1 2 3	Thomas A. Mesereau, Jr., State Bar Number	YU 1091182 Supervisive County of the County
4	161.: (310) 264-3120, FBX: (310) 264-3133	o SMA
5 6 7	SANGER & SWYSEN Attorneys at Law Robert M. Sanger, State Bar No. 058214 233 East Carrillo Street, Suite C Santa Barbara, CA 93101 Tel.: (805) 962-4887, Fax: (805) 963-7311	
8	OXMAN & JAROSCAK	
	Brian Oxman, State Bar No. 072172	
9	14126 East Rosecrans Santa Fe Springs, CA 90670	
10	Tel.: (562) 921-5058, Fax: (562) 921-2298	10.5
11	Attorneys for Defendant	25.0
	MICHAEL JOSEPH JACKSON	
12	mifacts.com mif	acts com mifacts com
13	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
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15	FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION	
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	THE PEOPLE OF THE STATE OF	Case No. 113360 <mark>3</mark>
17	CALIFORNIA,	EX PARTE APPLICATION FOR AN ORDER
18	Plaintiffs, Jacks.com	THAT THE 48 EXHIBITS, FILED UNDER CONDITIONAL SEAL, REMAIN UNDER
19	vs.	SEAL SEAL
20		Honorable Rodney S. Melville
21	MICHAEL JOSEPH JACKSON,	Date: September 16, 2004 Time: 10:00 am.
	Defendant.	Dept: SM 8
22		
.23		
24	<u>mjfacts.com</u> <u>mjfacts.com</u> mjfacts.com	
25	TO THE CLERK OF THE ABOVE ENTITLED COURT:	
26	Defendant requests that the Court issue an order that the all of the 48 EXHIBITS admitted	
27	into evidence at the hearings held July 27, 2004, August 16-17, August 19-20, and August 23, 2004,	
28		
	EX PARTE APPLICATION TO FILE UNDER SEAL	
1	100 170 070 000	

1	filed under conditional seal, remain under seal and for such other such further relief as the Court may	
2	deem just and proper. This request is based on the overriding interests of Mr. Jackson's rights to	
3	due process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United States	
4	Constitution and Article I, Sections 1, 7, and 15 of the California Constitution.	
5	Dated: September 14, 2004	
6		Respectfully submitted,
7	mjfacts.com	COLLINS, MESEREAU, REDDOCK & YU Thomas A. Mesereau, Jr.
8		Susan C. Yu
9		SANGER & SWYSEN Robert M. Sanger
10		OXMAN & JAROSCAK
11		Brian Oxman
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13	By:	Bosert M. Sanger
14		Attorneys for Defendant MICHAEL JOSEPH JACKSON
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THE COURT HAS THE AUTHORITY TO ORDER THAT A RECORD BE FILED UNDER SEAL

Pursuant to California Rule of Court 243.1(d), the Court has the authority to order a record be filed under seal if it expressly finds that:

- 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. (California Rule of Court 243.1(d).)

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OVERRIDING INTERESTS EXIST THAT MEETS THE ABOVE CRITERIA FOR SEALING A RECORD

It is necessary to seal the record pursuant to California Rule of Court 243.1(d) based on the overriding interests of Mr. Jackson's rights to due process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and Article I, Sections 1, 7, and 15 of the California Constitution.

An inspection of the exhibits will reveal that they disclose the testimony of witnesses or potential witnesses and disclose possible evidence, the admissibility of which, is yet to be determined.

The overriding interests of Mr. Jackson's rights to a fair trial and due process would be compromised if the exhibits are not filed under seal. A person accused of a crime is entitled to due process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the United

EX PARTE APPLICATION TO FILE UNDER SEAL

States Constitution and Article I, Sections 1, 7, and 15 of the California Constitution. Material 1 contained the exhibits pertains to evidence and the testimony of witnesses that, if made public. 2 would compromise Mr. Jackson's these rights and would result in prejudice to Mr. Jackson. In 3 order to protect these overriding interests, it is necessary that the exhibits be filed under seal. 4 5 CONCLUSION For the reasons stated above, Mr. Jackson requests that the Court issue an order that each 6 7 of the the 48 EXHIBITS admitted into evidence at the hearings held July 27, 2004, August 16-8 17, August 19-20, and August 23, 2004, remain under scal. Dated: September 14, 2004 9 COLLINS, MESEREAU, REDDOCK & YU 10 Thomas A. Mesereau, Jr. 11 Susan C. Yu 12 SANGER & SWYSEN Robert M. Sanger 13 OXMAN & JAROSCAK 14 Prian Oxman 15 16 Attorneys for 17 MICHAEL JOSEPH JACKSON mifacts.com 18 19 20 21 22 23 24 25 26 27 28

EX PARTE APPLICATION TO FILE UNDER SEAL

DECLARATION OF ROBERT M. SANGER

I, Robert Sanger, declare:

- 1. I am an attorney at law duly licensed to practice law in the courts of the State of California, a partner in the law firm of Sanger & Swysen, and co-counsel for Michael Jackson.
- 2. It is necessary that the all of the 48 EXHIBITS admitted into evidence at the hearings held July 27, 2004, August 16-17, August 19-20, and August 23, 2004, filed under conditional seal, remain under seal in order to protect the overriding interests of Mr. Jackson's rights to due process and a fair trial, as well as to prevent the disclosure of witnesses, potential witnesses and potential evidence.
- 3. In particular, Exhibits 1 contains a confidential police report. Items 17, 18, 21, 23, 34, 35, and 44 are confidential police reports.
- 4. Items 2-16, 24-31, 39a, 39b, 40, 42, 44, 46 and 47 are evidence or photographs of evidence which may be subject to suppression.
- 5. Items 19, 20, 22, 38, 42, 43, and 45 are search warrants, affidavits or returns.
- 6. Item 33 is a confidential order of the Honorable Judge Anderson.
- 7. Item 41 is a document disclosing heretofore undisclosed names.
- 8. Item 36 is a subpoena which may include confidential info.1

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 14th day of September, 2004 at Santa Barbara, California.

Røbert M. Sanger

EX PARTE APPLICATION TO FILE UNDER SEAL

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Without having an opportunity to review the document identified as a subpoena it is not possible to determine if there is any material that pertains to evidence and the testimony of witnesses that, if made public, would compromise Mr. Jackson's these rights and would result in prejudice to Mr. Jackson.