

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): (818) 386-2889 DIANE M. GOODMAN SBN 116771 LAW OFFICES OF GOODMAN & METZ 17043 Ventura Boulevard Encino, CA 91316		TELEPHONE AND FAX NOS.: (818) 986-2889	FOR COURT USE ONLY
ATTORNEY FOR (Name): KATHERINE JACKSON		FILED LOS ANGELES SUPERIOR COURT AUG 03 2009 JOHN W. CLARKE, CLERK BY V. Sigers, DEPUTY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
STREET ADDRESS: 111 No. Hill Street MAILING ADDRESS: 111 No. Hill Street CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: CENTRAL DISTRICT			
GUARDIANSHIP OF THE <input checked="" type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name): Michael Joseph Jackson, Jr., Paris-Michael Katherine Jackson, and Prince Michael Jackson, II MINOR			
ORDER APPOINTING GUARDIAN OF <input type="checkbox"/> MINOR <input checked="" type="checkbox"/> MINORS		CASE NUMBER: BP117319	
WARNING: THIS APPOINTMENT IS NOT EFFECTIVE UNTIL LETTERS HAVE ISSUED.			

1. The petition for appointment of guardian came on for hearing as follows (check boxes c, d, and e to indicate personal presence):

- a. Judge (name): Mitchell Beckloff
b. Hearing date: August 3, 2009 Time: 8:30 a.m. ☒ Dept.: 5 ☒ Room: 236
c. ☒ Petitioner (name): Katherine Jackson
d. ☒ Attorney for Petitioner (name): DIANE M. GOODMAN SBN 116771
e. ☐ Attorney for minor (name, address, and telephone):
Attorney for Mother: Eric George

THE COURT FINDS

2. a. ☒ All notices required by law have been given.
b. ☐ Notice of hearing to the following persons ☐ has been ☐ should be dispensed with (names):
3. ☒ Appointment of a guardian of the ☒ person ☐ estate of the minor is necessary and convenient.
4. ☐ Granting the guardian powers to be exercised independently under Probate Code section 2590 is to the advantage and benefit and is in the best interest of the guardianship estate.
5. ☐ Attorney (name): has been appointed by the court as legal counsel to represent the minor in these proceedings. The cost for representation is: \$
6. ☐ The appointed court investigator, probation officer, or domestic relations investigator is (name, title, address, and telephone):

THE COURT ORDERS

7. a. (Name): Katherine Jackson
(Address): 4641 Hayvenhurst Ave (Telephone):
Encino, CA 91436

is appointed guardian of the PERSON of (name): Michael Joseph Jackson, Jr., Paris-Michael Katherine Jackson, and Prince Michael Jackson, II
and Letters shall issue upon qualification.

Do NOT use this form for a temporary guardianship.

(Continued on reverse)

Form Approved by the
Judicial Council of California
GC-240 (Rev. January 1, 1998)
Mandatory Use (1/1/2000)

ORDER APPOINTING GUARDIAN OF MINOR

Legal
Solutions
& Plus

Probate Code, §§ 1514,
2310

GUARDIANSHIP OF (Name):

Michael Joseph Jackson, Jr., Paris-Michael Katherine Jackson, and Prince Michael Jackson, II

CASE NUMBER:

BP117319

MINOR

7. b. (Name):

(Address):

(Telephone):

is appointed guardian of the ESTATE of (name): Michael Joseph Jackson, Jr., Paris-Michael Katherine Jackson, and Prince Michael Jackson, II and Letters shall issue upon qualification.

8. ☐ Notice of hearing to the persons named in item 2b is dispensed with.

9. a. ☒ Bond is not required.

b. ☐ Bond is fixed at: \$

to be furnished by an authorized surety company or as otherwise provided by law.

c. ☐ Deposits of: \$

are ordered to be placed in a blocked account at (specify institution and location):

and receipts shall be filed. No withdrawals shall be made without a court order. ☐ Additional orders in Attachment 9c.

d. ☒ The guardian is not authorized to take possession of money or any other property without a specific court order.

10. ☐ For legal services rendered on behalf of the minor, ☐ parents of the minor ☐ minor's estate shall pay to (name): the sum of: \$

☐ forthwith ☐ as follows (specify terms, including any combination of payors):

11. ☐ The guardian of the estate is granted authorization under Probate Code section 2590 to exercise independently the powers specified in Attachment 11 ☐ subject to the conditions provided.

12. ☐ Orders are granted relating to the powers and duties of the guardian of the person under Probate Code sections 2351-2358 as specified in Attachment 12.

13. ☐ Orders are granted relating to the conditions imposed under Probate Code section 2402 upon the guardian of the estate as specified in Attachment 13.

14. ☒ Other orders as specified in Attachment 14 are granted.

15. ☐ The probate referee appointed is (name and address):

16. Number of boxes checked in items 8-15: 3

17. Number of pages attached: 1

Date:

JUDGE OF THE SUPERIOR COURT



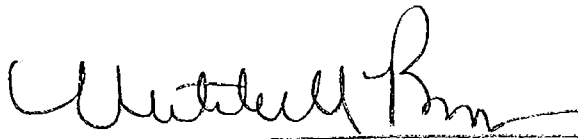
SIGNATURE FOLLOWS LAST ATTACHMENT

ATTACHMENT 14

The Guardian shall employ a psychologist selected jointly by Katherine Jackson and Deborah Rowe (or by the Court in the event Deborah Rowe and Katherine Jackson cannot agree on the selection of a psychologist) to assess the oldest two minor children, their relationship with Deborah Rowe, and the timing, frequency and manner of visits between Deborah Rowe and the oldest two minor children, to ensure that such visitation is implemented in the best interests of the children, taking into account the children's needs and developmental stages. Each party shall pay for one-half of the services of the psychologist.

Date:

8/3/09



JUDGE OF THE SUPERIOR COURT

MITCHELL L. BECKLOFF

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): DIANE M. GOODMAN SBN 116771 LAW OFFICES OF GOODMAN & METZ 17043 Ventura Boulevard Encino, CA 91316 TELEPHONE NO.: (818) 386-2889 FAX NO. (Optional): (818) 986-288 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): KATHERINE JACKSON		FOR COURT USE ONLY FILED Superior Court of California County of Los Angeles AUG 03 2009 John A. Clarke, Executive Officer/Clerk By <u>Christine Chung</u> , Deputy CHRISTINE CHUNG
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 No. Hill Street MAILING ADDRESS: 111 No. Hill Street CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: CENTRAL DISTRICT		
GUARDIANSHIP OF Michael Joseph Jackson, Jr., Paris-Michael Katherine Jackson, (Name): and Prince Michael Jackson, II		
MINOR		
LETTERS OF GUARDIANSHIP <input checked="" type="checkbox"/> Person <input type="checkbox"/> Estate		CASE NUMBER: BP117319

LETTERS

1. (Name): Katherine Jackson is appointed guardian of the ☒ person ☐ estate
 of (name): Michael Joseph Jackson, Jr., Paris-Michael Katherine Jackson, and Prince Michael Jackson, II
2. ☐ Other powers have been granted and conditions have been imposed as follows:
- a. ☐ Powers to be exercised independently under Probate Code section 2590 are specified in attachment 2a (specify powers, restrictions, conditions, and limitations).
 - b. ☐ Conditions relating to the care and custody of the property under Probate Code section 2402 are specified in attachment 2b.
 - c. ☐ Conditions relating to the care, treatment, education, and welfare of the minor under Probate Code section 2358 are specified in attachment 2c.
 - d. ☐ Other powers granted or conditions imposed are ☐ specified on attachment 2d. ☐ specified below.

3. ☒ The guardian is not authorized to take possession of money or any other property without a specific court order.
4. Number of pages attached: _____

WITNESS, clerk of the court, with seal of the court affixed.



Date: AUG 03 2009

Clerk, by

John A. Clarke

, Deputy

ORIGINAL

GUARDIANSHIP OF (Name): Michael Joseph Jackson, Jr., Paris-Michael Katherine Jackson, and Prince Michael Jackson, II MINOR	CASE NUMBER BP117319
----------------------------------------------------------------------------------------------------------------------------------	-------------------------

NOTICE TO INSTITUTIONS AND FINANCIAL INSTITUTIONS

(Probate Code sections 2890–2893)

When these *Letters of Guardianship* (Letters) are delivered to you as an employee or other representative of an *institution* or *financial institution* (described below) in order for the guardian of the estate (1) to take possession or control of an asset of the minor named above held by your institution (including changing title, withdrawing all or any portion of the asset, or transferring all or any portion of the asset) or (2) to open or change the name of an account or a safe-deposit box in your financial institution to reflect the guardianship, you must fill out Judicial Council form GC-050 (for an institution) or form GC-051 (for a financial institution). An officer authorized by your institution or financial institution must date and sign the form, and you must file the completed form with the court.

There is no filing fee for filing the form. You may either arrange for personal delivery of the form or mail it to the court for filing at the address given for the court on page 1 of these Letters.

The guardian should deliver a blank copy of the appropriate form to you with these Letters, but it is your institution's or financial institution's responsibility to complete the correct form, have an authorized officer sign it, and file the completed form with the court. If the correct form is not delivered with these Letters or is unavailable for any other reason, blank copies of the forms may be obtained from the court. The forms may also be accessed from the judicial branch's public Web site free of charge. The Internet address (URL) is www.courtinfo.ca.gov/forms/. Select the form group *Probate—Guardianships and Conservatorships* and scroll down to form GC-050 for an institution or form GC-051 for a financial institution. The forms may be printed out as blank forms and filled in by typewriter (nonfillable form) or may be filled out online and printed out ready for signature and filing (fillable form).

An *institution* under California Probate Code section 2890(c) is an insurance company, insurance broker, insurance agent, investment company, investment bank, securities broker-dealer, investment advisor, financial planner, financial advisor, or any other person who takes, holds, or controls an asset subject to a conservatorship or guardianship other than a financial institution. Institutions must file a *Notice of Taking Possession or Control of an Asset of Minor or Conservatee* (form GC-050) for an asset of the minor or conservatee held by the institution. A single form may be filed for all affected assets held by the institution.

A *financial institution* under California Probate Code section 2892(b) is a bank, trust (including a Totten trust account but excluding other trust arrangements described in Probate Code section 82(b)), savings and loan association, savings bank, industrial bank, or credit union. Financial institutions must file a *Notice of Opening or Changing a Guardianship or Conservatorship Account or Safe-Deposit Box* (form GC-051) for an account or a safe-deposit box held by the financial institution. A single form may be filed for all affected accounts or safe-deposit boxes held by the financial institution.

LETTERS OF GUARDIANSHIP

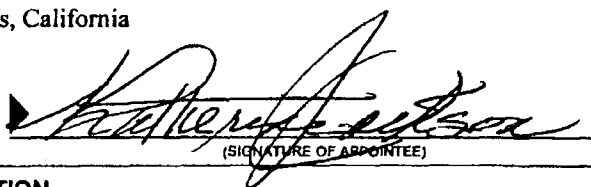
AFFIRMATION

I solemnly affirm that I will perform according to law the duties of guardian.

Executed on (date): 8/3/09, at (place): Los Angeles, California

Katherine Jackson

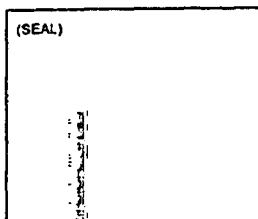
(TYPE OR PRINT NAME)



(SIGNATURE OF APPOINTEE)

CERTIFICATION

I certify that this document, including any attachments, is a correct copy of the original on file in my office, and that the Letters issued to the person appointed above have not been revoked, annulled, or set aside, and are still in full force and effect.



Date:

Clerk, by _____, Deputy

ORIGINAL

FILED
Los Angeles Superior Court

AUG 03 2009

John A. Clarke, Executive Officer/Clerk

1 PAUL GORDON HOFFMAN, ESQ. (SBN 71243)
JERYLL S. COHEN, ESQ. (SBN 125392)
2 **HOFFMAN, SABBAN & WATENMAKER**
A Professional Corporation
3 10880 Wilshire Boulevard, Suite 2200
Los Angeles, California 90024
4 Telephone: 310.470.6010
Facsimile: 310.470.6735
5 E-Mail: paul@hswlaw.com
jcohen@hswlaw.com

6 **HOWARD WEITZMAN, ESQ. (SBN 38723)**
7 **PATRICIA MILLET, ESQ. (SBN 150756)**
8 **KINSELLA WEITZMAN ISER KUMP**
& ALDISERT LLP
9 808 Wilshire Boulevard, 3rd Floor
Santa Monica, California 90401
Telephone: 310.566.9811
10 Facsimile: 310.566.9871
E-Mail: hweitzman@kwikalaw.com
11 pmillet@kwikalaw.com

12 Attorneys for Special Administrators,
John Branca and John McClain

DATE OF HEARING:

8-24-09
~~These~~ 8:30 Dept.: 5

14
15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF LOS ANGELES**

17 In the Estate of

18
19
20 **MICHAEL JOSEPH JACKSON,**

21
22 Deceased.

Case No. BP 117 321

23 **NOTICE OF MOTION AND MOTION TO**
24 **FILE AND LODGE UNDER SEAL**
25 **DOCUMENTS SUPPORTING EX PARTE**
26 **PETITION FOR ORDER AUTHORIZING**
27 **PAYMENT OF FAMILY ALLOWANCE**
28 **FOR THE BENEFIT OF MINOR**
CHILDREN; MEMORANDUM OF
POINTS AND AUTHORITIES;
DECLARATION OF PAUL GORDON
HOFFMAN IN SUPPORT THEREOF

Date: August 24, 2009
Time: 8:30 a.m.
Dept.: 5
Judge: Hon. Mitchell L. Beckloff

CIT/CASE: BP117321 LEA/DEF:
RECEIPT #: FIN22183012
PAID: 08/03/09 10:19:35 AM
AMOUNT: \$40.00
DEBITED:
CHECK: 40.00
CASH:
CHANGE:
CARD:

-1-

NOTICE OF MOTION AND MOTION TO SEAL REGARDING PERSONAL AND
FINANCIAL INFORMATION OF MINOR CHILDREN

BP 117 321

1
2 **TO ALL INTERESTED PARTIES AND TO THEIR RESPECTIVE ATTORNEYS OF**
3 **RECORD:**

4 **YOU ARE HEREBY NOTIFIED THAT** on August 24, 2009, at 8:30 a.m., in
5 Department 5 of this Court located at 111 North Hill Street, Los Angeles, California 90012,
6 John Branca ("Mr. Branca") and John McClain ("Mr. McClain"), the Special Administrators (the
7 "Special Administrators") of the Estate of Michael Joseph Jackson (the "Estate"), by and through
8 their attorneys of record, shall move the Court for an Order pursuant to Cal. R. Court 2.550 and
9 2.551 to allow the filing and lodging under seal of certain records of these proceedings that have
10 been conditionally filed under seal in connection with the Special Administrators' *Ex Parte*
11 Petition for Order Authorizing Payment of Family Allowance for the Benefit of Minor Children
12 (the "Petition"). Such documents relate to an analysis of funds needed from Michael Jackson's
13 Estate for a family allowance to satisfy the proper care and support of Michael Jackson's minor
14 children.

15 This Motion does not ask the Court for leave to file under seal the *Ex Parte*
16 Petition, or the Order on this Petition; instead, the Special Administrators request that all
17 supporting and ancillary documents filed in connection with the Petition and Order, including but
18 not limited to the document attached as Exhibit "A" to the Petition and the First Supplement to
19 Petition for Order Authorizing Payment of Family Allowance for the Benefit of the Minor
20 Children, be sealed and that all references to the amount of the family allowance requested and/or
21 granted in the Petition, Order and other ancillary documents filed in support of the Petition, be
22 redacted and sealed. The information to be sealed relates to the monetary family allowance
23 requested on behalf of Michael Jackson's minor children and the detailed financial analysis
24 supporting the requested family allowance. Accordingly, the public will have access to the
25 Petition in its redacted form, and the Court's Order on the Petition in its redacted form.

26 This Motion is made on the grounds that a sealing order is required under Cal. R.
27 Court. 2550(d) because the facts establish:
28

- 1 1. There exists an overriding interest that overcomes the right of public
- 2 access to the records;
- 3 2. The overriding interest supports sealing the record;
- 4 3. A substantial probability exists that the overriding interest will be
- 5 prejudiced if the record is not sealed;
- 6 4. The proposed sealing is narrowly tailored; and
- 7 5. No less restrictive means exist to achieve the overriding interest.

8 The Special Administrators ask this Court to enter an Order allowing them to:

9 1. File and lodge under seal the supporting documents that have been filed

10 conditionally under seal, including but not limited to the document attached as Exhibit "A" to the

11 Petition, and any other documents containing the minor children's personal financial information

12 to be filed in support of this Petition; and

13 2. Redact all references to the amount of the family allowance requested in

14 the Petition, the First Supplement to the Petition, the supporting documents containing personal

15 financial information and the amount of the family allowance granted in the Order on the Petition

16 This Motion is based on this Motion, the Memorandum of Points and Authorities, the

17 Declaration of Paul Gordon Hoffman filed concurrently herewith, the Proposed Order lodged

18 concurrently herewith, and all papers, pleadings and documents on file in this case, and on such

19 oral testimony as may be offered at the time of this hearing.

20 Dated: August 3, 2009

Respectfully submitted,

21 **HOFFMAN, SABBAN & WATENMAKER**

22 A Professional Corporation

23

24

25 By: 

PAUL GORDON HOFFMAN
Attorneys for John Branca and
John McClain, Special Administrators of the
Estate of Michael Joseph Jackson

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.

3 INTRODUCTION

4 By this Motion, John Branca ("Mr. Branca") and John McClain
5 ("Mr. McClain"), as the Special Administrators (jointly, the "Special Administrators") of the
6 Estate of Michael Joseph Jackson (the "Estate"), respectfully ask the Court to allow them to file
7 and lodge under seal the supporting documents filed by them conditionally under seal in
8 connection with the *Ex Parte* Petition for Order Authorizing Payment of Family Allowance for
9 the Benefit of Minor Children (the "Petition") filed by the Special Administrators in this matter,
10 including information within the Petition and the First Supplement to the Petition relating to the
11 requested family allowance for Michael Jackson's minor children. The documents to be sealed
12 and the portions of the Petition to be sealed relate to financial information required for the proper
13 care and maintenance of Michael Jackson's minor children. Hoffman Decl. ¶ 2.

14 The Special Administrators seek such relief in order to protect Michael Jackson's
15 minor children's privacy interests in maintaining the confidentiality of information concerning
16 their personal and financial affairs. Hoffman Decl. ¶ 3. The Special Administrators therefore
17 ask the Court to order, pursuant to Cal. R. Court 2.550 and 2.551, that they may file and lodge
18 under seal the supporting documents attached to the Petition, ancillary documents filed in support
19 of the Petition, including but not limited to the First Supplement to Petition for Order
20 Authorizing Payment of Family Allowance for the Benefit of Minor Children, and information in
21 the Petition relating to the requested family allowance and the financial analysis supporting the
22 requested family allowance. The Special Administrators do not ask the Court for leave to file
23 under seal the entire Petition, nor do they ask the Court to file under seal its entire Order on such
24 Petition. Accordingly, the public will have access to: (1) the Petition (with the requested family
25 allowance amount redacted therefrom); and (2) the Court's Order on such Petition (with the
26 requested family allowance redacted therefrom). The Minor Children's overriding interest in
27 privacy outweighs the right of the public to access Court records.
28

1 II.

2 BACKGROUND

3 1. Michael Jackson died testate on June 25, 2009, in the County of
4 Los Angeles. Michael Jackson was not married at the time of his death. Michael Jackson was
5 survived by his three minor children, namely, Michael Joseph Jackson, Jr., Paris-Michael
6 Katherine Jackson, and Prince Michael Jackson II, (collectively, the "Minor Children"). The
7 Minor Children's birth-dates are set forth in the Petition.

8 2. Katherine Esther Jackson, Michael Jackson's mother ("Mrs. Jackson"), is
9 the currently serving Temporary Guardian of the Persons and Estates of the Minor Children.

10 3. The Special Administrators are the duly appointed and currently serving
11 Special Administrators of the Estate.

12 4. A hearing is scheduled for August 3, 2009, in this Court on two competing
13 petitions: (1) Petition for Probate of Will and for Letters Testamentary (the "Branca/McClain
14 Petition for Probate") filed by the Special Administrators, which seeks to have admitted to
15 probate the Last Will of Michael Joseph Jackson dated July 7, 2002 (the "Will") and to have
16 Messrs. Branca and McClain appointed Executors of the Estate; and (2) Petition for Letters of
17 Administration filed by Mrs. Jackson and Joseph Walter Jackson (the "Jackson Petition"), which
18 alleges that Michael Jackson died intestate and which seeks the appointment of
19 Mrs. Jackson as the Administrator of the Estate.

20 5. On July 23, 2009, the Special Administrators filed the *Ex Parte* Petition
21 for Order Authorizing Payment of Family Allowance for the Benefit of Minor Children,
22 requesting the Court authorize the payment of a family allowance from the Estate to
23 Michael Jackson's minor children pursuant to Probate Code § 6540 and 6541. The hearing on
24 the Petition is scheduled for August 3, 2009.

25 6. In connection with the Petition, the Special Administrators filed
26 documents conditionally under seal that reveal personal information relating to
27 Michael Jackson's Minor Children as the foundation for the request for a family allowance from
28

1 the Estate. In addition, the Special Administrators conditionally filed under seal a redacted
2 version of the Petition, which excludes all references to the amount of the requested family
3 allowance. The ancillary documents supporting the Petition and the amount of the family
4 allowance reveal Michael Jackson's Minor Children's personal and financial affairs -- matters as
5 to which Michael Jackson's Minor Children have an overriding privacy interest that would be
6 prejudiced unless the supporting documents and the amount of the family allowance were filed
7 under seal. Hoffman Decl. ¶ 4.

8
9 **III.**

10 **LEGAL ARGUMENT**

11 **THE COURT SHOULD ALLOW THE SPECIAL ADMINISTRATORS TO FILE**
12 **AND LODGE SUPPORTING DOCUMENTS AND THE AMOUNT OF THE**
13 **REQUESTED FAMILY ALLOWANCE UNDER SEAL IN ORDER TO**
14 **PROTECT MICHAEL JACKSON'S MINOR CHILDREN'S OVERRIDING**
15 **PRIVACY INTERESTS IN MAINTAINING THE CONFIDENTIALITY OF**
16 **INFORMATION CONCERNING THEIR PERSONAL AND FINANCIAL**
17 **AFFAIRS.**

18 This motion to seal is subject to the standard and procedures set forth in Cal. R.
19 Court 2.550 and 2.551. Under Cal. R. Court 2.550(d), which is based on the standards
20 enunciated by the California Supreme Court in *NBC Subsidiary (KNBC-TV) Inc. v. Superior*
21 *Court*, 20 Cal. 4th 1178 (1999), a court may seal the record "if it expressly finds facts that
22 establish":

- 23 (1) There exists an overriding interest that overcomes
24 the right of public access to the record;
25 (2) The overriding interest supports sealing the record;
26 (3) A substantial probability exists that the overriding interest will be
27 prejudiced if the record is not sealed;
28 (4) The proposed sealing is narrowly tailored; and
(5) No less restrictive means exist to achieve the overriding interest.

1 *Id. See* Advisory Committee Comment to Cal. R. Court 2.550 (“[c]ourts have
2 found that, under appropriate circumstances, various statutory privileges, trade
3 secrets, and privacy interests, when properly asserted and not waived, may constitute
4 ‘overriding interests’”).

5 All five factors are present here.

6 A. **There Exist Overriding Interests that Overcome the Right to Public**
7 **Access to the Record.**

8 The California Constitution guarantees Michael Jackson’s Minor Children the
9 right to privacy. *See* Cal. Const., Art. I, § 1 (“All people are by nature free and independent and
10 have inalienable rights. Among these are . . . pursuing and obtaining safety, happiness and
11 privacy.”) For purposes of the sealing analysis, the courts recognize that “in appropriate
12 circumstances, the right to privacy may be properly described as a compelling or overriding
13 interest.” *In re Marriage of Burkle*, 135 Cal. App. 4th 1045, 1063 (2006).

14 Here, Michael Jackson’s Minor Children have an overriding privacy interest in
15 maintaining the confidentiality of their personal affairs and finances that supports the sealing of
16 the supporting documents and information regarding the amount of the family allowance that has
17 been conditionally filed under seal in connection with the Petition.

18 **Personal Affairs.** Michael Jackson’s Minor Children have a right of privacy
19 relating to their personal affairs. *See, e.g., Valley Bank of Nevada v. Superior Court*, 15 Cal. 3d
20 652, 656 (1975) (the “right of privacy extends to . . . the details of one’s personal life”); *People v.*
21 *Jackson*, 128 Cal. App. 4th 1009, 1024 (2005) (“[i]n order to protect the right of privacy, it is
22 appropriate to seal certain records when those particular records contain highly sensitive and
23 potentially embarrassing personal information about individuals”).

24 Here, the ancillary documents supporting the Petition (including, but not limited
25 to the document attached as Exhibit “A” to the Petition and the First Supplement to Petition) and
26 the amount of the family allowance that have been conditionally filed under seal by the Special
27 Administrators in connection their *Ex Parte* will necessarily reveal the details of
28

1 Michael Jackson's Minor Children's personal life, including but not limited to information about
2 schooling, food, clothing, religion, security, lifestyle and finances -- details which, in light of the
3 unprecedented media attention given to Michael Jackson and his Estate, will be widely
4 disseminated if filed publicly.

5 **Finances.** "[T]he right of privacy extends to one's confidential financial affairs."
6 *Valley Bank of Nevada*, 15 Cal. 3d at 656. *See, e.g., In re Marriage of Burkle*, 135 Cal. App. 4th
7 at 1063 (same); *Gordon v. Superior Court*, 55 Cal. App. 4th 1546, 1557-58 (1997) (same).
8 Michael Jackson's Minor Children have a right to privacy with respect to information relating to
9 their personal finances (*i.e.*, information regarding the financial support needed to maintain their
10 care and support). This information was conditionally filed under seal with the Court in support
11 of the Petition in order to maintain the Minor Children's privacy rights. Unless information
12 concerning Michael Jackson's Minor Children's personal financial affairs is filed under seal, it
13 will be widely disseminated, destroying Michael Jackson's Minor Children's right to privacy
14 with regard to such information.

15 **B. The Overriding Interests Support Sealing the Record.**

16 A sealing order is necessary to protect Michael Jackson's Minor Children's
17 overriding privacy interests. *See* Cal. R. Court 2.550(d)(2). As discussed above,
18 Michael Jackson's Minor Children's overriding interests in maintaining the confidentiality of
19 their personal and financial affairs would be compromised by public disclosure of the supporting
20 documents the family allowance requested that have been filed conditionally under seal by
21 the Special Administrators in support of the Petition.

22 **C. There is a Substantial Probability that the Overriding Interests Will**
23 **be Prejudiced if the Record is Not Sealed.**

24 Given the large amount of past and current media attention given to
25 Michael Jackson, the public interest in Michael Jackson's death and this Estate, there is far more
26 than a substantial probability that Michael Jackson's Minor Children's interests will be
27 prejudiced if the record is not sealed in the manner requested. *See* Cal. R. Court 2.550(d)(2), (3).
28

1 It is virtually certain that, in the absence of a sealing order, information concerning
2 Michael Jackson's Minor Children's personal and financial affairs will receive widespread
3 publicity, thereby destroying the Michael Jackson's Minor Children's right of privacy with regard
4 to such matters.

5 D. The Proposed Sealing is as Narrowly Tailored as Possible, and No
6 Less Restrictive Means Exist to Achieve the Overriding Interests.

7 The proposed sealing is as narrowly tailored as possible, and no less restrictive
8 means exist to achieve the overriding interest. See Cal. R. Court 2.550(d)(4), (5). For the
9 reasons discussed above, Michael Jackson's Minor Children's privacy interests in maintaining
10 the confidentiality of information concerning their personal and financial affairs may be
11 protected only by filing under seal the supporting documents and information regarding the basis
12 for and the amount of the requested family allowance that has been previously filed conditionally
13 under seal by the Special Administrators in connection with the Petition. The public's interest in
14 access to these proceedings will be satisfied because the underlying Petition, redacted to exclude
15 the amount of the requested family allowance and the document attached Exhibit "A" thereto,
16 has been filed publicly as will the Court's Order on such Petition, redacted to exclude the
17 requested family allowance amount. Furthermore, because the ancillary and supporting
18 documents have been conditionally filed and lodged under seal, the Court will have the
19 opportunity to review such information to determine whether it is appropriate to file publicly
20 some portion of that information -- e.g., in redacted format -- and to instruct the Special
21 Administrators as to which information should be publicly filed.

22
23 IV.

24 CONCLUSION

25 The Special Administrators respectfully ask the Court to enter an Order allowing
26 them to file and lodge under seal all ancillary documents filed in support of the Petition,
27 including but not limited to the document attached as Exhibit "A" to the Petition and the First
28

1 Supplement to the Petition, and all references to the amount of the requested family allowance in
2 the Petition, the Order and any other documents filed in connection with the Petition that
3 contains this information.

4 Dated: August 3, 2009

Respectfully submitted,

5 **HOFFMAN, SABBAN & WATENMAKER**
6 **A Professional Corporation**
7 **KINSELLA WEITZMAN ISER KUMP**
8 **& ALDISERT LLP**

9 By: 

10 **PAUL GORDON HOFFMAN**
11 **Attorneys for John Branca and**
12 **John McClain, the Special Administrators of**
13 **the Estate of Michael Joseph Jackson**

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18, and not a party to the within action. My business address and place of employment is HOFFMAN, SABBAN & WATENMAKER, 10880 Wilshire Blvd., Suite 2200, Los Angeles, CA 90024.

On the date set forth below, I served the document(s) described as **NOTICE OF MOTION AND MOTION TO FILE AND LODGE UNDER SEAL INFORMATION AND DOCUMENTS SUPPORTING EX PARTE PETITION FOR ORDER AUTHORIZING PAYMENT OF FAMILY ALLOWANCE FOR THE BENEFIT OF MINOR CHILDREN** on the interested parties in this action by placing:

☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

- 1) Burt Levitch, Rosenfeld, Meyer & Sussman and Dean Hansell and John Schreiber, Dewey & LeBoeuf
- 2) Diane Goodman
- 2) Kathy Jorrie, Luce Forward Hamilton & Scripps
- 3) ~~Kenneth Feinberg~~

☐ **BY MAIL, STATE OR FEDERAL:** I am readily familiar with the practice of this office for collection and processing of correspondence for mailing with the United States Postal Service. Pursuant to that practice, the above-referenced documents would be deposited with the United States Postal Service, First Class, Postage Prepaid, in the ordinary course of business on this date. The above-referenced document was sealed and placed for collection and mailing with this office's First Class, Postage Prepaid Mail on this date, at my above address in accordance with ordinary office practice.

☐ **BY OVERNIGHT DELIVERY:** I am readily familiar with the practice of this office for collection and processing for overnight delivery by Federal Express. Pursuant to that practice, I placed a true and correct copy of the document(s) listed above in sealed envelope(s) addressed as set forth above with all fees prepaid.

☐ **BY PERSONAL SERVICE:** I placed a true and correct copy of the above listed document(s) to be hand delivered on this date in sealed envelope(s) with all fees fully paid to the person(s) at the address(es) set forth above.

☐ **BY FACSIMILE:** I caused a true and correct copy of the document(s) listed above to be transmitted on this date by facsimile transmission from facsimile number (310) 470-6735 to the addressee(s) at the facsimile number(s) set forth above. The transmission was reported as complete and without error.

☐ **BY EMAIL:** I caused a true and correct copy of the document(s) listed above to be transmitted by email on this date before 5:00 p.m. PST to the person(s) at the email address(es) set forth above.

☒ I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed at Los Angeles, California on August 3, 2009.

GERALDINE A. WYLE

1 PAUL GORDON HOFFMAN, ESQ. (SBN 71243)
2 JERYLL S. COHEN, ESQ. (SBN 125392)
3 **HOFFMAN, SABBAN & WATENMAKER**
4 A Professional Corporation
5 10880 Wilshire Boulevard, Suite 2200
6 Los Angeles, California 90024
7 Telephone: 310.470.6010
8 Facsimile: 310.470.6735
9 E-Mail: paul@hswlaw.com
10 jcohen@hswlaw.com

11 HOWARD WEITZMAN, ESQ. (SBN 38723)
12 **KINSELLA WEITZMAN ISER KUMP**
13 **& ALDISERT LLP**
14 808 Wilshire Boulevard, 3rd Floor
15 Santa Monica, California 90401
16 Telephone: 310.566.9811
17 Facsimile: 310.566.9871
18 E-Mail: hweitzman@kwikalaw.com

19 Attorneys for Special Administrators,
20 John Branca and John McClain

21 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
22 **FOR THE COUNTY OF LOS ANGELES**

23 In the Estate of

24 MICHAEL JOSEPH JACKSON,

25 Deceased.

Case No. BP 117 321

**NOTICE OF MOTION AND MOTION TO
FILE AND LODGE UNDER SEAL
INFORMATION AND DOCUMENTS
SUPPORTING EX PARTE PETITION TO
AUTHORIZE SPECIAL
ADMINISTRATORS TO ENTER INTO
PROPOSED BOOK PUBLISHING
AGREEMENTS AND TO EXECUTE
DOCUMENTS RELATING THERETO;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
PAUL GORDON HOFFMAN IN SUPPORT
THEREOF**

Date: August 24, 2009

Time: 8:30 a.m.

Dept.: 5

Judge: Hon. Mitchell L. Beckloff

CHECK: 40.00
CASH:
CHARGE:
CARD:

CIT/CASE: BP117321 LEA/DEF#:
RECEIPT #: FIN22183014
DATE PAID: 08/03/09 10:21:36 AM
PAYMENT: \$40.00
RECEIVED: 0310

-1-

26 NOTICE OF MOTION AND MOTION TO SEAL REGARDING BOOK PUBLISHING
27 AGREEMENTS
28

BP 117 321

FILED
Los Angeles Superior Court

AUG 03 2009

John A. Clarke, Executive Officer/Clerk

DATE OF HEARING:
8-24-09
Times: 8:30 Dept.: 5

1 **TO ALL INTERESTED PARTIES AND TO THEIR RESPECTIVE ATTORNEYS OF**
2 **RECORD:**

3 YOU ARE HEREBY NOTIFIED THAT on August 24, 2009, at 8:30 a.m., in
4 Department 5 of this Court located at 111 North Hill Street, Los Angeles, California 90012,
5 John Branca ("Mr. Branca") and John McClain ("Mr. McClain"), the Special Administrators (the
6 "Special Administrators") of the Estate of Michael Joseph Jackson (the "Estate"), by and through
7 their attorneys of record, shall move the Court for an Order pursuant to Cal. R. Court 2.550 and
8 2.551 to allow the filing and lodging under seal certain information and records of these
9 proceedings that have been conditionally filed under seal in connection with Mr. Branca's and
10 Mr. McClain's *Ex Parte* Petition to Authorize Special Administrators to Enter into Proposed
11 Book Publishing Agreements and to Execute Documents Relating Thereto (sometimes referred to
12 herein as the "Petition"). Such documents and information relate to the significant deal terms of
13 four book publishing agreements entered into between the Estate and various publishers.

14 This Motion does not ask the Court for leave to file under seal the *Ex Parte*
15 Petition to Authorize Special Administrators to Enter into Proposed Book Publishing
16 Agreements and to Execute Documents Relating Thereto, or the Order on that Petition; instead
17 Mr. Branca and Mr. McClain request that all supporting documents filed in connection with the
18 Petition and Order, including the document attached as Exhibit "A" to the Petition, be redacted
19 and sealed. The information to be sealed relates to the significant deal terms of four book
20 publishing agreements entered into between the Estate and various publishers. Accordingly, the
21 public will have access to *Ex Parte* Petition to Authorize Special Administrators to Enter into
22 Proposed Book Publishing Agreements and to Execute Documents Relating Thereto, in redacted
23 form, and the Court's Order thereon.

24 Mr. Branca and Mr. McClain anticipate that the Court and counsel will discuss
25 whether it is appropriate to publicly file some portion of the documents that have been
26 conditionally filed under seal in redacted form and, if so, how the supporting documents should
27 be redacted in order to balance Estate's overriding interest in privacy with the right of the public

28

1 to access the records.

2 This Motion is made on the grounds that a sealing order is required under Cal. R.
3 Court. 2550(d) because the facts establish:

4 1. There exists an overriding interest that overcomes the right of public
5 access to the records;

6 2. The overriding interest supports sealing the record;

7 3. A substantial probability exists that the overriding interest will be
8 prejudiced if the record is not sealed;

9 4. The proposed sealing is narrowly tailored; and

10 5. No less restrictive means exist to achieve the overriding interest. *Id.*

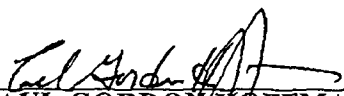
11 The Special Administrators ask this Court to enter an Order allowing them to file and
12 lodge under seal the supporting documents that have been filed conditionally under seal in this
13 matter, including the document attached as Exhibit "A" to the Petition so that all significant
14 terms of the four book publishing agreements subject to the Petition are sealed from the public;

15 This Motion is based on this Motion, the Memorandum of Points and Authorities and the
16 Declaration of Paul Gordon Hoffman, both filed concurrently with this Motion, and all papers,
17 pleadings and documents on file in this case, and on such oral testimony as may be offered at the
18 time of the hearing on this Motion.

19 Dated: August 3, 2009

20 Respectfully submitted,

21 **HOFFMAN, SABBAN & WATENMAKER**
22 **A Professional Corporation**
23 **KINSELLA WEITZMAN ISER KUMP**
24 **& ALDISERT LLP**

25 By: 
26 **PAUL GORDON HOFFMAN**
27 **Attorneys for John Branca and**
28 **John McClain, Special Administrators of the**
Estate of Michael Joseph Jackson

1 MEMORANDUM OF POINTS AND AUTHORITIES

2
3 I.
INTRODUCTION

4 By this Application, John Branca ("Mr. Branca") and John McClain
5 ("Mr. McClain") (collectively, Mr. Branca and Mr. McClain are referred to in this Memorandum
6 of Points and Authorities (the "Memorandum") as the "Special Administrators"), as Special
7 Administrators of the Estate of Michael Joseph Jackson ("Mr. Jackson"), respectfully ask the
8 Court to allow them to file and lodge under seal the documents filed in support of the *Ex Parte*
9 Petition to Authorize Special Administrators to Enter into Proposed Book Publishing
10 Agreements and to Execute Documents Relating Thereto (sometimes referred to in this
11 Memorandum as the "Petition"), including but not limited to the document attached to the
12 Petition as Exhibit "A". The Petition asked the Court to authorize the Special Administrators to
13 execute four book publishing agreements, and any related ancillary documents, with respect to
14 the reprint of Mr. Jackson's autobiography, *Moonwalk*. The documents to be sealed contain
15 contract terms, royalty rates and agency rates relating to the four book publishing agreements.
16 Mr. Branca and Mr. McClain seek such relief in order to protect the Estate's privacy interests in
17 maintaining the confidentiality of information concerning the terms of the book publishing
18 agreements.

19 Mr. Branca and Mr. McClain therefore ask the Court to order, pursuant to Cal. R.
20 Court 2.550 and 2.551, that they may file and lodge under seal the documents supporting the
21 Petition, including but not limited to the document attached thereto as Exhibit "A". Mr. Branca
22 and Mr. McClain have filed a redacted version of the Petition, which excludes the document
23 attached as Exhibit "A" thereto. Accordingly, the public will have access to: (1) the redacted
24 Petition; and (2) the Court's Order on such Petition.

25 Mr. Branca and Mr. McClain anticipate that the Court and counsel will discuss
26 whether it is appropriate to publicly file some portion of the documents supporting the Petition in
27 redacted form and, if so, how such documents should be redacted in order to balance the Estate's
28

1 overriding interest in privacy with the right of the public to access Court records.

2
3 II.

4 BACKGROUND

5 1. Michael Jackson died testate on June 25, 2009, in the County of
6 Los Angeles. Michael Jackson was not married at the time of his death. Michael Jackson was
7 survived by his three minor children, namely, Michael Joseph Jackson, Jr., Paris-Michael
8 Katherine Jackson, and Prince Michael Jackson II, (collectively, the "Minor Children").

9 2. Michael Jackson's mother, Katherine Jackson ("Mrs. Jackson") is the
10 currently serving Temporary Guardian of the Persons and Estates of the Minor Children.

11 3. Messrs. Branca and McClain are the duly appointed and currently serving
12 Special Administrators of the Estate.

13 4. A hearing is scheduled for August 3, 2009, in this Court on two competing
14 petitions: (1) Petition for Probate of Will and for Letters Testamentary (the "Branca/McClain
15 Petition for Probate") filed by Messrs. Branca and McClain, which seeks to have admitted to
16 probate the Last Will of Michael Joseph Jackson dated July 7, 2002 (the "Will") and to have
17 Messrs. Branca and McClain appointed Executors of the Estate; and (2) Petition for Letters of
18 Administration filed by Mrs. Jackson and Joseph Walter Jackson (the "Jackson Petition"), which
19 alleges that Michael Jackson died intestate and which seeks the appointment of
20 Mrs. Jackson as the Administrator of the Estate.

21 5. On July 23, 2009, the Special Administrators filed their redacted *Ex Parte*
22 Petition for Order Authorizing Special Administrators to Enter Into Proposed Book Publishing
23 Agreements and to Execute Documents Relating Thereto (the "Petition"), requesting the Court
24 authorize the Special Administrators to enter into four book publishing agreements with various
25 publishers. The hearing on the Petition was held on July 23, 2009. At the hearing, the Court
26 granted the Petition.

6. In connection with the Petition, Mr. Branca and Mr. McClain filed documents conditionally under seal relating to the significant deal terms of four book publishing agreements entered into between the Estate and various publishers. *See Hoffman Decl.* ¶ 2. Such documents contained royalty rates, geographical exclusivity parameters, advances and other pertinent information regarding the book publishing agreements. *See Hoffman Decl.* ¶ 3. The supporting documents implicate the Estate's business affairs and finances -- matters as to which the Estate has an overriding privacy interest that would be prejudiced unless the supporting documents are filed under seal. *See Hoffman Decl.* ¶ 4. The Special Administrators propose to publicly file a redacted version of the Petition and its supporting documents in order to protect the Estate's overriding privacy interest in maintaining the confidentiality of its business dealings and trade secrets. *See Hoffman Decl.* ¶ 5.

III.

LEGAL ARGUMENT

THE COURT SHOULD ALLOW MR. BRANCA AND MR. McCLAIN TO FILE AND LODGE THE ANCILLARY DOCUMENTS SUPPORTING THEIR *EX PARTE* PETITION TO AUTHORIZE SPECIAL ADMINISTRATORS TO ENTER INTO PROPOSED BOOK PUBLISHING AGREEMENTS AND TO EXECUTE DOCUMENTS RELATING THERETO TO PROTECT THE ESTATE'S OVERRIDING PRIVACY INTEREST IN MAINTAINING THE ESTATE'S CONFIDENTIALITY OF INFORMATION CONCERNING ITS BUSINESS TRANSACTIONS AND TRADE SECRETS RELATING TO THE BOOK PUBLISHING AGREEMENTS.

This motion to seal is subject to the standard and procedures set forth in Cal. R. Court 2.550 and 2.551. Under Cal. R. Court 2.550(d), which is based on the standards enunciated by the California Supreme Court in *NBC Subsidiary (KNBC-TV) Inc. v. Superior Court*, 20 Cal. 4th 1178 (1999), a court may seal the record “if it expressly finds facts that establish”:

- (1) There exists an overriding interest that overcomes the right of public access to the record;
- (2) The overriding interest supports sealing the record;
- (3) A substantial probability exists that the overriding interest will be

1 prejudiced if the record is not sealed;

2 (4) The proposed sealing is narrowly tailored; and

3 (5) No less restrictive means exist to achieve the overriding interest.

4 *Id.* See Advisory Committee Comment to Cal. R. Court 2.550 (“[c]ourts have
5 found that, under appropriate circumstances, various statutory privileges, trade
6 secrets, and privacy interests, when properly asserted and not waived, may constitute
7 ‘overriding interests’”).

8 All five factors are present here.

9 **A. There Exist Overriding Interests that Overcome the Right to Public**
10 **Access to the Record.**

11 The California Constitution guarantees the Estate a right to privacy. See Cal.
12 Const., Art. I, § 1 (“All people are by nature free and independent and have inalienable rights.
13 Among these are . . . pursuing and obtaining safety, happiness and privacy.”) For purposes of the
14 sealing analysis, the courts recognize that “in appropriate circumstances, the right to privacy may
15 be properly described as a compelling or overriding interest.” *In re Marriage of Burkle*, 135 Cal.
16 App. 4th 1045, 1063 (2006).

17 Here, the Estate, has an overriding privacy interest in maintaining the
18 confidentiality of the Estate’s business dealings and trade secrets regarding four book publishing
19 agreements relating to the reprint of Michael Jackson’s autobiography, *Moonwalk*, that supports
20 the sealing of the documents supporting the Petition, including but not limited to the document
21 attached as Exhibit “A” to the Petition. The Special Administrators have publicly filed a
22 redacted version of the Petition, which does not include the document attached to it as
23 Exhibit “A.”

24 **Finances and Business Dealings.** “[T]he right of privacy extends to one’s
25 confidential financial affairs.” *Valley Bank of Nevada*, 15 Cal. 3d at 656. See, e.g., *In re*
26 *Marriage of Burkle*, 135 Cal. App. 4th at 1063 (same); *Gordon v. Superior Court*, 55 Cal. App.
27 4th 1546, 1557-58 (1997) (same).

28 Furthermore, California law recognizes that “the protection of trade secrets . . .

1 may be a valid reason for restricting [public] access” to documents. *In re Providian Credit Card*
2 *Cases*, 96 Cal. App. 4th 292, 300 (2002) (citing *NBC Subsidiary (KNBC TV), Inc.*, 20 Cal. 4th at
3 1222 n.46). By statute, a “trade secret” is “information” that (1) “[d]erives independent
4 economic value, actual or potential, from not being generally know to the public or to the other
5 persons who can obtain economic value from its disclosure or use” and (2) “[i]s the subject of
6 efforts that are reasonable under the circumstances to maintain its secrecy.” Cal. Civ. Code
7 § 3426.1(d).

8 Information concerning the Estate’s business relationships relating to the book
9 publishing agreements for Michael Jackson’s autobiography, *Moonwalk*, have independent
10 economic value to parties who may in the future be negotiating their own business relationship
11 with the Estate, given the insight that such information may provide concerning, *inter alia*, the
12 Estate’s bargaining position, potential bottom line, and elements the Estate incorporates into its
13 agreements. The Special Administrators are in the process of negotiating licensing arrangements
14 for many other territories, and knowledge of terms that have been obtained by the Estate under
15 the agreements that are the subject of the Petition could strengthen the negotiating position of the
16 parties with whom the Special Administrators are currently dealing. Furthermore, the document
17 attached as Exhibit “A” to the Petition will reveal the significant deal terms of four book
18 publishing agreements. Unless information concerning the Estate’s business relationships and
19 the terms of such business transactions, including contract terms, royalty rates and agency rates
20 for the book publishing agreements for *Moonwalk*, is filed under seal, it will be widely
21 disseminated, destroying the Estate’s right to privacy and the ability to effectively market the
22 rights to *Moonwalk* and other assets of the Estate.

23 **B. The Overriding Interests Support Sealing the Record.**

24 A sealing order is necessary to protect the Estate’s overriding privacy interests.
25 See Cal. R. Court 2.550(d)(2). As discussed above, the Estate’s overriding interest in
26 maintaining the confidentiality of the Estate’s business affairs would be compromised by public
27 disclosure of the contract terms, royalty rates and agency rates and other significant deal terms set
28

1 forth in the four book publishing agreements summarized in the document attached as Exhibit
2 "A" to the Petition.

3 C. There is a Substantial Probability that the Overriding Interests Will
4 be Prejudiced if the Record is Not Sealed.

5 Given the large amount of past and current media attention given to the Michael
6 Jackson, the public interest in Michael Jackson's death and this Estate, there is far more than a
7 substantial probability that the Estate's interests will be prejudiced if the record is not sealed in
8 the manner requested. See Cal. R. Court 2.550(d)(2), (3). It is virtually certain that, in the
9 absence of a sealing order, significant deal terms concerning the Estate's business dealings
10 relating to the four book publishing agreements will receive widespread publicity, thereby
11 destroying the Estate's right to privacy and substantially adversely affecting its ability to
12 negotiate favorable business transactions for other territories.

13 D. The Proposed Sealing is as Narrowly Tailored as Possible, and No
14 Less Restrictive Means Exist to Achieve the Overriding Interests.

15 The proposed sealing is as narrowly tailored as possible, and no less restrictive
16 means exist to achieve the overriding interest. See Cal. R. Court 2.550(d)(4), (5). For the
17 reasons discussed above, the Estate's privacy interests in maintaining the confidentiality of
18 information concerning the Estate's business dealings and trade secrets may be protected only by
19 filing under seal Exhibit "A" to the Petition and any supporting documents and by publicly filing
20 a redacted unsealed version of the Petition with the Court. The public's interest in access to
21 these proceedings will be satisfied because the Petition, in redacted form, will be filed publicly as
22 will the Court's Order on such Petition. Furthermore, because the unredacted Petition and its
23 supporting documents will be filed and lodged under seal, the Court will have the opportunity to
24 review such information to determine whether it is appropriate to file publicly some portion of
25 that information -- e.g., in redacted format -- and to instruct Mr. Branca's and Mr. McClain's
26 counsel as to which information should be publicly filed.

27 IV.


1 CONCLUSION

2 Mr. Branca and Mr. McClain respectfully ask the Court to enter an Order allowing
3 them to file and lodge under seal the document attached as Exhibit "A" to the *Ex Parte* Petition
4 to Authorize Special Administrators to Enter into Proposed Book Publishing Agreements and to
5 Execute Documents Relating Thereto and any supporting documents containing the significant
6 deal terms for four book publishing agreements relating to the reprint of Michael Jackson's
7 autobiography, *Moonwalk*.

8
9 Dated: August 3, 2009

Respectfully submitted,

10 **HOFFMAN, SABBAN & WATENMAKER**
11 **A Professional Corporation**
12 **KINSELLA WEITZMAN ISER KUMP**
13 **& ALDISERT LLP**

14 By: 
15 **PAUL GORDON HOFFMAN**
16 **Attorneys for John Branca and**
17 **John McClain, Special Administrators of the**
18 **Estate of Michael Joseph Jackson**

1 **DECLARATION OF PAUL GORDON HOFFMAN**

2 I, Paul Gordon Hoffman, declare:

3 1. I am an attorney licensed to practice law in the State of California and am
4 a partner at the law firm Hoffman, Sabban & Watenmaker, counsel of record for John Branca
5 ("Mr. Branca") and John McClain ("Mr. McClain"). Collectively, Mr. Branca and
6 Mr. McClain may be referred to as the "Special Administrators."

7 2. In connection with the Special Administrator's *Ex Parte* Petition for Order
8 Authorizing Special Administrators to Enter Into Proposed Book Publishing Agreements and to
9 Execute Documents Relating Thereto, Mr. Branca and Mr. McClain filed documents
10 conditionally under seal relating to the significant deal terms of four book publishing agreements
11 entered into between the Estate and various publishers.

12 3. The documents filed under seal contain royalty rates, geographical
13 exclusivity parameters, advances and other to pertinent information regarding the book
14 publishing agreements.

15 4. The supporting documents implicate the Estate's business affairs and
16 finances -- matters as to which the Estate has an overriding privacy interest that would be
17 prejudiced unless the supporting documents are filed under seal.

18 5. The Special Administrators propose to publicly file redacted version of the
19 Petition and its supporting documents in order to protect the Estate's overriding privacy interest
20 in maintaining the confidentiality of its business dealings and trade secrets.

21 Executed on August 3, 2009, at Los Angeles, California.

22 I declare under penalty of perjury of the laws of the State of California that the
23 foregoing is true and correct.

24
25 
26 PAUL GORDON HOFFMAN

ORIGINAL

1 PAUL GORDON HOFFMAN, ESQ. (SBN 71243)
2 JERYLL S. COHEN, ESQ. (SBN 125392)
3 **HOFFMAN, SABBAN & WATENMAKER**
4 A Professional Corporation
5 10880 Wilshire Boulevard, Suite 2200
6 Los Angeles, California 90024
7 Telephone: 310.470.6010
8 Facsimile: 310.470.6735
9 E-Mail: paul@hswlaw.com
10 jcohen@hswlaw.com

11 HOWARD WEITZMAN, ESQ. (SBN 38723)
12 PATRICIA MILLET, ESQ. (SBN 150756)
13 **KINSELLA WEITZMAN ISER KUMP**
14 & ALDISERT LLP
15 808 Wilshire Boulevard, 3rd Floor
16 Santa Monica, California 90401
17 Telephone: 310.566.9811
18 Facsimile: 310.566.9871
19 E-Mail: hweitzman@kwikalaw.com
20 pmillet@kwikalaw.com

21 Attorneys for Special Administrators,
22 John Branca and John McClain

23 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
24 **FOR THE COUNTY OF LOS ANGELES**

25 In the Estate of

26 MICHAEL JOSEPH JACKSON,

27 Deceased.

Case No. BP 117 321

28 **NOTICE OF MOTION AND MOTION TO
FILE AND LODGE UNDER SEAL
DOCUMENTS SUPPORTING PETITION
FOR ORDER AUTHORIZING PAYMENT
OF FAMILY ALLOWANCE TO
KATHERINE ESTHER JACKSON;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
PAUL GORDON HOFFMAN IN SUPPORT
THEREOF**

Date: August 24, 2009

Time: 8:30 a.m.

Dept.: 5

Judge: Hon. Mitchell E. Bender

CASE:
CHARGE:
CASH:
CART:

40.00

CIT/CASE: BP117321 LEA/DEF#:
RECEIPT #: FIN221183013
DATE PAID: 08/03/09 10:20:46 AM
PAYMENT: \$40.00
RECEIVED: 0310

-1-

NOTICE OF MOTION AND MOTION TO SEAL REGARDING PERSONAL AND
FINANCIAL INFORMATION FOR MRS. JACKSON

HOFFMAN
SABBAN &
WATENMAKER

FILED
Los Angeles Superior Court
AUG 03 2009
John A. Clarke, Executive Officer/Clerk
[Signature]

DATE OF HEARING:

8-24-09

Times: 8:30 Dept.: 5

BP 117 321

- 1 2. The overriding interest supports sealing the record;
2 3. A substantial probability exists that the overriding interest will be
3 prejudiced if the record is not sealed;
4 4. The proposed sealing is narrowly tailored; and
5 5. No less restrictive means exist to achieve the overriding interest.

6 The Special Administrators ask this Court to enter an Order allowing them to:

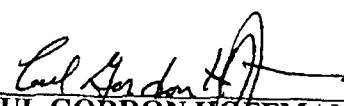
- 7 1. File and lodge under seal the supporting documents that have been filed
8 conditionally under seal, including but not limited to the document attached as Exhibit "A" to
9 their Petition, and any other documents containing Mrs. Jackson's personal financial information
10 to be filed in support of this Petition; and
11 2. Redact all references to the amount of the family allowance requested in
12 the Petition, the First Supplement to the Petition, the supporting documents containing personal
13 financial information and the amount of the family allowance granted in the Order on the Petition

14 This Motion is based on this Motion, the Memorandum of Points and Authorities, the
15 Declaration of Paul Gordon Hoffman filed concurrently herewith, the Proposed Order lodged
16 concurrently herewith, and all papers, pleadings and documents on file in this case, and on such
17 oral testimony as may be offered at the time of this hearing.

18
19 Dated: August 3, 2009

Respectfully submitted,

20 **HOFFMAN, SABBAN & WATENMAKER**
21 **A Professional Corporation**

22
23 By: 
24 **PAUL GORDON HOFFMAN**
25 **Attorneys for John Branca and**
26 **John McClain, Special Administrators of the**
27 **Estate of Michael Joseph Jackson**
28

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.

3 INTRODUCTION

4 By this Motion, John Branca ("Mr. Branca") and John McClain
5 ("Mr. McClain"), as the Special Administrators (jointly, the "Special Administrators") of the
6 Estate of Michael Joseph Jackson (the "Estate"), respectfully ask the Court to allow them to file
7 and lodge under seal the supporting documents which they earlier filed conditionally under seal
8 in connection with the Petition for Order Authorizing Payment of Family Allowance to Katherine
9 Esther Jackson (the "Petition") filed by the Special Administrators in this matter, including
10 information within the Petition relating to the requested family allowance for Michael Jackson's
11 mother, Katherine Esther Jackson ("Mrs. Jackson"). The documents to be sealed and the
12 portions of the Petition to be sealed reveal Mrs. Jackson's financial information relating to her
13 income and care and maintenance. Hoffman Decl. ¶ 2.

14 The Special Administrators seek such relief in order to protect Mrs. Jackson's
15 privacy interest in maintaining the confidentiality of information concerning her personal affairs
16 and finances. Hoffman Decl. ¶ 3. The Special Administrators therefore ask the Court to order,
17 pursuant to Cal. R. Court 2.550 and 2.551, that they may file and lodge under seal the supporting
18 documents attached to the Petition and information in the Petition relating to the requested family
19 allowance and the financial analysis supporting the requested family allowance (*i.e.*,
20 Mrs. Jackson's projected income and monthly expenses). The Special Administrators do not ask
21 the Court for leave to file the entire Petition under seal, nor do they ask the Court to file under
22 seal its entire Order on the Petition. Accordingly, the public will have access to: (1) the Petition
23 (with the requested family allowance amount redacted therefrom); and (2) the Court's Order on
24 the Petition (with the requested family allowance amount redacted therefrom).
25 Mrs. Jackson's overriding interest in privacy outweigh the right of the public to access Court
26 records.

1 II.

2 BACKGROUND

3 1. Michael Jackson died testate on June 25, 2009, in the County of
4 Los Angeles. Michael Jackson was not married at the time of his death. Michael Jackson was
5 survived by his three minor children, namely, Michael Joseph Jackson, Jr. Paris-Michael
6 Katherine Jackson, and Prince Michael Jackson II, (collectively, the "Minor Children").

7 2. Mrs. Jackson is the currently serving Temporary Guardian of the Persons
8 and Estates of the Minor Children.

9 3. Messrs. Branca and McClain are the duly appointed and currently serving
10 Special Administrators of the Estate.

11 4. A hearing is scheduled for August 3, 2009, in this Court on two competing
12 petitions: (1) Petition for Probate of Will and for Letters Testamentary (the "Branca/McClain
13 Petition for Probate") filed by the Special Administrators, which seeks to have admitted to
14 probate the Last Will of Michael Joseph Jackson dated July 7, 2002 (the "Will") and to have
15 Messrs. Branca and McClain appointed Executors of the Estate; and (2) Petition for Letters of
16 Administration filed by Mrs. Jackson and Joseph Walter Jackson (the "Jackson Petition"), which
17 alleges that Michael Jackson died intestate and which seeks the appointment of
18 Mrs. Jackson as the Administrator of the Estate.

19 5. On July 23, 2009, the Special Administrators filed the Petition which is
20 scheduled for hearing on August 3, 2009.

21 6. In connection with the Petition, the Special Administrators filed
22 documents conditionally under seal that reveal Mrs. Jackson's personal financial information as
23 the foundation for their request for a family allowance for her payable from the Estate. In
24 addition, the Special Administrators filed a redacted version of the Petition, which excludes all
25 references to the amount of the requested family allowance. The supporting documents and the
26 amount of the family allowance reveal Mrs. Jackson's personal affairs and finances -- matters as
27 to which Mrs. Jackson has an overriding privacy interest that would be prejudiced unless the
28

1 supporting documents and the amount of the family allowance were filed under seal. Hoffman
2 Decl. ¶ 4.

3 III.

4 LEGAL ARGUMENT

5 THE COURT SHOULD ALLOW THE SPECIAL ADMINISTRATORS TO FILE
6 AND LODGE SUPPORTING DOCUMENTS AND THE AMOUNT OF THE
7 REQUESTED FAMILY ALLOWANCE UNDER SEAL IN ORDER TO
8 PROTECT MRS. JACKSON'S OVERRIDING PRIVACY INTEREST IN
9 MAINTAINING THE CONFIDENTIALITY OF INFORMATION CONCERNING
10 HER PERSONAL AND FINANCIAL AFFAIRS.

11 This motion to seal is subject to the standard and procedures set forth in Cal. R.
12 Court 2.550 and 2.551. Under Cal. R. Court 2.550(d), which is based on the standards
13 enunciated by the California Supreme Court in *NBC Subsidiary (KNBC-TV) Inc. v. Superior*
14 *Court*, 20 Cal. 4th 1178 (1999), a court may seal the record "if it expressly finds facts that
15 establish":

- 16 (1) There exists an overriding interest that overcomes
17 the right of public access to the record;
18 (2) The overriding interest supports sealing the record;
19 (3) A substantial probability exists that the overriding interest will be
20 prejudiced if the record is not sealed;
21 (4) The proposed sealing is narrowly tailored; and
22 (5) No less restrictive means exist to achieve the overriding interest.
23 See Advisory Committee Comment to Cal. R. Court 2.550 ("[c]ourts have found
24 that, under appropriate circumstances, various statutory privileges, trade secrets,
25 and privacy interests, when properly asserted and not waived, may constitute
26 'overriding interests'").

27 All five factors are present here.
28

1 A. There Exist Overriding Interests that Overcome the Right to Public
2 Access to the Record.

3 The California Constitution guarantees Mrs. Jackson the right to privacy. *See* Cal.
4 Const., Art. I, § 1 (“All people are by nature free and independent and have inalienable rights.
5 Among these are . . . pursuing and obtaining safety, happiness and privacy.”) For purposes of the
6 sealing analysis, the courts recognize that “in appropriate circumstances, the right to privacy may
7 be properly described as a compelling or overriding interest.” *In re Marriage of Burkle*, 135 Cal.
8 App. 4th 1045, 1063 (2006).

9 Here, Mrs. Jackson has an overriding privacy interest in maintaining the confidentiality of
10 her personal affairs and finances that supports the sealing of the supporting documents and
11 information regarding the amount of the family allowance that is currently conditionally filed
12 under seal in connection with the Special Administrators’ Petition.

13 Personal Affairs. Mrs. Jackson has a right of privacy relating to her personal affairs.
14 *See, e.g., Valley Bank of Nevada v. Superior Court*, 15 Cal. 3d 652, 656 (1975) (the “right of
15 privacy extends to . . . the details of one’s personal life”); *People v. Jackson*, 128 Cal. App. 4th
16 1009, 1024 (2005) (“[i]n order to protect the right of privacy, it is appropriate to seal certain
17 records when those particular records contain highly sensitive and potentially embarrassing
18 personal information about individuals”).

19 Here, the supporting documents and the amount of the family allowance that have been
20 conditionally filed under seal by the Special Administrators in connection with the Petition will
21 necessarily reveal the details of Mrs. Jackson’s personal life, including but not limited to
22 information categorized in her projected monthly expenses attached as Exhibit “A” to the
23 Petition and financial information contained in the First Supplement to the Petition -- details
24 which, in light of the unprecedented media attention given to Michael Jackson and his Estate,
25 will be widely disseminated if filed publicly.

26
27 Finances. “[T]he right of privacy extends to one’s confidential financial affairs.” *Valley*
28

1 *Bank of Nevada*, 15 Cal. 3d at 656. *See, e.g., In re Marriage of Burkle*, 135 Cal. App. 4th at
2 1063; *Gordon v. Superior Court*, 55 Cal. App. 4th 1546, 1557-58 (1997).
3 Mrs. Jackson has a right to privacy with respect to information relating to her personal finances
4 (*i.e.*, information regarding her income and the financial support related to her care and support).
5 This information was conditionally filed under seal with the Court in support of the Special
6 Administrators' Petition in order to maintain Mrs. Jackson's privacy rights. Unless information
7 concerning Mrs. Jackson's personal financial affairs is filed under seal, it will be widely
8 disseminated, destroying Mrs. Jackson's right to privacy with regard to such information.

9 **B. The Overriding Interests Support Sealing the Record.**

10 A sealing order is necessary to protect Mrs. Jackson's overriding privacy interest. *See*
11 Cal. R. Court 2.550(d)(2). As discussed above, Mrs. Jackson's overriding interest in maintaining
12 the confidentiality of her personal and financial affairs would be compromised by public
13 disclosure of the Petition's supporting documents, Mrs. Jackson's personal financial
14 information, and the amount of family allowance requested in the Petition and the proposed
15 Order, that have been filed conditionally under seal by the Special Administrators.

16 **C. There is a Substantial Probability that the Overriding Interests Will**
17 **be Prejudiced if the Record is Not Sealed.**

18 Given the large amount of past and current media attention given to Michael Jackson, the
19 public interest in Michael Jackson's death and this Estate, there is far more than a substantial
20 probability that Mrs. Jackson's interests will be prejudiced if the record is not sealed in the
21 manner requested. *See* Cal. R. Court 2.550(d)(2), (3). It is virtually certain that, in the absence
22 of a sealing order, information concerning Mrs. Jackson's personal and financial affairs will
23 receive widespread publicity, thereby destroying Mrs. Jackson's right of privacy with regard to
24 such matters.

25 **D. The Proposed Sealing is as Narrowly Tailored as Possible, and No**
26 **Less Restrictive Means Exist to Achieve the Overriding Interests.**

27 The proposed sealing is as narrowly tailored as possible, and no less restrictive means
28

1 exist to achieve the overriding interest. *See* Cal. R. Court 2.550(d)(4), (5). For the reasons
2 discussed above, Mrs. Jackson's privacy interests in maintaining the confidentiality of
3 information concerning her personal and financial affairs can be protected only by filing under
4 seal the detailed supporting documents and information regarding the requested family allowance
5 amount that has already been filed conditionally under seal by Mr. Branca and Mr. McClain in
6 connection with their Petition. The public's interest in access to these proceedings will be
7 satisfied because the Petition and Order will only be redacted to exclude the requested and
8 ordered family allowance amount, the Petition's Exhibit "A," and the information revealing Mrs.
9 Jackson's personal and financial affairs in the ancillary documents filed in connection with the
10 Petition, including the First Supplement to the Petition. The remainder of the Petition and the
11 Order have been filed publicly as will the Court's Order on such Petition, redacted to exclude any
12 family allowance amount that is ordered. Furthermore, because the supporting documents have
13 been conditionally filed and lodged under seal, the Court will have the opportunity to review
14 such information to determine whether it is appropriate to file publicly some portion of that
15 information -- *e.g.*, in redacted format -- and to instruct the Special Administrators as to which
16 information should be publicly filed.

17 IV.

18 CONCLUSION

19 The Special Administrators respectfully ask the Court to enter an Order allowing
20 them to file and lodge under seal the supporting documents attached to their Petition, all ancillary
21 documents filed in connection with the Petition, including but not limited to the First Supplement
22 to the Petition, and all references to the requested family allowance amount in the Petition, the

23 //
24
25
26
27
28


1 Order, and any other documents filed in connection with the Petition that contains this
2 information.

3 Dated: August 2, 2009

Respectfully submitted,

4 **HOFFMAN, SABBAN & WATENMAKER**
5 **A Professional Corporation**
6 **KINSELLA WEITZMAN ISER KUMP &**
7 **ALDISERT, LLP**

8 By:


9 **PAUL GORDON HOFFMAN**
10 **Attorneys for John Branca and**
11 **John McClain, the Special Administrators of**
12 **the Estate of Michael Joseph Jackson**

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2

3
4
5
6

7
8
9
10

11
12
13

14
15
16
17
18

19

20	
21	

22
23
24

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18, and not a party to the within action. My business address and place of employment is HOFFMAN, SABBAN & WATENMAKER, 10880 Wilshire Blvd., Suite 2200, Los Angeles, CA 90024.

On the date set forth below, I served the document(s) described as **NOTICE OF MOTION AND MOTION TO FILE AND LODGE UNDER SEAL INFORMATION AND DOCUMENTS SUPPORTING EX PARTE PETITION FOR ORDER AUTHORIZING PAYMENT OF FAMILY ALLOWANCE TO KATHERINE ESTHER JACKSON** on the interested parties in this action by placing:

- ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:
- 1) Burt Levitch, Rosenfeld, Meyer & Sussman and Dean Hansell and John Schreiber, Dewey & LeBoeuf
 - 2) Kathy Jorrie, Luce Forward Hamilton & Scripps
 - 3) Kenneth Feinswog

☐ **BY MAIL, STATE OR FEDERAL:** I am readily familiar with the practice of this office for collection and processing of correspondence for mailing with the United States Postal Service. Pursuant to that practice, the above-referenced documents would be deposited with the United States Postal Service, First Class, Postage Prepaid, in the ordinary course of business on this date. The above-referenced document was sealed and placed for collection and mailing with this office's First Class, Postage Prepaid Mail on this date, at my above address in accordance with ordinary office practice.

☐ **BY OVERNIGHT DELIVERY:** I am readily familiar with the practice of this office for collection and processing for overnight delivery by Federal Express. Pursuant to that practice, I placed a true and correct copy of the document(s) listed above in sealed envelope(s) addressed as set forth above with all fees prepaid.

☐ **BY PERSONAL SERVICE:** I placed a true and correct copy of the above listed document(s) to be hand delivered on this date in sealed envelope(s) with all fees fully paid to the person(s) at the address(es) set forth above.

☐ **BY FACSIMILE:** I caused a true and correct copy of the document(s) listed above to be transmitted on this date by facsimile transmission from facsimile number (310) 470-6735 to the addressee(s) at the facsimile number(s) set forth above. The transmission was reported as complete and without error.

☐ **BY EMAIL:** I caused a true and correct copy of the document(s) listed above to be transmitted by email on this date before 5:00 p.m. PST to the person(s) at the email address(es) set forth above.

☒ I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed at Los Angeles, California on August 3, 2009.

GERALDINE A. WYLE