COLLINS, MESEREAU, REDDOCK & YU Thomas A. Mescreau, Jr., State Bar Number 091182 Susan C. Yu, State Bar Number 195640 1875 Century Park East, 7th Floor Los Angeles, CA 90067 3 Tel.: (310) 284-3120, Fax: (310) 284-3133 SANGER & SWYSEN 5 Attorneys at Law Robert M. Sanger, State Bar No. 058214 233 East Carrillo Street, Suite C Santa Barbara, CA 93101 7 Tel.: (805) 962-4887, Fax: (805) 963-7311 OXMAN & JAROSCAK Brian Oxman, State Bar No. 072172 14126 East Rosecrans Santa Fe Springs, CA 90670 Tel.: (562) 921-5058, Fax: (562) 921-2298 10 Attomeys for Defendant 11 MICHAEL JOSEPH JACKSON 12 13 SUPERIOR COURT OF THE STATE OF CALIFORNIA 14 FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION 15 16 THE PEOPLE OF THE STATE OF Case No. 1133603 17 CALIFORNIA, EX PARTE APPLICATION TO FILE UNDER 13 Plaintiffs. SEAL Honorable Rodney S. Melville 19 VS. 20 Date: December 20, 2004 MICHAEL JOSEPH JACKSON. Time: \$:30 p.m. 930 A14 Dept: SM 2 21 Defendant. PILED UNDER SEAL 22 23 24 TO THE CLERK OF THE ABOVE ENTITLED COURT: 25 Defendant requests that the Court issue an order that the accompanying Declaration of Brian 26 Oxman in Opposition to Plaintiff's Objection to Subpoenss, and accompanying documents, be filed 27 28 EX PARTE APPLICATION TO FILE UNDER SEAL

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under seal and for such other such further relief as the Court may deem just and proper. This request is based on the overriding interests of Mr. Jackson's rights to due process and a fair trial under the 2 Fifth, Sixth and Fourteenth Amendments to the United States Constitution and Article I, Sections 3 1, 7, and 15 of the California Constitution. 4 5 Dated: December 15, 2004 6 Respectfully submitted, 7 COLLINS, MESEREAU, REDDOCK & YU 8 Thomas A. Mesereau, Jr. Susan C. Yu 9 SANGER & SWYSEN 10 Robert M. Sanger 11 OXMAN & JAROSCAK Brian Oxman 12 13 14 R. Brian Oxman Attomeys for Defendant 15 MICHAEL JOSEPH JACKSON 16 17 18 19 20 21 22 23 24 25 26 27 28 EX PARTE APPLICATION TO FILE UNDER SEAL

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MEMORANDUM OF POINTS AND AUTHORITIES

Į.

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 scaling 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).)

II.

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 documents 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 accompanying document is 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

EX PARTE APPLICATION TO FILE UNDER SEAL

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United States Constitution and Article I, Sections 1, 7, and 15 of the California Constitution. 1 Material contained the accompanying document pertains to evidence and the testimony of 2 witnesses that, if made public, would compromise Mr. Jackson's these rights and would result in prejudice to Mr. Jackson. In order to protect these overriding interests, it is necessary that the 4 accompanying document be filed under seal. 5 CONCLUSION 6 7 For the foregoing reasons, Mr. Michael Jackson requests the Declaration of Brian Oxman in Opposition to Plaintiff's Objection to Subpoenas and accompanying documents be filed under 8 scal. 9 Dated: December 15, 2004 10 COLLINS, MESEREAU, REDDOCK & YU 11 Thomas A. Mesereau, Jr. Susan C. Yu 12 SANGER & SWYSEN 13 Robert M. Sanger 14 OXMAN & JAROSCAK 15 Brian Osman 16 By: R. Brian Oxman 17 Attorneys for Mr. Michael Jackson 18 19 20 21 55 23 24 25 26 27

EX PARTE APPLICATION TO FILE UNDER SEAL

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DECLARATION OF BRIAN OXMAN

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I, Brian Oxman, declare:

- I am an attorney at law duly licensed to practice law in the courts of the State of California, and an attorney for Michael Jackson.
- 2. It is necessary that the accompanying Declaration of Brian Oxman in Opposition to Motion to Plaintiff's Objection to Subpoenas and accompanying documents be filed under scal 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.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 15th day of December, 2004 at Santa Fe Springs, California.

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R. Brian Oxman

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I. Maureen Jaroscak declare and sav:

I am an attorney at law admitted to practice before all the courts of the state of California and I am an attorney for Mr. Michael Jackson in the above-entitled action. My business address is 14126 East Rosecrans Blvd., Santa Fe Springs, California 90670. Im over 18 years and not a party to the above-entitled action. On December 15, 2004, I served the following:

EX PARTE APPLICATION TO FILE UNDER SEAL ORDER SEALING DECLARATION DECLARATION OF BRIAN OXMAN IN OPPOSITION TO PLAINTIFF'S OBJECTION TO SUBPOENAS

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on the interested parties by placing a true copy of the document in a sealed envelope, and depositing it in the United States Mail with first class postage prepaid at La Mirada, California, and addressed as follows:

Tom Sneddon 1112 Santa Barbara Street Santa Barbara, CA 93101 Fax No. 805 568 2398

In addition, on this same date, I served a copy of the document by fax to the aboveindicated number by transmitting a true copy of it by facsimile pursuant to Rule 2003 of the California Rules of Court, and no error was reported by the machine. Pursuant to Rule 2008(e), I had the machine print a record of the transmission, and a copy of that record is attached to this declaration.

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

Executed this 15th day of December, 2004, at Santa Fe Springs, California.

Maureen Jaroscak

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