

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

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

FEB 23 2005

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

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

8 OXMAN & JAROSCAK
9 Brian Oxman, State Bar Number 072172
14126 East Rsecrans
10 Santa Fe Springs, CA 90670
Tel.: (562)921-5058, Fax.: (562)921-2928

11 Attorneys for Defendant
12 MICHAEL JOESEPH JACKSON

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION
15

16 THE PEOPLE OF THE STATE OF)
17 CALIFORNIA,)

18 Plaintiffs.)

19 vs.)

20 MICHAEL JOSEPH JACKSON,)

21 Defendant.)

) Case No. 1133603

) EX PARTE APPLICATION TO FILE UNDER
) SEAL, TO NOT SERVE THE PROSECUTION
) (REQUEST FOR IN CAMERA) AND TO NOT
) SERVE THE PUBLIC OR MEDIA WITH THE
) APPLICATION, PROPOSED ORDER

) ~~FILED UNDER SEAL~~

) Honorable Rodney Melville

) Trial Date: January 31, 2005

) Time: TBA

) Dept: SM 8

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25 TO THE CLERK OF THE ABOVE ENTITLED COURT:

26 Defendant requests that the Court issue an order that the accompanying

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28 EX PARTE APPLICATION TO FILE UNDER SEAL, TO NOT SERVE THE PROSECUTION
AND TO NOT SERVE THE PUBLIC OR MEDIA WITH THE APPLICATION

1 SUPPLEMENTAL PRIVILEGE LOG FOR COMPUTER RECORDS be filed under seal; and
2 that the prosecution not be served with said documents and that the public including the media,
3 not be served with this application; and for such other such further relief as the Court may deem
4 just and proper. This request is based on the overriding interests of attorney-client privilege and
5 Mr. Jackson's rights to due process and a fair trial under the Fifth, Sixth and Fourteenth
6 Amendments to the United States Constitution and Article I, Sections 1, 7, and 15 of the
7 California Constitution.

8
9 Dated: February 23, 2005


Respectfully submitted,

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

12 SANGER & SWYSEN
13 Robert M. Sanger

14 OXMAN & JAROSCAK
15 Brian Oxman

16 By:


17 Robert M. Sanger
18 Attorneys for
19 MICHAEL JOSEPH JACKSON
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28 EX PARTE APPLICATION TO FILE UNDER SEAL, TO NOT SERVE THE PROSECUTION
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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
11 the 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
19 on the overriding interests of attorney-client privilege, as well as Mr. Jackson's rights to due
20 process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United
21 States Constitution and Article I, Sections 1, 7, and 15 of the California Constitution.

22 The overriding interest of attorney-client privilege justifies an order that the
23 accompanying document be filed under seal. Confidential communications between a
24 defendant and his or her lawyer are privileged. (California Evidence Code section 952.)
25 There is no right of public access to materials covered by the attorney client privilege. Mr.
26 Jackson, as the client, is the holder of the attorney-client privilege. (California Evidence
27

28 EX PARTE APPLICATION TO FILE UNDER SEAL, TO NOT SERVE THE PROSECUTION
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1 Code section 953.) Therefore, the filing should also be in camera without service to the
2 prosecution.

3 Furthermore, Mr. Jackson's rights to a fair trial and due process would be
4 compromised if the accompanying documents are disclosed to the public. A person accused
5 of a crime is entitled to due process and a fair trial under the Fifth, Sixth and Fourteenth
6 Amendments to the United States Constitution and Article I, Sections 1, 7, and 15 of the
7 California Constitution. Furthermore, the District Attorney has requested that this document
8 be filed under seal and in camera.

9 CONCLUSION

10 For the reasons stated above, Mr. Jackson requests that the Court issue an order that
11 the accompanying SUPPLEMENTAL PRIVILEGE LOG FOR COMPUTER RECORDS be
12 filed under seal and that the prosecution not be served with said documents.

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14 Dated: February 23, 2005

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

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SANGER & SWYSEN
Robert M. Sanger

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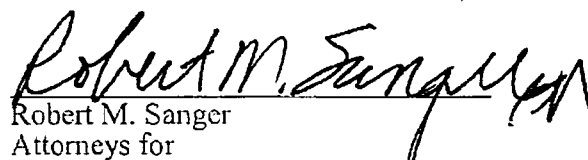
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OXMAN & JAROSCAK
Brian Oxman

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By:


Robert M. Sanger
Attorneys for
MICHAEL JOSEPH JACKSON

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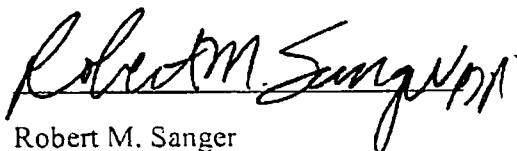
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DECLARATION OF ROBERT M. SANGER

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 the accompanying SUPPLEMENTAL PRIVILEGE LOG FOR COMPUTER RECORDS be filed under seal, and that it not be served on the prosecution, in order to protect the overriding interests of attorney-client privilege and Mr. Jackson's rights to due process and a fair trial.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 23rd day of February, 2005 at Santa Barbara, California.


Robert M. Sanger

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