

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA

DEC 16 2004

GARY M. BLAIR, Executive Officer  
*Gary M. Blair*  
CAROL L. WAGNER, Deputy Clerk

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

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

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

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 FOR AN ORDER THAT THE NOTICE OF MOTION TO CONTINUE TRIAL; PENAL CODE SECTION 1050(B) BE FILED UNDER SEAL

Honorable Rodney S. Melville

Date: December 20-23, 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 Mr. Jackson's pleading entitled

EX PARTE APPLICATION FOR AN ORDER THAT THE NOTICE OF MOTION TO CONTINUE TRIAL; PENAL CODE SECTION 1050(B) BE FILED UNDER SEAL

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1 NOTICE OF MOTION TO CONTINUE TRIAL; PENAL CODE SECTION 1050(B) and  
2 accompanying documents be filed under seal and for such other such further relief as the Court may  
3 deem just and proper. This request is based on the overriding interests of Mr. Jackson's rights to  
4 due process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United States  
5 Constitution and Article I, Sections 1, 7, and 15 of the California Constitution.

6 Dated: December 10, 2004

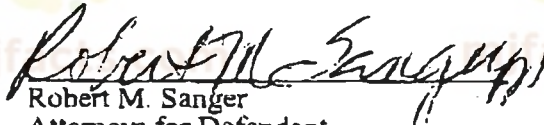
7 Respectfully submitted,

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

10 SANGER & SWYSEN  
11 Robert M. Sanger

12 OXMAN & JAROSCAK  
13 Brian Oxman

14 By:



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

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28 EX PARTE APPLICATION FOR AN ORDER THAT  
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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**  
**THE NOTICE OF MOTION TO CONTINUE TRIAL; PENAL CODE SECTION 1050(B) BE FILED UNDER SEAL**

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  
7 NOTICE OF MOTION TO CONTINUE TRIAL; PENAL CODE SECTION 1050(B) and  
8 accompanying documents be filed under seal.


9 Dated: December 10, 2004

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

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13 Robert M. Sanger

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16 By:

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

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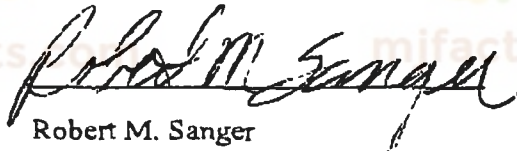
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**DECLARATION OF ROBERT M. SANGER**

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 Mr. Jackson's pleading entitled NOTICE OF MOTION TO CONTINUE TRIAL; PENAL CODE SECTION 1050(B), 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 10<sup>th</sup> day of December, 2004 at Santa Barbara, California.

  
Robert M. Sanger