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FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

DEC 08 2004

Attorneys for Larry R. Feldman

GARY M. BLAIR, Executive Officer
Carrie L. Wagner
CARRIE L. WAGNER, Deputy Clerk

8 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF

**Unsealed Pursuant to 6/6/05 Court order*

11 THE PEOPLE OF THE STATE OF CALIFORNIA,

12 Plaintiff,

13 v.

14 MICHAEL JACKSON,

15 Defendant.

CASE NO. 1133603

16 REQUEST FOR ORDER DIRECTING
17 THAT PLEADINGS FILED BY LARRY
18 R. FELDMAN ON NOVEMBER 30, 2004
19 AND DECEMBER 8, 2004 BE
20 MAINTAINED UNDER CONDITIONAL
21 SEAL; MEMORANDUM OF POINTS
22 AND AUTHORITIES; AND
23 DECLARATION OF ROBERT M.
24 TURNER IN SUPPORT THEREOF

FILED UNDER SEAL
W. Cameron

25 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

26 PLEASE TAKE NOTICE THAT Larry R. Feldman, hereby does move for an order
27 directing that the following records be maintained under conditional seal until further order
28 of court, pursuant to California Rules of Court, Rule 243.1, *et seq.*

The records covered by this Request are:

1. Objections to Documents Requested by the Subpoena Duces Tecum Dated November 11, 2004 and Signed by R. Brian Oxman, Attorney for Michael J. Jackson, filed November 30, 2004;
2. Declaration of Larry R. Feldman, filed November 30, 2004;
3. Memorandum of Points and Authorities in Support of Objections made by

KAYE SCHOLER LLP

KAYE SCHOLER LLP

1 Larry R. Feldman in Response to the Subpoena Duces Tecum Dated November 11, 2004 and
2 Signed by R. Brian Oxman, Attorney for Michael J. Jackson; Privilege Log, filed
3 December 8, 2004; and

4 4. Declaration of Robert M. Turner Regarding Documents Produced in Response
5 to the Subpoena Duces Tecum Dated November 11, 2004 and Signed by R. Brian Oxman,
6 Attorney for Michael J. Jackson, filed December 8, 2004.

7 This Motion is made on the ground that the facts, as established by the accompanying
8 declaration of Robert M. Turner are sufficient to justify sealing of these records pursuant to
9 California Rules of Court, Rule 243.1, *et seq.*

10 The Motion will be based on this Notice of Motion, the Memorandum of Points and
11 Authorities served and filed herewith, the Declaration of Robert M. Turner, the records and
12 the file herein, and on such evidence as may be presented to the Court.

13 DATED: 9 Dec 2004

KAYE SCHOLER LLP
ROBERT M. TURNER

14 By 
15
16
17 ROBERT M. TURNER

MEMORANDUM OF POINTS AND AUTHORITIES

KAYE SCHOLER LLP

The procedure for sealing records under California Rules of Court, Rule 243.1, *et seq.* applies only to records that are deemed public. (*Id.*, Rule 243.1(a)(2).) Motions and responsive pleadings in criminal cases are, ordinarily, “public” records of the court.

Rule 243.1(d) provides that

“The court may order that a record be filed under seal only if it expressly finds facts that establish:

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

Rule 243.1(e) provides, in pertinent part:

“(1) An order sealing the record must (i) specifically set forth the facts, findings that support the findings and (ii) direct the sealing of only those documents and pages, or, if reasonably practicable, portions of those documents and pages, that contain the material that needs to be placed under seal. All other portions of each document or page must be included in the public file.

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Rule 243.2(b) provides in pertinent part that "pending the determination of the motion [of a party to file a record under seal], the lodged record will be conditionally under seal."

DATED: 9 Dec 2004

KAYE SCHOLER LLP
ROBERT M. TURNER

By 
ROBERT M. TURNER

KAYE SCHOLER LLP

DECLARATION OF ROBERT M. TURNER

I, Robert M. Turner, declare as follows:

1. I am an attorney licensed to practice law in the State of California and am of counsel with the firm of Kaye Scholer LLP, counsel for Larry R. Feldman.

2. The Motion of Larry R. Feldman to conditionally seal certain records that were filed on November 30, 2004 and December 8, 2004, is made on the grounds that these records make reference to evidentiary facts not yet made public.

3. I believe that the interest of each party to a fair trial overrides the public's prompt access to these records until the appropriateness of the release of a redacted version of these records is determined by the court.

4. I believe an order maintaining these records under seal in the interim would avert the probability of prejudice, and that no more narrowly tailored order with respect to these records could be drafted to achieve the overriding interest in a fair trial.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 8, 2004 at Los Angeles, California.


Robert M. Turner

KAYE SCHOLER LLP

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA**
3 **COUNTY OF LOS ANGELES**

4 I am employed in the County of Los Angeles, State of California. I am over the age of
5 18 and not a party to the within action. My business address is 1999 Avenue of the Stars,
6 Suite 1700, Los Angeles, California 90067.

7 On December 9, 2004, I served the following documents described as:

8 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF**
9 **OBJECTIONS MADE BY LARRY R. FELDMAN IN RESPONSE TO**
10 **THE SUBPOENA DUCES TECUM DATED NOVEMBER 11, 2004 AND**
11 **SIGNED BY R. BRIAN OXMAN, ATTORNEY FOR MICHAEL J.**
12 **JACKSON; PRIVILEGE LOG**

13 by placing a true copy of the above entitled document in a sealed envelope addressed as
14 follows:

15 **Thomas A. Mesereau, Jr.**
16 **1875 Century Park East, Suite 700**
17 **Los Angeles, CA 90067**

18 **Ron Zonen**
19 **Santa Barbara District Attorneys Office**
20 **1105 Santa Barbara St**
21 **Santa Barbara, CA 93101-2007**

22 by **FEDERAL EXPRESS**

23 by **U.S. MAIL** (I am readily familiar with the firm's practice of collection and
24 processing correspondence for mailing. Under that practice it would be deposited
25 with U.S. Postal Service on that same day with postage thereon fully prepaid at Los
26 Angeles, California in the ordinary course of business. I am aware that on
27 motion of the party served, service is presumed invalid if postal cancellation
28 date or postage meter date is more than one day after date of deposit for
mailing in affidavit.)

OR

by **PERSONAL SERVICE**

by personally delivering such envelope to the addressee.

by causing such envelope to be delivered by messenger to the office of the
addressee.

(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 on December 9, 2004, at Los Angeles, California.

28 David Mandis
Name

David Mandis
Signature

KAYE SCHOLERlip