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FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF SANTA BARBARA

OCT 25 2004

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

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 19 **MICHAEL JOSEPH JACKSON**

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 21 FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION

22 THE PEOPLE OF THE STATE OF CALIFORNIA,

23 Plaintiffs,

24 vs.

25 MICHAEL JOSEPH JACKSON,

26 Defendant.

) Case No. 1133603

) EX PARTE APPLICATION FOR AN
) ORDER THAT SUPPLEMENTAL BRIEF
) IN SUPPORT OF MR. JACKSON'S
) MOTION TO SUPPRESS EVIDENCE
) OBTAINED BY SEARCH WARRANT
) NUMBER 5135 BE FILED UNDER SEAL

) Honorable Rodney S. Melville

) Date: November 5, 2004

) Time: 8:30 am

) Dept: SM 8

27 TO THE CLERK OF THE ABOVE ENTITLED COURT:

28 EX PARTE APPLICATION FOR AN ORDER THAT
 SUPPLEMENTAL BRIEF IN SUPPORT OF MR. JACKSON'S MOTION TO SUPPRESS EVIDENCE
 OBTAINED BY SEARCH WARRANT NUMBER 5135 BE FILED UNDER SEAL

1 Defendant requests that the Court issue an order that Mr. Jackson's pleading entitled
 2 SUPPLEMENTAL BRIEF IN SUPPORT OF MR. JACKSON'S MOTION TO SUPPRESS
 3 EVIDENCE OBTAINED BY SEARCH WARRANT NUMBER 5135 and accompanying documents
 4 be filed under seal and for such other such further relief as the Court may deem just and proper.
 5 This request is based on the overriding interests of Mr. Jackson's rights to due process and a fair trial
 6 under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and Article I,
 7 Sections 1, 7, and 15 of the California Constitution.

8 Dated: October 25, 2004

9 Respectfully submitted,

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

13 SANGER & SWYSEN
 14 Robert M. Sanger

15 OXMAN & JAROSCAK
 16 Brian Oxman

17 By: Robert M. Sanger
 18 Robert M. Sanger
 19 Attorneys for Defendant
 20 MICHAEL JOSEPH JACKSON
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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 **EX PARTE APPLICATION FOR AN ORDER THAT**
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1 due process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United
 2 States Constitution and Article I, Sections 1, 7, and 15 of the California Constitution. Material
 3 contained the exhibits pertains to evidence and the testimony of witnesses that, if made public,
 4 would compromise Mr. Jackson's these rights and would result in prejudice to Mr. Jackson. In
 5 order to protect these overriding interests, it is necessary that the exhibits be filed under seal.

6 **CONCLUSION**

7 For the reasons stated above, Mr. Jackson requests that the Court issue an order that Mr.
 8 Jackson's previously filed pleading entitled SUPPLEMENTAL BRIEF IN SUPPORT OF MR.
 9 JACKSON'S MOTION TO SUPPRESS EVIDENCE OBTAINED BY SEARCH WARRANT
 10 NUMBER 5135 and accompanying documents be filed under seal.

11 Dated: October 25, 2004

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

14 SANGER & SWYSEN
 15 Robert M. Sanger

16 OXMAN & JAROSCAK
 17 Brian Oxman

18 By: Robert M. Sanger (for)
 19 Robert M. Sanger
 20 Attorneys for
 21 MICHAEL JOSEPH JACKSON
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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 SUPPLEMENTAL BRIEF IN SUPPORT OF MR. JACKSON'S MOTION TO SUPPRESS EVIDENCE OBTAINED BY SEARCH WARRANT NUMBER 5135, 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 25th day of October, 2004 at Santa Barbara, California.

Robert Sanger (signature)

Robert M. Sanger