

1 **COLLINS, MESEREAU, REDDOCK & YU**
2 Thomas A. Mesereau, Jr., State Bar Number 091182
3 Susan C. Yu, State Bar Number 195640
4 1875 Century Park East, 7th Floor
5 Los Angeles, CA 90067
6 Tel.: (310) 284-3120, Fax: (310) 284-3133

7 **SANGER & SWYSEN**
8 Attorneys at Law
9 Robert M. Sanger, State Bar No. 058214
10 233 East Carrillo Street, Suite C
11 Santa Barbara, CA 93101
12 Tel.: (805) 962-4887, Fax: (805) 963-7311

13 **OXMAN & JAROSCAK**
14 Brian Oxman, State Bar No. 072172
15 14126 East Rosecrans
16 Santa Fe Springs, CA 90670
17 Tel.: (562) 921-5058, Fax: (562) 921-2298

18 Attorneys for Defendant
19 **MICHAEL JOSEPH JACKSON**

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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 MICHAEL JACKSON'S
) APPLICATION FOR AN ORDER TO
) SHOW CAUSE RE CONTEMPT AND/OR
) OTHER SANCTIONS BE FILED UNDER
) SEAL

) Honorable Rodney S. Melville

) Date: TBA
) Time: TBA
) 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
MICHAEL JACKSON'S APPLICATION FOR AN ORDER TO SHOW CAUSE RE CONTEMPT

EX PARTE APPLICATION FOR AN ORDER THAT MICHAEL JACKSON'S APPLICATION FOR AN ORDER TO SHOW
CAUSE RE CONTEMPT AND/OR OTHER SANCTIONS BE FILED UNDER SEAL

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

FEB 15 2005

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

1 AND/OR OTHER SANCTIONS BE FILED UNDER SEAL and accompanying documents be filed
2 under seal and for such other such further relief as the Court may deem just and proper. This request
3 is based on the overriding interests of Mr. Jackson's rights to due process and a fair trial under the
4 Fifth, Sixth and Fourteenth Amendments to the United States Constitution and Article I, Sections
5 1, 7, and 15 of the California Constitution.

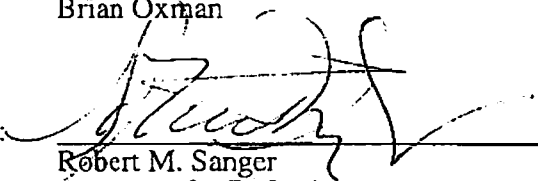
6 Dated: February 15, 2005

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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EX PARTE APPLICATION FOR AN ORDER THAT MICHAEL JACKSON'S APPLICATION FOR AN ORDER TO SHOW
CAUSE RE CONTEMPT AND/OR OTHER SANCTIONS BE FILED UNDER SEAL

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

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 MICHAEL JACKSON'S APPLICATION FOR AN ORDER TO SHOW CAUSE RE
8 CONTEMPT AND/OR OTHER SANCTIONS BE FILED UNDER SEAL and accompanying
9 documents be filed under seal.

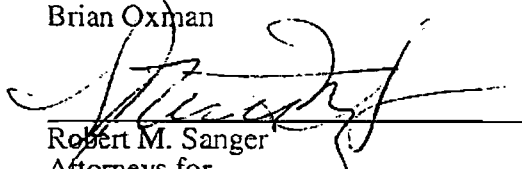
10 Dated: February 15, 2005

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

13 SANGER & SWYSEN
14 Robert M. Sanger

15 OXMAN & JAROSCAK
16 Brian Oxman

17 By:


18 Robert M. Sanger
19 Attorneys for
20 MICHAEL JOSEPH JACKSON
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EX PARTE APPLICATION FOR AN ORDER THAT MICHAEL JACKSON'S APPLICATION FOR AN ORDER TO SHOW
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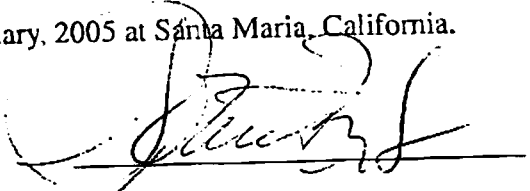
DECLARATION OF ROBERT M. SANGER

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 MICHAEL JACKSON'S APPLICATION FOR AN ORDER TO SHOW CAUSE RE CONTEMPT AND/OR OTHER SANCTIONS BE FILED UNDER SEAL 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.
3. Furthermore, this Application for Order to Show Cause and Order to Show Cause must be served upon counsel of record for Martin Bashir, Theodore Boutrous. Mr. Boutrous is also representing the various media and entertainment agencies. In that latter capacity he has correctly taken the position that he is not bound by the Court's protective order (gag order) with regard to the other lawyers and witnesses involved in this case. He has therefore been free to hold press conference and to disseminate materials that were properly served upon him
4. However, Mr. Boutrous' client, Martin Bashir, is a witness for the prosecution. As such Mr Bashir, and any attorney employed by him with regard to his status as a witness, is subject to the protective order of this court. Therefore, Mr. Boutrous is not free to hold press conferences or disseminate any of the materials, sealed or otherwise, relating to this witness. If this presents a conflict of interest, Mr. Boutrous can address that issue with his clients and the court. Unless and until that conflict is resolved, and to the extent that he continues to represent Mr. Bashir, we respectfully submit that he is bound by the protective order and all of its terms.

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I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 15th day of February, 2005 at Santa Maria, California.



Robert M. Sanger

ORDER THAT REPLY TO THE DISTRICT ATTORNEY'S OPPOSITION TO MOTION FOR RECUSAL OF SANTA BARBARA COUNTY DISTRICT ATTORNEY'S OFFICE PURSUANT TO PENAL CODE SECTION 1424 AND ACCOMPANYING DOCUMENTS BE FILED UNDER SEAL

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 February 15, 2005, I served the foregoing document:

EX PARTE APPLICATION FOR AN ORDER THAT MICHAEL JACKSON'S APPLICATION FOR AN ORDER TO SHOW CAUSE RE CONTEMPT AND/OR OTHER SANCTIONS BE FILED UNDER SEAL

MICHAEL JACKSON'S APPLICATION FOR AN ORDER TO SHOW CAUSE RE CONTEMPT AND/OR OTHER SANCTIONS and [PROPSOED] ORDER

on the interested parties in this action by depositing a true copy thereof as follows:

Tom Sneddon
Gordon Auchincloss
Ron Zonen
Jerry Franklin
District Attorney
568-2398

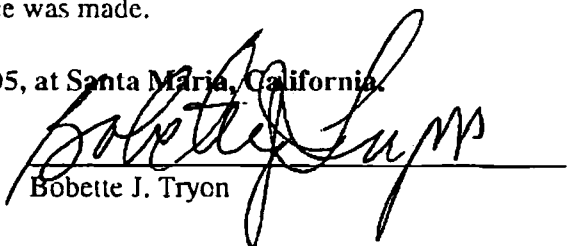
 X **BY FACSIMILE** -I caused the above-referenced document(s) to be transmitted via facsimile to the interested parties. Order to Show Cause was served to DA in open court.

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

 X **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 February 15, 2005, at Santa Maria, California.



Bobette J. Tryon