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

21 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

22 **FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION**

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

25 Plaintiffs,

26 vs.

27 **MICHAEL JOSEPH JACKSON,**

28 Defendant.

) Case No. 1133603

) **EX PARTE APPLICATION TO FILE**
) **DECLARATION OF ROBERT M. SANGER**
) **UNDER SEAL, TO NOT SERVE THE**
) **PROSECUTION (REQUEST FOR IN**
) **CAMERA); PROPOSED ORDER**

) Honorable Rodney Melville

) Date: November 4, 2004

) Time: 8:30 am.

) Dept: SM 2

29 **TO THE CLERK OF THE ABOVE ENTITLED COURT:**

30 Defendant requests that the Court issue an order that the accompanying

31 **EX PARTE APPLICATION TO FILE DECLARATION OF ROBERT M. SANGER**
32 **UNDER SEAL AND IN CAMERA**

1 DECLARATION OF ROBERT M. SANGER be filed under seal; and that the prosecution not
2 be served with said documents and for such other such further relief as the Court may deem just
3 and proper. This request is based on the overriding interests of attorney-client privilege and
4 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
6 California Constitution.

7
8 Dated: November 1, 2004

Respectfully submitted,

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

11 SANGER & SWYSEN
12 Robert M. Sanger

13 OXMAN & JAROSCAK
14 Brian Oxman

15 BY 

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

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
11 the 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 attorney-client privilege, as well as Mr. Jackson's rights to due
20 process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United
21 States Constitution and Article I, Sections 1, 7, and 15 of the California Constitution.

22 The overriding interest of attorney-client privilege justifies an order that the
23 accompanying document be filed under seal. Confidential communications between a
24 defendant and his or her lawyer are privileged. (California Evidence Code section 952.)
25 There is no right of public access to materials covered by the attorney client privilege. Mr.
26 Jackson, as the client, is the holder of the attorney-client privilege. (California Evidence

1 Code section 953.) Therefore, the filing should also be in camera without service to the
2 prosecution.

3 Furthermore, Mr. Jackson's rights to a fair trial and due process would be
4 compromised if the accompanying documents are disclosed to the public. A person accused
5 of a crime is entitled to due process and a fair trial under the Fifth, Sixth and Fourteenth
6 Amendments to the United States Constitution and Article I, Sections 1, 7, and 15 of the
7 California Constitution. Furthermore, the District Attorney has requested that this document
8 be filed under seal and in camera.

9 **CONCLUSION**

10 For the reasons stated above, Mr. Jackson requests that the Court issue an order that
11 the accompanying DECLARATION OF ROBERT M. SANGER be filed under seal and that
12 the prosecution not be served with said documents.

13 Dated: November 1, 2004

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18
19 By: 

20 Robert M. Sanger
21 Attorneys for
22 MICHAEL JOSEPH JACKSON
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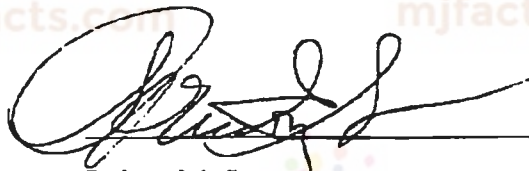
EX PARTE APPLICATION TO FILE DECLARATION OF ROBERT M. SANGER
UNDER SEAL AND IN CAMERA

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 DECLARATION OF ROBERT M. SANGER be filed under seal, and that it not be served on the prosecution, in order to protect the overriding interests of attorney-client privilege and Mr. Jackson's rights to due process and a fair trial.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 1st day of November, 2004 at Santa Barbara, California.



Robert M. Sanger