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

20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
21 **FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION**

22 **THE PEOPLE OF THE STATE OF**
23 **CALIFORNIA,**

24 Plaintiffs,

25 vs.

26 **MICHAEL JOSEPH JACKSON,**

27 Defendant.

28 Case No. 1133603

EX PARTE APPLICATION TO FILE UNDER SEAL

Honorable Rodney S. Melville
Date: September 17, 2004
Time: 8:30 am.
Dept: SM 8

29 TO THE CLERK OF THE ABOVE ENTITLED COURT:

30 Defendant requests that the Court issue an order that Mr. Jackson's pleading entitled **ITEMS**
31 **TO BE SUPPRESSED** and accompanying documents, filed on August 19, 2004, be filed under seal

32 EX PARTE APPLICATION TO FILE UNDER SEAL

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

5 Dated: September 13, 2004

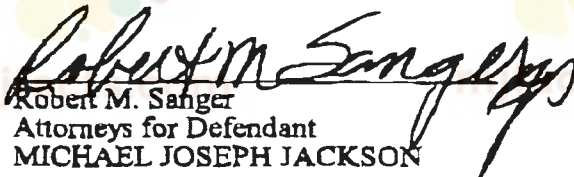
6 Respectfully submitted,

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

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10 OXMAN & JAROSCAK
11 Brian Oxman

12
13 By:

14 
15 Robert M. Sanger
16 Attorneys for Defendant
17 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 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 documents will reveal that they disclose the testimony of witnesses
23 or 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 accompanying document is not filed under seal. A person accused of a crime
27 is entitled to due process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the

28 **EX PARTE APPLICATION TO FILE UNDER SEAL**

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

6 **CONCLUSION**

7 For the reasons stated above, Mr. Jackson requests that the Court issue an order that Mr.
8 Jackson's previously filed pleading entitled ITEMS TO BE SUPPRESSED and accompanying
9 documents, be filed under seal.


10 Dated: September 13, 2004

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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 ITEMS TO BE SUPPRESSED, filed on August 19, 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 13th day of September, 2004 at Santa Barbara, California.


Robert M. Sanger