

DEC 6 1 2004

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

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11 Attorneys for Defendant
MICHAEL JOSEPH JACKSON

12
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 FOR AN
) ORDER THAT DEFENDANT'S EXHIBITS
) 3 THROUGH 7 FROM THE NOVEMBER 5,
) 2004 HEARING ON SEARCH WARRANT
) NO. 5135 REMAIN UNDER SEAL

) Honorable Rodney S. Melville

) ~~Date: December 13, 2004~~

) ~~Time: 8:30 am~~

) ~~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 Defendant's Exhibits 3 through 7 from
27 the November 5, 2004 hearing on Defendant's motion to suppress items seized pursuant to Search

28 EX PARTE APPLICATION FOR AN ORDER THAT DEFENDANT'S EXHIBITS (EXHIBITS 3-7) FROM THE
NOVEMBER 5, 2004 HEARING ON SEARCH WARRANT NO. 5135 REMAIN UNDER SEAL

1 Warrant No. 5135 remain under seal, and for such other such further relief as the Court may deem
2 just and proper. These items were placed under conditional seal at the November 5, 2004 hearing.
3 This request is based on the grounds that the exhibits contain material that is protected by the
4 attorney-client privilege and work product doctrine, that Mr. Jackson has moved that these items
5 be suppressed, and 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: December 1, 2004

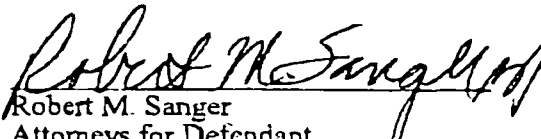
9 Respectfully submitted,

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

12 SANGER & SWYSEN
13 Robert M. Sanger

14 OXMAN & JAROSCAK
15 Brian Oxman

16 By:

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18 Robert M. Sanger
19 Attorneys for Defendant
20 MICHAEL JOSEPH JACKSON
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EX PARTE APPLICATION FOR AN ORDER THAT DEFENDANT'S EXHIBITS (EXHIBITS 3-7) FROM THE
NOVEMBER 5, 2004 HEARING ON SEARCH WARRANT NO. 5135 REMAIN 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. Mr. Jackson has previously moved that this Court issue an
22 order suppressing the items seized pursuant to Search Warrant No. 5135.

23 An inspection of the exhibits will reveal that they disclose the testimony of witnesses or
24 potential witnesses and disclose possible evidence, the admissibility of which, is yet to be
25 determined. Disclosure of the documents would also reveal materials protected by the attorney-
26 client privilege and work product doctrine.

27 The overriding interests of Mr. Jackson's rights to a fair trial and due process would be
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EX PARTE APPLICATION FOR AN ORDER THAT DEFENDANT'S EXHIBITS (EXHIBITS 3-7) FROM THE
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1 compromised if the exhibits are unsealed. A person accused of a crime is entitled to due process
2 and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United States
3 Constitution and Article I, Sections 1, 7, and 15 of the California Constitution. Material
4 contained in the exhibits pertains to evidence and the testimony of witnesses that, if made public,
5 would compromise Mr. Jackson's rights and would result in prejudice to Mr. Jackson. In order
6 to protect these overriding interests, it is necessary that the exhibits remain under seal.

7 **CONCLUSION**

8 For the reasons stated above, Mr. Jackson requests that the Court issue an order that
9 Defendant's Exhibits 3 through 7, from the November 5, 2004 hearing on the motion to suppress
10 items seized pursuant to Search Warrant No. 5135, remain under seal.


11 Dated: December 1, 2004

12 COLLINS, MESEREAU, REDDOCK & YU
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Susan C. Yu

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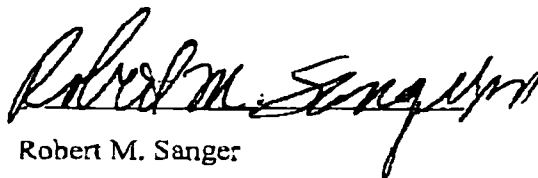
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NOVEMBER 5, 2004 HEARING ON SEARCH WARRANT NO. 5135 REMAIN UNDER SEAL

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 Defendants Exhibits 3 through 7, from the November 5, 2004 hearing on Mr. Jackson's motion to suppress items seized pursuant to Search Warrant No. 5135, remain under seal in order to protect material covered by the attorney-client privilege and work product doctrine and 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. Mr. Jackson has previously moved for an order that the items seized pursuant to Search Warrant No. 5135 be suppressed.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 1st day of December, 2004 at Santa Barbara, California.


Robert M. Sanger