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Telephone: 310-284-3120 Facsimile: 310-284-3133 SER 97 CON Robert M. Sanger (SBN 58214) SANGER & SWYSEN 5 GARY M. SLAIR, Europhico Ottiner Cally of the transport of the control of the contro 233 E. Carrillo Street, Suite C Santa Barbara, California 93101 Telephone: 805-962-4887 6 Facsimile: 805-963-7311 8 Brian Oxman (SBN 072172) OXMAN & JAROSCAK 14126 East Rosecrans Santa Fe Springs, CA 90670 Telephone: 562-921-5058 Facsimile: 562-921-2298 70 11 Attorneys for Defendant MICHAEL J. JACKSON 12 13 SUPERIOR COURT OF THE STATE OF CALIFORNIA 14 15 FOR THE COUNTY OF SANTA BARBARA SANTA MARIA DIVISION 16 17 THE PEOPLE OF THE STATE OF CASE NO. 1133603 CALIFORNIA. 18 EX PARTE APPLICATION FOR Plaintiff. 19 LEAVE TO FILE <u>UNDER SE</u>AL MR. JACKSON'S APPLICATION FOR AN OSC RE SANCTIONS 20 VS. FOR VIOLATION OF THIS MICHAEL J. JACKSON 21 COURT'S PROTECTIVE ORDER **DECLARATION OF COUNSEL** 22 Defendant. 23 ALED UNDER 24 25 26 27 28

EX PARTE APPLICATION FOR LEAVE TO FILE UNDER SEAL

Defendant Michael J. Jackson, through his counsel, hereby applies ex parte for 1 leave to file under seal his application for an order to show cause re contempt and/or other sanctions for violation of this Court's protective order. Filing under seal is 3 necessary because the content of the application includes reference to under seal and other information subject to this Court's protective order. 5 This application is based upon the attached declaration of Robert M. Sanger 6 the file and record in this case and any other information presented prior to a ruling hereon. September 7, 2004 Respectfully submitted, Thomas A. Mesereau, Jr. 10 COLLINS, MESEREAU, REDDOCK & YU 11 Robert M. Sanger 12 SANGER & SWYSEN 13 Brian Oxman OXMAN & JAROSCAK 14 15 16 17 ttomeys for Defendant MICHAEL J. JACKSON 18 19 20 21 22 23 24 25 26 27 28

EXPARTE APPLICATION FOR LEAVE TO FILE UNDER SEAL

I, Robert M. Sanger declare as follows:

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 I am an attorney duly authorized to practice before all courts of the State of California and am a partner of the law firm of Sanger & Swysen, co-counsel for Michael J. Jackson. I submit this declaration in support of an exparte application for leave to file under seal Mr. Jackson's application for an order to show cause recontempt and/or other sanctions for violation of this Court's protective order.

- 2. At the arraignment on January 16, 2004, this Court issued a protective order designed to prevent contamination of the jury pool and protect the parties' interests to a fair trial. In pertinent part, the protective order prohibits public commentary about this case by the parties, their counsel and agents and potential witnesses, with limited exceptions.
- 3. Over the past couple of months, defense counsel have been concerned about leaks of information uniquely available to the Santa Barbara County Sheriff's Department. Repeatedly, former Santa Barbara County Sheriff, Jim Thomas, has been cited as a source of information that is either <u>under seal</u> or subject to this Court's protective order. It is public information that Mr. Thomas participated in an investigation of Mr. Jackson during 1993-1994. Criminal charges were not filed in that matter.
- 4. As the result of a series of apparent violations of this Court's protective order, I have communicated in writing with the prosecution concerning the applicability of the protective order to Mr. Thomas and the disclosures of information covered by that order. Copies of that correspondence are attached hereto as Exhibit A. The prosecution has not responded to inquiry regarding whether Mr. Thomas is bound by the protective order.
- 5. As the result of recent public commentary by Mr. Thomas, it is incumbent upon defense counsel to bring the matter to this Court's attention. Toward that end, we are filing an application for an order to show cause. That



application refers to public statements of Mr. Thomas that indicate he is receiving information from the sheriff's department and revealing that information on television and to the print media. Because the application refers to matters that are under seal or subject to this Court's protective order, leave is requested to file the application under seal. I declare under penalty of perjury that the foregoing is true and correct. Executed this 7th day of September, 2004, at Santa Barbara, California.

EXPARTE APPLICATION FOR LEAVE TO FILE UNDER SEAL