	1	KAYE SCHOLER LLP			
	2	Larry R. Feldman, Bar Number 45126  Julian Brew, Bar Number 150615  Theodore Maya, Bar Number 223242  SUPERIOR COUNTY of SANYA BARBARA  COUNTY of SANYA BARBARA			
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		1999 Avenue of the Stars, Suite 1700  Los Angeles, California 90067-6048  JAN 1 2 2005			
	4	Telephone: (310) 788-1000  Fax: (310) 788-1200  GARY M. BLAIR, Executive Officer			
	5	Fax: (310) 788-1200  CARRIE L. WAGNER, Deputy Clerk  Attorneys for Subpoenaed Parties			
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	7	SUPERIOR COURT FOR THE STATE OF CALIFORNIA OYDU			
	8	SUPERIOR COURT FOR THE STATE OF CALIFORNIA OXALA			
		Order			
	9	FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION			
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	11	THE PEOPLE OF THE STATE OF CASE NO. 1133603			
CHOLERup	12	CALIFORNIA,  APPLICATION FOR AN ORDER			
Щ	13	Plaintiff, DIRECTING THAT THE REPLY IN SUPPORT OF MOTION TO QUASH AND			
70		v. OPPOSITION TO SUBPOENAS DATED			
CH	14	) JANUARY 6, 2005 BE MAINTAINED MICHAEL JACKSON, UNDER CONDITIONAL SEAL;			
S	15	) MEMORANDUM OF POINTS AND Defendant. ) AUTHORITIES; AND DECLARATION			
√E	16	) OF JULIAN BRÉW IN SUPPORT			
KAYE	17	) THEREOF			
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## TO DEFENDANT MICHAEL JOSEPH JACKSON AND HIS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Maria and David Ventura (the "Venturas") hereby move for an order directing that the following records be maintained under conditional seal until further order of the Court, pursuant to California Rules of Court, Rule 243.1, et seq., and pursuant to this Court's Order of July 9, 2004 (the "July 9 Order").

The records covered by this Application are:

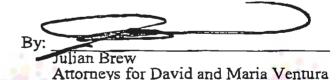
- 1. The "Reply in Support of Motion to Quash and Opposition to Subpoenas Dated January 6, 2005," filed January 12, 2005; and
  - 2. This Application for an Order Directing that these papers be filed under seal.

This Motion is made on the ground that, pursuant to the July 9 Order, any objections to subpoenas are to be filed under seal. Furthermore the facts, as established by the accompanying declaration of Julian Brew, are sufficient to justify sealing of these records pursuant to California Rules of Court, Rule 243.1, et seq.

The Motion will be based on this Notice of Motion, the Memorandum of Points and Authorities served and filed herewith, the Declaration of Julian Brew, the records and the file herein, and on such evidence as may be presented to the Court.

Dated: January 12, 2004

KAYE SCHOLER LLP



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# MEMORANDUM OF POINTS AND AUTHORITIES

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Under California Rule of Court 243.2, "[a] record must not be filed under seal without a court order." Motions and responsive pleadings in criminal cases are, ordinarily, "public" records of the court.

Rule 243.1(d) provides that

The court may order that a record be filed under seal only if it expressly finds facts that establish:

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

Rule 243.1(e) provides, in pertinent part:

(1) An order sealing the record must (i) specifically set forth the facts. findings that support the findings and (ii) direct the sealing of only those documents and pages, or, if reasonably practicable, portions of those documents and pages, that contain the material that needs to be placed under seal. All other portions of each document or page must be included in the public file.

Rule 243.2(b) provides in pertinent part that "pending the determination of the motion [of a party to file a record under seal], the lodged record will be conditionally under seal."

In its July 9 Order, the Court has already determined that papers such as those sought to be filed under seal here should be so filed. Furthermore, the facts of, and intense public

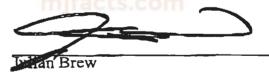
### **DECLARATION OF JULIAN BREW**

I, Julian Brew, declare as follows:

- 1. I am an attorney licensed to practice law in the State of California and am an associate with the firm of Kaye Scholer LLP, counsel for David and Maria Ventura for purposes of their motion to quash. If called to testify in this action, I could and would testify as follows:
- 2. This Application to file records under seal is made on the grounds that these records make reference to evidentiary facts not yet made public.
- 3. I believe that the interest of each party to a fair trial overrides the public's prompt access to these records until the appropriateness of the release of a redacted version of these records is determined by the court.
- 4. I believe an order maintaining these records under seal in the interim would avert the probability of prejudice, and that no more narrowly tailored order with respect to these records could be drafted to achieve the overriding interest in a fair trial.

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

Executed on January 12, 2004 at Los Angeles, California.



# PROOF OF SERVICE

#### STATE OF CALIFORNIA

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#### COUNTY OF LOS ANGELES

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 is 1999 Avenue of the Stars, Suite 1700, Los Angeles, California 90067.

On January 12, 2005, I served the following documents described as:

APPLICATION FOR AN ORDER DIRECTING THAT THE "MOTION TO QUASH AND OPPOSITION TO SUBPOENAS DATED JANUARY 6, 2005" AND ACCOMPANYING PAPERS FILED ON DECEMBER 30, 2004, AS WELL AS PAPERS FILED JANUARY 3, 2005, BE MAINTAINED UNDER CONDITIONAL SEAL; MEMORANDUM OF POINTS AND AUTHORITIES; AND DECLARATION OF THEODORE MAYA IN SUPPORT THEREOF

by placing a true copy of the above entitled document in a sealed envelope addressed as follows:

Thomas A. Mesereau, Jr. 1875 Century Park East, Suite 700 Los Angeles, CA 90067 Brian Oxman 14126 E. Rosecrans Santa Fe Springs, CA 90670

# X by FEDERAL EXPRESS

by U.S. MAIL (I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.)

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by PERSONAL SERVICE

by personally delivering such envelope to the addressee.

by causing such envelope to be delivered by messenger to the office of the addressee.

X (State) I declare under penalty of perjury under the laws of the State of California that the above is rue and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

1	Executed on January 12, 2005, at Los Angeles, California.			
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