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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 SUBMIT
TO THE COURT THE REQUEST FOR
LEAVE TO FILE MR. JACKSON'S REPLY
TO THE DISTRICT ATTORNEY'S
OPPOSITION TO MOTION FOR RECUSAL
AS THE REPLY TO THE ATTORNEY
GENERAL'S OPPOSITION SO THAT THE
COURT MAY CONSIDER WHETHER IT
SHOULD BE FILED UNDER SEAL

Honorable Rodney S. Melville

Date: November 4, 2004

Time: 8:30 am

Dept: SM 8

TO THE CLERK OF THE ABOVE ENTITLED COURT:

Defendant requests that the Court determine whether it is appropriate to issue an order that

EX PARTE APPLICATION TO SUBMIT TO THE COURT THE REQUEST FOR LEAVE TO FILE MR.
JACKSON'S REPLY TO THE DISTRICT ATTORNEY'S OPPOSITION TO MOTION FOR RECUSAL AS THE
REPLY TO THE ATTORNEY GENERAL'S OPPOSITION SO THAT THE COURT MAY CONSIDER
WHETHER IT SHOULD BE FILED UNDER SEAL

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

NOV 02 2004

GARY M. BLAIR, Executive Officer

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

1 the accompanying REQUEST FOR LEAVE TO FILE MR. JACKSON'S REPLY TO THE
2 DISTRICT ATTORNEY'S OPPOSITION TO MOTION FOR RECUSAL AS THE REPLY TO
3 THE ATTORNEY GENERAL'S OPPOSITION and accompanying documents be filed under seal.

4 This request is based on the Orders of Judge Melville in this case.

5 Dated: November 2, 2004

6 Respectfully submitted,

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

9 SANGER & SWYSEN
Robert M. Sanger

10 OXMAN & JAROSCAK
11 Brian Oxman

12
13 By: 

14 Robert M. Sanger
15 Attorneys for Defendant
16 MICHAEL JOSEPH JACKSON
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28 EX PARTE APPLICATION TO SUBMIT TO THE COURT THE REQUEST FOR LEAVE TO FILE MR.
JACKSON'S REPLY TO THE DISTRICT ATTORNEY'S OPPOSITION TO MOTION FOR RECUSAL AS THE
REPLY TO THE ATTORNEY GENERAL'S OPPOSITION SO THAT THE COURT MAY CONSIDER
WHETHER IT SHOULD BE FILED UNDER SEAL

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Pursuant to California Rule of Court 243.1(d), the Court has the authority to order a
3 record be filed under seal if it expressly finds that:

- 4 1. There exists an overriding interest that overcomes the right of public access to the
5 record;
- 6 2. The overriding interest supports sealing the record;
- 7 3. A substantial probability exists that the overriding interest will be prejudiced if the
8 record is not sealed;
- 9 4. The proposed sealing is narrowly tailored; and
- 10 5. No less restrictive means exist to achieve the overriding interest.

11 (California Rule of Court 243.1(d).)

12 Pursuant to the Court's prior instructions, including instructions reiterated on May 28,
13 2004, we are submitting the REQUEST FOR LEAVE TO FILE MR. JACKSON'S REPLY TO
14 THE DISTRICT ATTORNEY'S OPPOSITION TO MOTION FOR RECUSAL AS THE
15 REPLY TO THE ATTORNEY GENERAL'S OPPOSITION out of an abundance of caution so
16 that the Court may determine whether or not it may be filed under seal. It does not appear that
17 this particular document makes references to statements of witnesses, documents, exhibits,
18 photographs or other evidence that may be subject to the pretrial rule regarding the filing of
19 documents under seal. (Exhibit 1, Declaration of Robert M. Sanger.)

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28 **EX PARTE APPLICATION TO SUBMIT TO THE COURT THE REQUEST FOR LEAVE TO FILE MR.
JACKSON'S REPLY TO THE DISTRICT ATTORNEY'S OPPOSITION TO MOTION FOR RECUSAL AS THE
REPLY TO THE ATTORNEY GENERAL'S OPPOSITION SO THAT THE COURT MAY CONSIDER
WHETHER IT SHOULD BE FILED UNDER SEAL**

1 CONCLUSION

2 For the reasons stated above, Mr. Jackson submits the matter for the Court's
3 determination as to whether it should be ordered that the accompanying REQUEST FOR
4 LEAVE TO FILE MR. JACKSON'S REPLY TO THE DISTRICT ATTORNEY'S
5 OPPOSITION TO MOTION FOR RECUSAL AS THE REPLY TO THE ATTORNEY
6 GENERAL'S OPPOSITION and accompanying documents be filed under seal.

7 Dated: November 2, 2004

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

10 KATTEN MUCHIN ZAVIS ROSENMAN
11 Steve Cochran
Stacey Knight

12 SANGER & SWYSEN
13 Robert M. Sanger

14 OXMAN & JAROSCAK
15 Brian Oxman

16 By: 

17 Robert M. Sanger
18 Attorneys for
19 MICHAEL JOSEPH JACKSON
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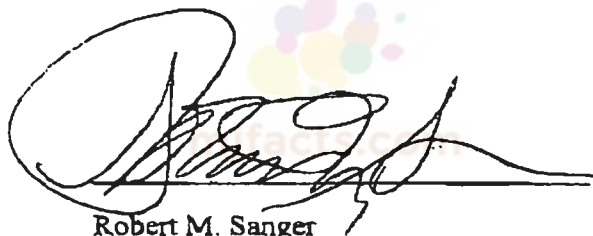
28 EX PARTE APPLICATION TO SUBMIT TO THE COURT THE REQUEST FOR LEAVE TO FILE MR.
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WHETHER IT SHOULD BE FILED UNDER SEAL

1 **DECLARATION OF ROBERT M. SANGER**

2 I, Robert Sanger, declare:

- 3 1. I am an attorney at law duly licensed to practice law in the courts of the State of
4 California, a partner in the law firm of Sanger & Swysen, and co-counsel for Michael
5 Jackson.
- 6 2. Pursuant to the Court's prior instructions, including instructions reiterated on May 28,
7 2004, we are submitting the REQUEST FOR LEAVE TO FILE MR. JACKSON'S
8 REPLY TO THE DISTRICT ATTORNEY'S OPPOSITION TO MOTION FOR
9 RECUSAL AS THE REPLY TO THE ATTORNEY GENERAL'S OPPOSITION out of
10 an abundance of caution so that the Court may determine whether or not it may be filed
11 under seal. It does not appear that this particular document makes references to
12 statements of witnesses, documents, exhibits, photographs or other evidence that may be
13 subject to the pretrial rule regarding the filing of documents under seal.

14 I declare under penalty of perjury that the foregoing is true and correct and that this
15 declaration was executed this 2nd day of November, 2004 at Santa Barbara, California.

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20 Robert M. Sanger

28 EX PARTE APPLICATION TO SUBMIT TO THE COURT THE REQUEST FOR LEAVE TO FILE MR.
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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 November 2, 2004, I served the foregoing document **EXPARTE APPLICATION TO SUBMIT TO THE COURT THE REQUEST FOR LEAVE TO FILE MR JACKSONS REPLY TO THE DISTRICT ATTORNEYS OPPOSITION TO MOTION FOR RECUSAL AS THE REPLY TO THE ATTORNEY GENERALS OPPOSITION SO THAT THE COURT MAY CONSIDER WHETHER IT SHOULD BE FILED UNDER SEAL** 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.

BY FACSIMILE - I caused the above-referenced document(s) to be transmitted via facsimile to the interested parties at to GIBSON DUNN AND CRUTCHER

BY HAND - I caused the document to be hand delivered to the interested parties at the address above.

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 November 2, 2004, at Santa Barbara, California.


BOBETTE J TRYON



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SERVICE LIST



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