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18 Attorneys for Defendant  
19 **MICHAEL JOSEPH JACKSON**

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA

NOV 01 2004

GARY M. BLAIR, Executive Office  
*Carrie L. Wagner*  
CARRIE L. WAGNER, Deputy Clerk

\* unsealed pursuant  
to 6/16/05 Court  
order

**FILED UNDER SEAL**  
*John Cameron*

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
21 FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION

22 THE PEOPLE OF THE STATE OF  
23 CALIFORNIA,

24 Plaintiffs,

25 vs.

26 MICHAEL JOSEPH JACKSON,

27 Defendant.

Case No. 1133603

EX PARTE APPLICATION TO FILE UNDER  
SEAL

Honorable Rodney S. Melville

Date: November 4, 2004  
Time: 8:30 am.  
Dept: SM 2

28 TO THE CLERK OF THE ABOVE ENTITLED COURT:

Defendant requests that the Court issue an order that the accompanying Mr. Jackson's  
Objection and Opposition to Motion to Quash, and accompanying documents, be filed under seal

EX PARTE APPLICATION TO FILE UNDER SEAL

1 and for such other such further relief as the Court may deem just and proper. This request is based  
2 on the overriding interests of Mr. Jackson's rights to due process and a fair trial under the Fifth,  
3 Sixth and Fourteenth Amendments to the United States Constitution and Article I, Sections 1, 7, and  
4 15 of the California Constitution.

5 In addition, Mr. Jackson has submitted with this application a Proposed Redacted Copy of  
6 Objection and Opposition to Motion to Quash. The redaction eliminates only the name of the  
7 subpoenaed party. The court may not feel this redaction is necessary, and will leave it to the court's  
8 discretion as to whether or not the redaction is necessary.

9 Dated: November 1, 2004

10 Respectfully submitted,

11 COLLINS, MESSIEREAU, REDDOCK & YU  
12 Thomas A. Messier, Jr.  
Susan C. Yu

13 SANGER & SWYSEN  
14 Robert M. Sanger

15 OXMAN & JAROSCAK  
16 Brian Oxman

17 By:

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19 R. Brian Oxman  
20 Attorneys for Defendant  
21 MICHAEL JOSEPH JACKSON  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I**

3 **THE COURT HAS THE AUTHORITY TO ORDER THAT**  
4 **A RECORD BE FILED UNDER SEAL**

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

- 7 1. There exists an overriding interest that overcomes the right of public access to the  
8 record;  
9 2. The overriding interest supports sealing the record;  
10 3. A substantial probability exists that the overriding interest will be prejudiced if the  
11 record is not sealed;  
12 4. The proposed sealing is narrowly tailored; and  
13 5. No less restrictive means exist to achieve the overriding interest.

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

15 **II.**

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

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

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

25 The overriding interests of Mr. Jackson's rights to a fair trial and due process would be  
26 compromised if the accompanying document is not filed under seal. A person accused of a crime  
27 is entitled to due process and a fair trial under the Fifth, Sixth and Fourteenth Amendments to the  
28

**EX PARTE APPLICATION TO FILE UNDER SEAL**

1 United States Constitution and Article I, Sections 1, 7, and 15 of the California Constitution.  
2 Material contained the accompanying document pertains to evidence and the testimony of  
3 witnesses that, if made public, would compromise Mr. Jackson's these rights and would result in  
4 prejudice to Mr. Jackson. In order to protect these overriding interests, it is necessary that the  
5 accompanying document be filed under seal.

6 **CONCLUSION**

7 For the foregoing reasons, Mr. Michael Jackson requests his Notice of Motion and  
8 Motion to Endorse subpoena and accompanying documents be filed under seal.

9 Dated: November 1, 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 Oxman

16 By:

  
17 R. Brian Oxman  
18 Attorneys for  
19 MICHAEL JOSEPH JACKSON  
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EX PARTE APPLICATION TO FILE UNDER SEAL

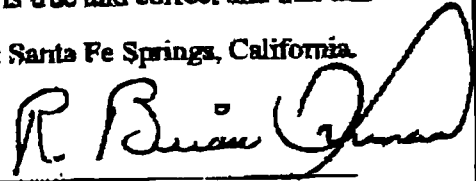
**DECLARATION OF BRIAN OXMAN**

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I, Brian Oxman, declare:

1. 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 Mr. Jackson's Objection and Opposition to Motion to Quash 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 1st day of November, 2004 at Santa Fe Springs, California.

  
\_\_\_\_\_  
R. Brian Oxman