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11 Attorneys for Defendant  
MICHAEL JOSEPH JACKSON  
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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION

16 THE PEOPLE OF THE STATE OF  
17 CALIFORNIA,

18 Plaintiffs,

19 vs.

20 MICHAEL JOSEPH JACKSON,

21 Defendant.  
22  
23  
24

) Case No. 1133603

) EX PARTE APPLICATION TO FILE UNDER  
) SEAL

) Honorable Rodney S. Melville

) Date: January 28, 2005

) Time: 8:30 a.m.

) Dept: SM 2

25 TO THE CLERK OF THE ABOVE ENTITLED COURT:

26 Defendant requests that the Court issue an order that the accompanying Mr. Jackson's Notice  
27 of Lodging of DVDs Containing Exhibits 40, 46, and 49, and accompanying documents be filed  
28

EX PARTE APPLICATION TO FILE UNDER SEAL

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

JAN 18 2005

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

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

5  
6 Dated: January 18, 2005

7 Respectfully submitted,

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

10 SANGER & SWYSEN  
11 Robert M. Sanger

12 OXMAN & JAROSCAK  
13 Brian Oxman

14 By: 

15 R. Brian Oxman  
16 Attorneys for Defendant  
17 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

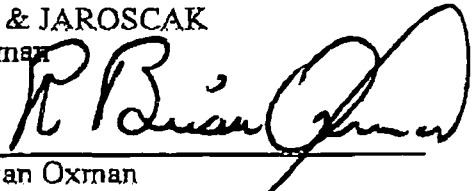
7 For the foregoing reasons, Mr. Michael Jackson requests his Notice of Lodging DVDs  
8 Containing Exhibits 40, 46, and 49 and accompanying documents be filed under seal.

9 Dated: January 18, 2005

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 defendant,  
19 Mr. Michael Jackson  
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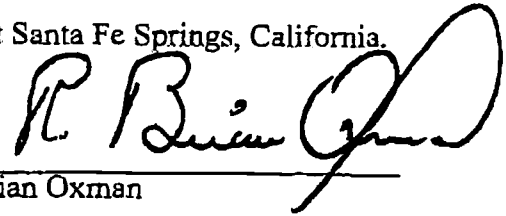
EX PARTE APPLICATION TO FILE UNDER SEAL

DECLARATION OF BRIAN OXMAN

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 Notice of Lodging of DVDs Containing Exhibits 40, 46, and 49 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

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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 January 18, 2005, I served the following:

EX PARTE APPLICATION TO FILE UNDER SEAL  
MR. JACKSON'S NOTICE OF LODGING OF DVDS CONTAINING EXHIBITS 40, 46, AND  
49  
ORDER SEALING MOTION

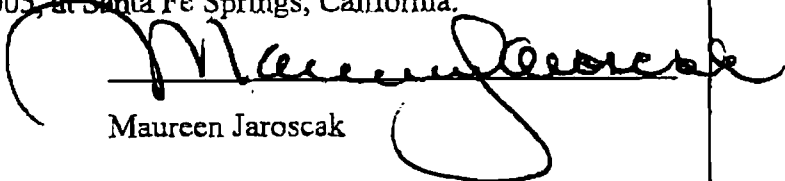
on the interested parties by placing a true copy of the document in a sealed envelope, and depositing it in the United States Mail with first class postage prepaid at La Mirada, California, and addressed as follows:

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 18<sup>th</sup> day of January, 2005, at Santa Fe Springs, California.

  
Maureen Jaroscak

EX PARTE APPLICATION TO FILE UNDER SEAL