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8 Specially appearing for Mother of the Victim

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

DEC 10 2004

GARY M. BLAIR, Executive Officer

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

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SANTA BARBARA**
11 **SANTA MARIA DIVISION**

FILED UNDER SEAL
W. J. Casanova

12 THE PEOPLE OF THE STATE OF CALIFORNIA,
13 Plaintiff,

14 v.

15 MICHAEL JOE JACKSON,
16 Defendant.

No. 1133603

MOTHER OF THE VICTIM'S
NOTICE OF REQUEST FOR
ORDER DIRECTING THAT
MOTHER OF THE VICTIM'S
PRIVILEGE LOG RE SUBPOENA
DUCES TECUM TO GEORGE
OWEN FELDMAN AND
CUSTODIAN OF RECORDS FOR
FELDMAN AND ROTHSTEIN,
BE MAINTAINED UNDER
CONDITIONAL SEAL;
DECLARATION OF SANDRA
SEGAL POLIN IN SUPPORT
THEREOF; MEMORANDUM OF
POINTS AND AUTHORITIES

DATE: December 22, 2004
TIME: 1:30 p.m.
DEPT: TBA (Melville)

21 TO MICHAEL JACKSON, THOMAS A. MESEREAU, JR., ROBERT SANGER,
22 AND BRIAN OXMAN, HIS ATTORNEYS OF RECORD:

23 PLEASE TAKE NOTICE that on December 22, 2004, at 1:30 p.m. or as soon
24 thereafter as the matter may be heard, in the Department to be assigned, Mother of the Victim
25 will, and hereby does, move for an order directing that Mother of the Victim's Privilege Log
26 Re Subpoena Duces Tecum to George Owen Feldman and Custodian of Records for
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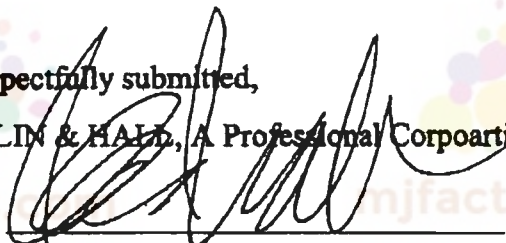
MOTHER OF THE VICTIM'S PRIVILEGE LOG RE SUBPOENA DUCES TECUM TO GEORGE OWEN FELDMAN AND CUSTODIAN OF RECORDS FOR

1 Feldman and Rothstein, filed contemporaneously with this Request for Conditional Sealing, be
2 maintained under conditional seal until further order of court, pursuant to California Rules of
3 Court, rule 243.1 et seq.

4 The motion will be made on the ground that the facts, as established by the
5 accompanying declaration of Sandra Segal Polin, are sufficient to justify sealing the Response
6 pursuant to California Rules of Court, rule 243.1 et seq.

7 The motion will be based on this notice of motion, on the declaration of Sandra
8 Segal Polin and the memorandum of points and authorities served and filed herewith, on the
9 records and the file herein, and on such evidence as may be presented at the hearing of the
10 motion.

11 DATED: December 9, 2004

12 Respectfully submitted,
13 POLIN & HALL, A Professional Corporation
14 By: 
15 SANDRA SEGAL POLIN,
16 Specially appearing for Mother of the Victim

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DECLARATION OF SANDRA SEGAL POLIN

I, Sandra Segal Polin, say:

1. I am an attorney at law, duly licensed to practice law in the State of California, a certified family law specialist, and a partner with Polin & Hall, a Professional Corporation, specially appearing for the Mother of the Victim. I have personal knowledge of each of the facts set forth herein, except as to those matters stated on information and belief, which matters I believe to be true. If called upon as a witness to testify as to these matters, I could and would do so competently.

2. Mother of the Victim's Motion to Conditionally Seal Mother of the Victim's Privilege Log Re Subpoena Duces Tecum to George Owen Feldman and Custodian of Records for Feldman and Rothstein, filed contemporaneously with this Motion, is made on the ground that the Privilege Log makes 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 Mother of the Victim's Privilege Log until the appropriateness of the release of a redacted version of the Privilege Log is determined by the Court.

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

I declare under penalty of perjury under the laws of California that the foregoing is true and correct, except as to matters stated upon my information and belief, and as to such matters I believe it to be true. I execute this declaration at Los Angeles, California on December 9, 2004.



Sandra Segal Polin,
Specially appearing for Mother of the Victim

MEMORANDUM OF POINTS AND AUTHORITIES

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

5 Rule 243.1(d) provides that

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

8 (1) There exists an overriding interest that overcomes the right of
9 public access to the record;

10 (2) The overriding interest supports sealing the record;

11 (3) A substantial probability exists that the overriding interest will
12 be prejudiced if the record is not sealed;

13 (4) The proposed sealing is narrowly tailored; and

14 (5) No less restrictive means exist to achieve the overriding interest.

15 Rule 243.1(e) provides, in pertinent part:

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

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

24 DATED: December 9, 2004

Respectfully submitted,

POLIN & HALL, Professional Corporation

26
27 By:


SANDRA SEGAL POLIN
Specially appearing for Mother of the Victim

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF SANTA BARBARA } SS

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years and I am not a party to the within-entitled action. My business address is: District Attorney's Office; Courthouse; 1105 Santa Barbara Street, Santa Barbara, California 93101.

On December 8, 2004, I served the within **MOTION THAT MOTHER OF THE VICTIM'S PRIVILEGE LOG RE SUBPOENA DUCES TECUM RE TO GEORGE OWEN FELDMAN AND CUSTODIAN OF RECORDS FOR FELDMAN AND ROTHSTEIN BE MAINTAINED UNDER SEAL BY THOMAS A. MESEREAU, JR., ROBERT SANGER and BRIAN OXMAN**, by causing a true copy to be transmitted to Defendant's co-counsel and to Media's counsel at the facsimile number shown with the address for counsel on the attached Service List, and then causing that copy to be mailed to each at the address shown on the Service List.

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

Executed at Santa Barbara, California on this 8th day of December, 2004.



Amanda Riel

SERVICE LIST

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2
3 **THOMAS A. MESEREAU, JR.**
4 **SUSAN C. YU, ESQ.**
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9 **Attorney for Defendant Michael Jackson**

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16 **Co-counsel for Defendant**

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18 **BRIAN OXMAN, ESQ.**
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25 **RONALD ZONEN, ESQ.**
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30 **District Attorney**

31
32 **JUDGE RODNEY MELVILLE,**
33 **IN CHAMBERS**
34 **FAX: (805) 346-7688**