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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

FEB 14 2005

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

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SANTA OF SANTA BARBARA
10 Santa Maria Division

11 PEOPLE OF THE STATE OF)
12 CALIFORNIA)

13 vs.)

14 MICHAEL JOE JACKSON)

15 Defendant.)

16 _____)
17 HOLTHOUSE, CARLIN & VAN)
18 TRIGHT LLP)

19 Movant.)
20
21

Case No. 1133603

EX PARTE APPLICATION FOR AN
ORDER THAT NOTICE OF MOTION
AND MOTION TO QUASH
SUBPOENA DUCES TECUM BE
FILED UNDER SEAL

Honorable Rodney S. Melville

Date: TBD
Time: 8:30 a.m.
Place: Santa Maria Division

22 TO THE CLERK OF THE ABOVE ENTITLED COURT:

23 Movant requests that the Court issue an order that the pleading entitled
24 NOTICE OF MOTION AND MOTION TO QUASH SUBPOENA DUCES TECUM
25 and accompanying documents be filed under seal and for such other such further

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EX PARTE APPLICATION FOR AN ORDER THAT NOTICE OF MOTION AND MOTION TO QUASH SUBPOENA DUCES
TECUM BE FILED UNDER SEAL

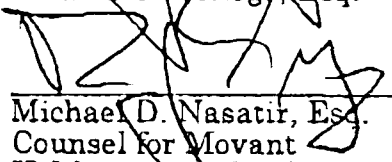
1 relief as the Court may deem just and proper. Movant makes the request to protect
2 its privacy and Fourth Amendment interests, and pursuant to its duties and
3 obligations to the defendant, Michael Joe Jackson, and in that capacity invokes as
4 further support for the request the overriding interests of Mr. Jackson's rights to
5 due process and a fair trial under the Fifth, Sixth and Fourteenth Amendment to
6 the United States Constitution and Article I, Sections 1, 7, 15 of the California
7 Constitution.

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9 Respectfully submitted,

10 Nasatir, Hirsch Podberesky & Genego

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12 By: 

13 William J. Genego, Esq.

14 FOR By: 

15 Michael D. Nasatir, Esq.
16 Counsel for Movant
17 Holthouse, Carlin & Van Tright LLP

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

- 8 1. There exists an overriding interest that overcomes the right of public
9 access to the record;
- 10 2. The overriding interest supports sealing the record;
- 11 3. A substantial probability exists that the overriding interest will be
12 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 (California Rule of Court 243.1(d).)

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17 II.

18 OVERRIDING INTEREST EXIST THAT MEETS THE ABOVE CRITERIA
19 FOR SEALING A RECORD

20
21 Movant makes this request to protect its privacy and Fourth Amendment
22 interests, and pursuant to its duties and obligations to the defendant, Michael Joe
23 Jackson, and in that capacity invokes as further support for the request the
24 overriding interest of Mr. Jackson's rights to due process and a fair trial under the
25 Fifth, Sixth and Fourteenth Amendments to the United States Constitution and
26 Article I, Sections 1, 7, and 15 of the California Constitution.

27 An inspection of the motion and exhibit will reveal possible evidence, the
28

1 admissibility of which, is yet to be determined.

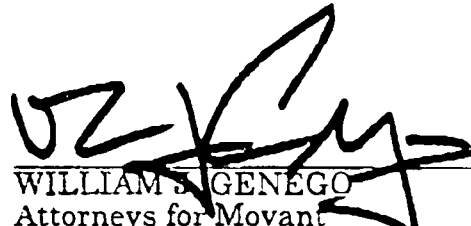
2 The overriding interests of Mr. Jackson's rights to a fair trial and due process
3 would be compromised if the motion and exhibit are not filed under seal. A person
4 accused of a crime is entitled to due process and a fair trial under the Fifth, Sixth
5 and Fourteenth Amendments to the United States Constitution and Article I,
6 Sections 1, 7, and 15 of the California Constitution. Material referenced in the
7 motion and exhibit if made public, would compromise Mr. Jackson's these rights
8 and would result in prejudice to Mr. Jackson. In order to protect these overriding
9 interests, it is necessary that the exhibits be filed under seal. Moreover, until a
10 judicial determination has been made as to the validity of the subpoena, Movant's
11 privacy and Fourth Amendment interests outweigh any public interest in disclosure
12 of the matters that would be revealed.

13 CONCLUSION

14 For the reasons stated above, Movant requests that the Court issue an order
15 that NOTICE OF MOTION AND MOTION TO QUASH SUBPOENA DUCES
16 TECUM and accompanying documents be filed under seal.

17 Dated: February 14, 2005

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19 By:


20 WILLIAM S. GENEGO
21 Attorneys for Movant
22 Household, Carlin & Van Tright LLP
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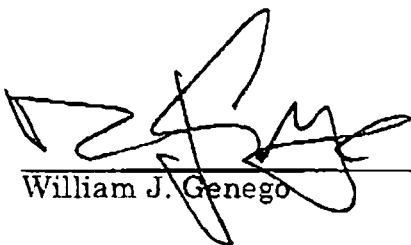
DECLARATION OF WILLIAM J. GENEGO

I, William Genego, 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 Nasatir, Hirsch, Podberesky & Genego.

2. It is necessary that Movant pleading entitled NOTICE OF MOTION AND MOTION TO QUASH SUBPOENA DUCES TECUM and accompanying documents, be filed under seal in order to protect the overriding interests of Movant'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 14th day of February, 2005 at Santa Monica, California.



William J. Genego