

SEP 21 2004

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

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Attorneys for Defendant
MICHAEL JOSEPH JACKSON

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

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiffs,

vs.

MICHAEL JOSEPH JACKSON,

Defendant.

Case No. 1133603

EX PARTE APPLICATION TO FILE
UNDER SEAL THE PRIVILEGE LOG FOR
EVIDENCE ITEMS 824, 825 & 826 [Evid.
Code § 954] and ~~PROPOSED ORDER~~

Honorable Rodney S. Melville
Date: October 14, 2004
Time: 8:30 a.m.
Dept: SM 8

TO THE CLERK OF THE ABOVE ENTITLED COURT:

Defendant requests that the Court issue an order that the accompanying EX PARTE

EX PARTE APPLICATION TO FILE UNDER SEAL
THE PRIVILEGE LOG FOR EVIDENCE ITEMS 824, 825 & 826 [Evid. Code § 954]

1 APPLICATION TO FILE UNDER SEAL THE PRIVILEGE LOG FOR EVIDENCE ITEMS 824,
2 825 & 826 [Evid. Code § 954] and accompanying documents, be filed under seal and for such other
3 such further relief as the Court may deem just and proper. This request is based on the overriding
4 interests of Mr. Jackson's rights to due process and a fair trial under the Fifth, Sixth and Fourteenth
5 Amendments to the United States Constitution and Article I, Sections 1, 7, and 15 of the California
6 Constitution.

7 Dated: September 21, 2004

8 Respectfully submitted,

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

11 SANGER & SWYSEN
12 Robert M. Sanger

13 OXMAN & JAROSCAK
14 Brian Oxman

15 By: 

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

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28 EX PARTE APPLICATION TO FILE UNDER SEAL
THE PRIVILEGE LOG FOR EVIDENCE ITEMS 824, 825 & 826 [Evid. Code § 954]

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
28 **EX PARTE APPLICATION TO FILE UNDER SEAL**
THE PRIVILEGE LOG FOR EVIDENCE ITEMS 824, 825 & 826 [Evid. Code § 954]

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

5 CONCLUSION

6 For the reasons stated above, Mr. Jackson requests that the Court issue an order that the
7 accompanying EX PARTE APPLICATION TO FILE UNDER SEAL THE PRIVILEGE LOG FOR
8 EVIDENCE ITEMS 824, 825 & 826 [Evid. Code § 954] and accompanying documents, be filed
9 under seal.

10 Dated: September 21, 2004

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Susan C. Yu

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14 Robert M. Sanger

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16 Brian Oxman

17 By:

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

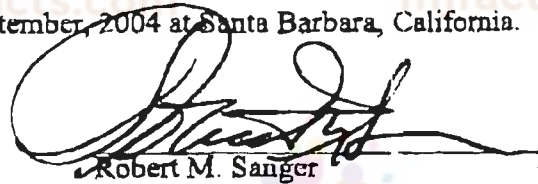
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THE PRIVILEGE LOG FOR EVIDENCE ITEMS 824, 825 & 826 [Evid. Code § 954]

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 the accompanying EX PARTE APPLICATION TO FILE UNDER SEAL THE PRIVILEGE LOG FOR EVIDENCE ITEMS 824, 825 & 826 [Evid. Code § 954] 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 21st day of September, 2004 at Santa Barbara, California.



Robert M. Sanger