORDER THAT A SUBPOENA  
) DUCES TECUM ISSUE; DECLARATIONS  
) OF ROBERT SANGER AND SUSAN YU  
) BE FILED UNDER SEAL

) Honorable Rodney S. Melville

) Date: TBA  
) Time: TBA  
) Dept: SM 8

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25 TO THE CLERK OF THE ABOVE ENTITLED COURT:

26 Defendant requests that the Court issue an order that Mr. Jackson's pleading entitled EX  
27 PARTE APPLICATION FOR AN ORDER THAT A SUBPOENA DUCES TECUM ISSUE;

28 EX PARTE APPLICATION FOR AN ORDER THAT EX PARTE APPLICATION FOR AN ORDER THAT A SUBPOENA  
DUCES TECUM ISSUE; DECLARATIONS OF ROBERT SANGER AND SUSAN YU BE FILED UNDER SEAL

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA

FEB 8 2005

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

1 DECLARATIONS OF ROBERT SANGER AND SUSAN YU BE FILED UNDER SEAL

2 and accompanying documents be filed under seal and for such other such further relief as the Court  
3 may deem just and proper. This request is based on the overriding interests of Mr. Jackson's rights  
4 to due process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United States  
5 Constitution and Article I, Sections 1, 7, and 15 of the California Constitution.

6 Dated: February 8, 2005

7 Respectfully submitted,

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

10 SANGER & SWYSEN  
11 Robert M. Sanger

12 OXMAN & JAROSCAK  
13 Brian Oxman

14 By: 

15 Robert M. Sanger  
16 Attorneys for Defendant  
17 MICHAEL JOSEPH JACKSON

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DUCES TECUM ISSUE; DECLARATIONS OF ROBERT SANGER AND SUSAN YU 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

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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 EX  
7 PARTE APPLICATION FOR AN ORDER THAT A SUBPOENA DUCES TECUM ISSUE:  
8 DECLARATIONS OF ROBERT SANGER AND SUSAN YU BE FILED UNDER SEAL  
9 and accompanying documents be filed under seal.

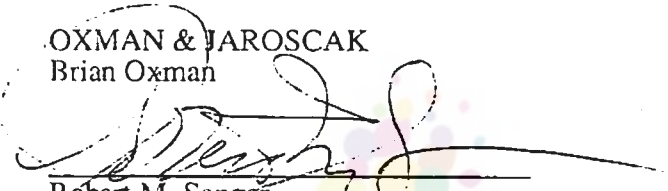
10 Dated: February 8, 2005

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

13 SANGER & SWYSEN  
14 Robert M. Sanger

15 OXMAN & JAROSCAK  
16 Brian Oxman

17 By:

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19 Robert M. Sanger  
20 Attorneys for  
21 MICHAEL JOSEPH JACKSON

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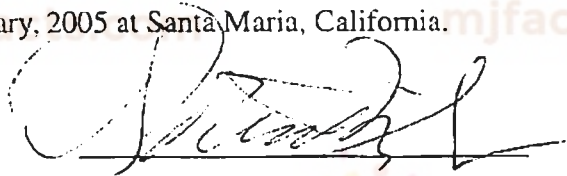
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DECLARATION OF ROBERT M. SANGER

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 EX PARTE APPLICATION FOR AN ORDER THAT A SUBPOENA DUCES TECUM ISSUE; DECLARATIONS OF ROBERT SANGER AND SUSAN YU BE FILED UNDER SEAL 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 8<sup>th</sup> 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 233 East Carrillo Street, Suite C, Santa Barbara, California, 93101.

On February 8, 2005.. I served the foregoing document EX PARTE APPLICATION FOR AN ORDER THAT A SUBPOENA DUCES TECUM ISSUE; DECLARATIONS OF ROBERT SANGER AND SUSAN YU 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

Tom Sneddon  
Gordon Auchincloss  
Ron Zonen  
Jerry Franklin  
District Attorney  
568-2398

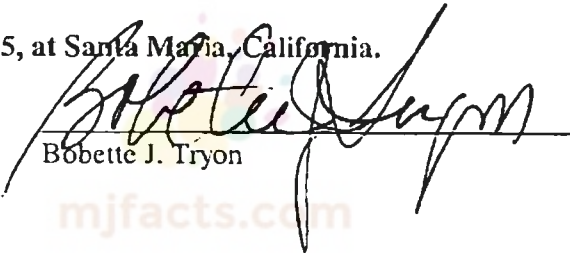
X  BY FACSIMILE -I caused the above-referenced document(s) to be transmitted via facsimile to the interested parties

\_\_\_ 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 8, 2005, at Santa Maria, California.

  
Bobette J. Tryon