

1 **COLLINS, MESEREAU, REDDOCK & YU**
2 Thomas A. Mesereau, Jr., State Bar Number 091182
3 Susan C. Yu, State Bar Number 195640
4 1875 Century Park East, 7th Floor
5 Los Angeles, CA 90067
6 Tel.: (310) 284-3120, Fax: (310) 284-3133

7 **SANGER & SWYSEN**
8 Attorneys at Law
9 Robert M. Sanger, State Bar No. 058214
10 233 East Carrillo Street, Suite C
11 Santa Barbara, CA 93101
12 Tel.: (805) 962-4887, Fax: (805) 963-7311

13 **OXMAN & JAROSCAK**
14 Brian Oxman, State Bar No. 072172
15 14126 East Rosecrans
16 Santa Fe Springs, CA 90670
17 Tel.: (562) 921-5058, Fax: (562) 921-2298

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 CALIFORNIA,

23 Plaintiffs,

24 vs.

25 MICHAEL JOSEPH JACKSON,

26 Defendant.

27 Case No. 1133603

28 EX PARTE APPLICATION FOR AN
ORDER THAT REPLY TO THE DISTRICT
ATTORNEY'S OPPOSITION TO MR.
JACKSON'S MOTION TO SUPPRESS
EVIDENCE OBTAINED BY SEARCH
WARRANT NUMBER 5135 BE FILED
UNDER SEAL

Honorable Rodney S. Melville

Date: October 14, 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

31 EX PARTE APPLICATION FOR AN ORDER THAT REPLY TO THE DISTRICT ATTORNEY'S OPPOSITION
32 TO MR. JACKSON'S MOTION TO SUPPRESS EVIDENCE OBTAINED BY SEARCH WARRANT NUMBER
33 5135 BE FILED UNDER SEAL

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

OCT 12 2004

GARY M. BLAIR, Executive Officer

By *Carrie L. Wagner*
CARRIE L. WAGNER, Deputy Clerk

1 REPLY TO THE DISTRICT ATTORNEY'S OPPOSITION TO MR. JACKSON'S MOTION TO
2 SUPPRESS EVIDENCE OBTAINED BY SEARCH WARRANT NUMBER 5135 and
3 accompanying documents be filed under seal and for such other such further relief as the Court may
4 deem just and proper. This request is based on the overriding interests of Mr. Jackson's rights to
5 due process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United States
6 Constitution and Article I, Sections 1, 7, and 15 of the California Constitution.

7 Dated: October 12, 2004

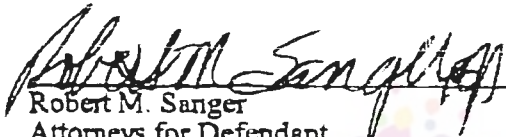
8 Respectfully submitted,

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

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28 EX PARTE APPLICATION FOR AN ORDER THAT REPLY TO THE DISTRICT ATTORNEY'S OPPOSITION
TO MR. JACKSON'S MOTION TO SUPPRESS EVIDENCE OBTAINED BY SEARCH WARRANT NUMBER
5135 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

28 **EX PARTE APPLICATION FOR AN ORDER THAT REPLY TO THE DISTRICT ATTORNEY'S OPPOSITION
TO MR. JACKSON'S MOTION TO SUPPRESS EVIDENCE OBTAINED BY SEARCH WARRANT NUMBER
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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**

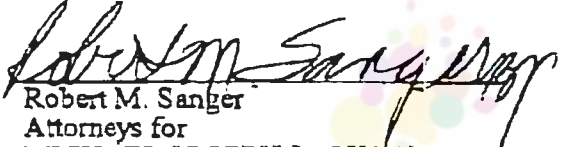
6 For the reasons stated above, Mr. Jackson requests that the Court issue an order that Mr.
7 Jackson's pleading entitled REPLY TO THE DISTRICT ATTORNEY'S OPPOSITION TO MR.
8 JACKSON'S MOTION TO SUPPRESS EVIDENCE OBTAINED BY SEARCH WARRANT
9 NUMBER 5135 and accompanying documents be filed under seal.

10 Dated: October 12, 2004

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: 
18 Robert M. Sanger
Attorneys for
MICHAEL JOSEPH JACKSON

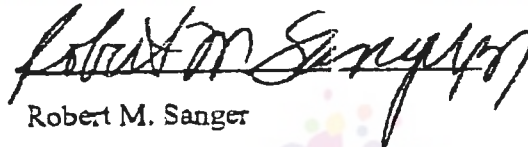
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5135 BE FILED UNDER SEAL

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3 **DECLARATION OF ROBERT M. SANGER**
4

5 I, Robert Sanger, declare:

- 6 1. I am an attorney at law duly licensed to practice law in the courts of the State of
7 California, a partner in the law firm of Sanger & Swyson, and co-counsel for Michael
8 Jackson.
9 2. It is necessary that Mr. Jackson's pleading entitled REPLY TO THE DISTRICT
10 ATTORNEY'S OPPOSITION TO MR. JACKSON'S MOTION TO SUPPRESS
11 EVIDENCE OBTAINED BY SEARCH WARRANT NUMBER 5135 and accompanying
12 documents, be filed under seal in order to protect the overriding interests of Mr. Jackson's
13 rights to due process and a fair trial, as well as to prevent the disclosure of witnesses,
14 potential witnesses and potential evidence.

15 I declare under penalty of perjury that the foregoing is true and correct and that this
16 declaration was executed this 12th day of October, 2004 at Santa Barbara, California.
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Robert M. Sanger

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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 October 12, 2004, I served the foregoing document **EXPARTE APPLICATION FOR AN ORDER THAT REPLY TO DISTRICT ATTORNEY OPPOSITION TO MR JACKSONS MOTION TO SUPPRESS EVDIENCE** on the interested parties in this action by depositing a true copy thereof as follows:

SEE ATTACHED SERVICE LIST

 BY U.S. MAIL - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.

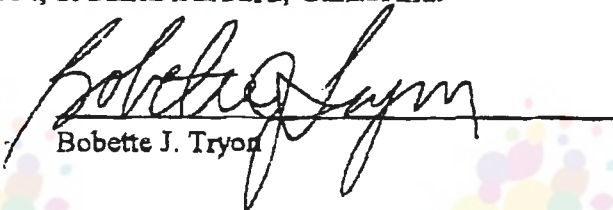
 X **BY FACSIMILE** - I caused the above-referenced document(s) to be transmitted via facsimile to the interested parties at SEE ATTACHED

 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 October 12, 2004, at Santa Barbara, California.


Bobette J. Tryon

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District Attorney of the County of Santa Barbara

Tom Sneddon
Gerald Franklin
Ron Zonen
Gordon Auchincloss
1105 Santa Barbara Street
Santa Barbara, CA 93101
Fax - 805-568-2398



mjfacts.com



mjfacts.com

Gibson, Dunn & Crutcher LLP

Theodore J. Boutros, Jr.
William E. Thomson
Michael H. Dore
333 South Grand Avenue
Los Angeles, CA 91171
Fax - 213-229-7520



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