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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

DEC 10 2004

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** unsealed pursuant
to 6116105
Court order*

Attorneys for Defendant
MICHAEL JOSEPH JACKSON

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

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiffs,

vs.

MICHAEL JOSEPH JACKSON,

Defendant.

Case No. 1133603

EX PARTE APPLICATION TO FILE UNDER SEAL AND IN CAMERA

Honorable Rodney S. Melville

Date: December 13, 2004

Time: 1:30 p.m.

Dept: SM 2

~~FILED UNDER SEAL~~ *in camera*

TO THE CLERK OF THE ABOVE ENTITLED COURT:

Defendant requests that the Court issue an order that the accompanying Mr. Jackson's Opposition to Objection by Larry R. Feldman in Response to Subpoena Duces Tecum, and

EX PARTE APPLICATION TO FILE UNDER SEAL

1 accompanying documents, be filed 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 In addition, Subpoenaed Parties have filed their motions for In Camera review. Mr. Jackson
6 submit this Opposition also for In Camera Review and not for public filing.

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8 Dated: December 10, , 2004

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Respectfully submitted,

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

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SANGER & SWYSEN
Robert M. Sanger

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OXMAN & JAROSCAK
Brian Oxman

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By: 

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R. Brian Oxman
Attorneys for Defendant
Mr. Michael Jackson

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EX PARTE APPLICATION TO FILE UNDER SEAL

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
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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**

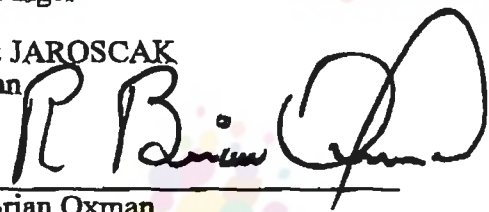
7 For the foregoing reasons, Mr. Michael Jackson requests his Opposition to Objection
8 by Larry R. Feldman to Subpoena Duces Tecum and accompanying documents be filed under
9 seal and In Camera.

10 Dated: December 10, 2004

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

13 SANGER & SWYSEN
14 Robert M. Sanger

15 OXMAN & JAROSCAK
16 Brian Oxman

17 By: 

18 R. Brian Oxman
19 Attorneys for
20 Mr. Michael Jackson

1 **DECLARATION OF BRIAN OXMAN**

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3 I, Brian Oxman, declare:

- 4 1. I am an attorney at law duly licensed to practice law in the courts of the State of
5 California, and an attorney for Michael Jackson.
- 6 2. It is necessary that the accompanying Mr. Jackson's Opposition to Objection of Larry R.
7 Feldman to Subpoena Duces Tecum and accompanying documents be filed under seal
8 and In Camera in order to protect the overriding interests of Mr. Jackson's rights to due
9 process and a fair trial, as well as to prevent the disclosure of witnesses, potential
10 witnesses and potential evidence.

11 I declare under penalty of perjury that the foregoing is true and correct and that this
12 declaration was executed this 10th day of December, 2004 at Santa Fe Springs, California.

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15 R. Brian Oxman

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EX PARTE APPLICATION TO FILE UNDER SEAL

PROOF OF SERVICE BY MAIL AND FAX

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 November 1, 2004, I served the following:

**EX PARTE APPLICATION TO FILE UNDER SEAL AND PROPOSED ORDER
MR. JACKSON'S OPPOSITION TO OBJECTION BY LARRY R. FELDMAN TO
SUBPOENA DUCES TECUM
ORDER SEALING OPPOSITION**

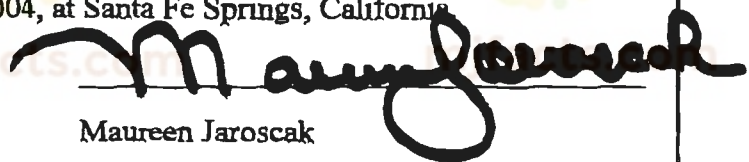
on the interested parties by placing a true copy of the document in a sealed envelope, and depositing it in the United States Mail with first class postage prepaid at La Mirada, California, and addressed as follows:

Robert Turner
1999 Avenue of the Stars
Suite 1700
Los Angeles, CA 90067
Fax No. (310) 788-1200

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 10th day of December, 2004, at Santa Fe Springs, California


Maureen Jaroscak

EX PARTE APPLICATION TO FILE UNDER SEAL