THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY
County of Santa Barbara
By: RONALD J. ZONEN (State Bar No. 85094)
Senior Deputy District Attorney 1 FEB 1 6 2005 2 GARY M. BLAIR, Executive Officer GERALD FRANKLIN (State Bar No. 150251) 3 CARRIE L. WAGNER, Deputy Clerk Senior Deputy District Attorney GERALD McC. FRANKLIN (State Bar No. 40171) 4 Senior Deputy District Attorney 1112 Santa Barbara Street 5 Santa Barbara, CA 93101 Telephone: (805) 568-2300 FAX: (805) 568-2398 6 7 SUPERIOR COURT OF THE STATE OF CALIFORNIA 8 FOR THE COUNTY OF SANTA BARBARA 9 SANTA MARIA DIVISION 10 11 THE PEOPLE OF THE STATE OF CALIFORNIA,) No. 1133603 12 13 PEOPLE'S MOTION FOR ORDER Plaintiff. SEALING PLAINTIFF'S TRIAL 14 BRIEF ON ADMISSION OF CO-15 CONSPIRATORS' STATEMENTS MICHAEL JOE JACKSON. 16 Defendant. 17 Date: February 22, 2005 Time: 8:30 a.m. 13 Dept.: SM2 (Mehille) 19 20 TO: MICHAEL JOE JACKSON, AND TO THOMAS A. MESEREAU, JR., 21 ROBERT SANGER AND BRIAN OXMAN, HIS ATTORNEYS OF RECORD, AND TO 22 GIBSON, DUNN & CRUTCHER, LLP, ATTORNEYS FOR "MEDIA": 23 PLEASE TAKE NOTICE that on February 22, at 8:30 a.m., or as soon thereafter as 24 the matter may be heard, in Department SM 2, Plaintiff will, and hereby does, move for an 25 order directing that the following records be maintained under conditional scal until further 26 order of court, pursuant to California Rules of Court, rule 243.1 et seq: "PEOPLE'S TRIAL 27 BRIEF ON ADMISSION OF CO-CONSPIRATORS' STATEMENTS," filed 28 1

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PLAINTIFF'S MOTION TO SEAL PEOPLE'S TRIAL BRIEF ON ADMISSION OF CO-CONSPIRATORS' STATEMENTS

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contemporaneously with this motion.

The motion will be made on the ground that the facts, as established by the accompanying declaration of Gerald Franklin, are sufficient to justify sealing the specified records pursuant to California Rules of Court, rule 243.1 et seq.

The motion will be based on this notice of motion, on the declaration of Gerald Franklin and the memorandum of points and authorities served and filed herewith, on the records and the file herein, and on such evidence as may be presented at the hearing of the motion.

A proposed redacted version of the PEOPLE'S TRIAL BRIEF ON ADMISSION OF CO-CONSPIRATORS' STATEMENTS is submitted, under seal, with this request for sealing.

DATED: February 16, 2005

THOMAS W. SNEDDON, IR.

District Attorney

Gerald Franklin, Senior Deputy Attorneys for Plaintiff

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I. GERALD FRANKLIN, say:

- 1. I am a lawyer admitted to practice in the State of California. I am a Senior Deputy of the District Attorney of Santa Barbara County. I am one of the lawyers of record for the People. Plaintiff in this action.
- 2. This motion to seal records pertains to "PEOPLE'S TRIAL BRIEF ON ADMISSION OF CO-CONSPIRATORS' STATEMENTS" filed on February 15, 2005.
- 3. I believe some of the information set out in People's Trial Brief on Admission of Co-Conspirators' Statements should remain confidential, because it discloses the names of other persons whose identities have been kept confidential throughout the public proceedings in this matter in addition to disclosing pertinent facts.
- 4. I believe the interests of both parties in a fair trial by a jury would be enhanced if the identities of such persons were disclosed and publicized prematurely.
- 5. I therefore believe that the interest in a fair trial overrides the public's access to an unredacted version of People's Trial Brief on Admission of co-Conspirators' Statements and its supporting declaration, and supports the sealing of those documents until further order of court.
- 6. I believe an order maintaining the Trial Brief and supporting Declaration under seal in the interim would avert the probability of prejudice, and that no more narrowly tailored order with respect to that request could be drafted to achieve the overriding interest in a fair trial.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct, except as to matters stated upon my information and belief, and as to such matters I believe it to be true. I execute this declaration at Santa Barbara, California on February 16, 2005.

Gerald Franklin

MEMORANDUM OF POINTS AND AUTHORITIES

The procedure for sealing records under California Rules of Court, rule 243.1 et seq. applies only to records that are deemed public. (Id., rule 243.1(a)(2).)

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:

- (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 prejudiced if the record is not sealed;
 - (4) The proposed sealing is narrowly tailored; and
 - (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 scaling 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 documents 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."

DATED: February 16, 2005

Respectfully submitted.

THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY

County of Santa Barbara

By: A Straight file

Attorneys for Plaintiff

Attorneys for Plaintiff

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PLAINTIFF'S MOTION TO SEAL PEOPLE'S TRIAL BRIEF ON ADMISSION OF CO-CONSPIRATORS' STATEMENTS

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PROOF OF SERVICE

7 2 3 STATE OF CALIFORNIA ∫ss COUNTY OF SANTA BARBARA 4 5 б 7 8 California 93101. 9 On February 16, 2005, I served the within PEOPLE'S TRIAL BRIEF ON 10 11 12 13 14 15 16 17

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years and I am not a party to the within-entitled action. My business address is: District Attornev's Office; Courthouse; 1112 Santa Barbara Street, Santa Barbara.

ADMISSION OF CO-CONSPIRATORS' STATEMENTS; on Defendant, by THOMAS A. MESEREAU. JR., ROBERT SANGER, BRIAN OXMAN and GIBSON, DUNN & CRUTCHER, LLP, by personally delivering a true copy to Mr. Sanger's office and by faxing a true copy to Mr. Mesereau at his confidential fax number in Santa Maria, and to Media's counsel at the fax number shown with their address on the attached Service List, and then by causing to be mailed a true copy to each counsel at that address.

> I declare under penalty of perjury that the foregoing is true and correct. Executed at Santa Barbara, California on this 16th day of February, 2005.

signature

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1 SERVICE LIST 2 3 THOMAS A. MESEREAU, IR. Collins, Mesereau, Reddock & Yu, LLP 1875 Century Park East, No. 700 Los Angeles, CA 90067 FAX: [CONFIDENTIAL] 4 5 6 Attorney for Defendant Michael Jackson 7 ROBERT SANGER, ESQ. S Sanger & Swyson, Lawyers 233 E. Carrillo Street, Suite C 9 Santa Barbara, CA 93001 FAX: (805) 963-7311 10 Co-counsel for Defendant 11 OXMAN & JAROSCAK 12 Brian Oxman State Bar Number 072172 14126 East Rosecrans 13 Santa Fe Springs, CA 90670 Tel.:(562)921-5058, Fax: (562) 921-2298 14 Co-counsel for Defendant 15 GIBSON, DUNN & CRUTCHER, LLP Theodore J. Boutrous, Jr., Esq. Julian W. Poon, Esq. 16 17 333 S. Grand Avenue Los Angeles, CA 90071-3917 FAX: (21<mark>3) 229-</mark>6758 18 19 Counsel for, collectively, "Media" 20 21 22 23 24 25 26 27 28

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