1 2 3	COLLINS, MESEREAU, REDDOCK & Y Thomas A. Mesercau, Jr., State Bar Number Susan C. Yu, State Bar Number 195640 1875 Century Park East, 7th Floor Los Angeles, CA 90067 Tel.: (310) 284-3120, Fax: (310) 284-3133	SUPERIOR COURT OF CALIFORNIA COUNTY OF SANTA BARBARA  JAN 18 2005
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	GARY M. BLAIR, Executive Officer  (BY CHALL & WAGNER, Deputy Clerk
8 9 10	OXMAN & JAROSCAK Brian Oxman, State Bar No. 072172 14126 East Rosecrans Santa Fe Springs, CA 90670 Tel.: (562) 921-5058, Fax: (562) 921-2298	· .
12	Antorneys for Defendant MICHAEL JOSEPH JACKSON	
14	SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION	
16 L7	THE PEOPLE OF THE STATE OF ) CALIFORNIA, )	Case No. 1133603
16	Plaintiffs,	EXPARTE APPLICATION TO FILE UNDER SEAL
9	vs.	Honorable Rodney S. Melville
20	MICHAEL JOSEPH JACKSON,  Defendant.	Date: January 28, 2005 Time: 8:30 a.m. Dept: SM 2
55	TO THE CLERK OF THE ABOVE ENTITLED COURT:	
26	Defendant requests that the Court issue an order that the accompanying Mr. Jackson's	
27	Motion in Limine to Exclude Reference to Books. Magazines, Photographs, and Computer Images	
		EX PARTE APPLICATION TO FILE UNDER SEAL

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of Disrobed Individuals be filed 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 Fifth, Sixth and Fourteenth Amendments to the United States Constitution and Article I, Sections 1, 7, and 15 of the California Constitution.

Dated: January 18, 2005

Respectfully submitted,

COLLINS, MESEREAU, REDDOCK & YU Thomas A. Mesercau, Jr. Susan C. Yu

SANGER & SWYSEN Robert M. Sanger

OXMAN & JAROSCAK

Brian Oxman

By: R. Brian Oxman

Attorneys for Defendant Mr. Michael Jackson

EX PARTE APPLICATION TO FILE UNDER SEAL

### MEMORANDUM OF POINTS AND AUTHORITIES

I.

# 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).)

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. Material contained the accompanying document 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. In order to protect these overriding interests, it is necessary that the accompanying document be filed under seal.

#### CONCLUSION

For the foregoing reasons, Mr. Michael Jackson requests his Motion in Limine to Exclude Reference to Books, Magazines, Photographs, and Computer Images of Disrobed Individuals and accompanying documents be filed under seal.

Dated: January 18, 2005

COLLINS, MESEREAU, REDDOCK & YU Thomas A. Mesereau, Jr. Susan C. Yu

SANGER & SWYSEN Robert M. Sanger

OXMAN & JAROSCAK Brian Oxman

By:\_

R. Brian Oxman

Attorneys for defendant, Mr. Michael Jackson

EX PARTE APPLICATION TO FILE UNDER SEAL

## **DECLARATION OF BRIAN OXMAN**

I, Brian Oxman, declare:

I am an attorney at law duly licensed to practice law in the courts of the State of 1. California, and an attorney for Michael Jackson.

It is necessary that the accompanying Mr. Jackson's Motion in Limine to Exclude 2. Reference to Books, Magazines, Photographs, and Computer Images of Disrobed Individuals and accompanying documents be filed 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.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 18th day of January, 2005 at Santa Fe Springs, California.

R. Brian Oxman

EX PARTE APPLICATION TO FILE UNDER SEAL

#### PROOF OF SERVICE BY MAIL AND FAX

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I, Maureen Jaroscak declare and say:

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. I m over 18 years and not a party to the above-entitled action. On January 18, 2005, I served the following:

EX PARTE APPLICATION TO FILE UNDER SEAL
MR. JACKSON'S MOTION IN LIMINE TO EXCLUDE REFERENCE TO BOOKS,
MAGAZINES, PHOTOGRAPHS, AND COMPUTER IMAGES
OF DISROBED INDIVIDUALS
ORDER SEALING MOTION

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:

Thomas Sneddon 1112 Santa Barbara Street Santa Barbara, CA 93101 Fax No. (805) 562-2453

In addition, on this same date, I served a copy of the document by fax to the above-indicated 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 18th day of January, 2005, at Santa Fe Springs, California

Maureen Jaroscak

EX PARTE APPLICATION TO FILE UNDER SEAL