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FILED
 SUPERIOR COURT of CALIFORNIA
 COUNTY of SANTA BARBARA

NOV 23 2004

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

8 **OXMAN & JAROSCAK**
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 10 14126 East Rosecrans
 11 Santa Fe Springs, CA 90670
 12 Tel.: (562) 921-5058, Fax: (562) 921-2298

11 Attorneys for Defendant
 12 **MICHAEL JOSEPH JACKSON**

13
 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,)

Case No. 1133603

18 Plaintiffs,)

EX PARTE APPLICATION TO FILE UNDER SEAL

19 vs.)

Honorable Rodney S. Melville

20 MICHAEL JOSEPH JACKSON,)
 21)

Date: November 22, 2004

Time: ~~8:30 p.m.~~ 10:00 AM

22 Defendant.)
 23)
 24)

Dept: SM 2

25 TO THE CLERK OF THE ABOVE ENTITLED COURT:

26 Defendant requests that the Court issue an order that the accompanying Declaration of Brian
 27 Oxman in Opposition to Motion to Modify Teal Order, and accompanying documents, be filed under
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EX PARTE APPLICATION TO FILE UNDER SEAL

1 seal and for such other such further relief as the Court may deem just and proper. This request is
 2 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: November 23, 2004

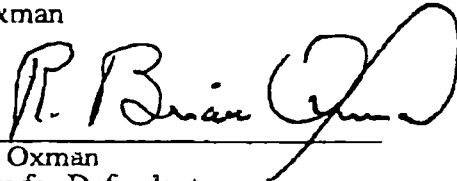
7 Respectfully submitted,

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

10 SANGER & SWYSEN
 11 Robert M. Sanger

12 OXMAN & JAROSCAK
 Brian Oxman

13
 14 By:



15 R. Brian Oxman
 16 Attorneys for Defendant
 17 MICHAEL JOSEPH JACKSON
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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

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 the Declaration of Brian Oxman
 8 in Opposition to Motion to Modify Teal Order and accompanying documents be filed under seal.

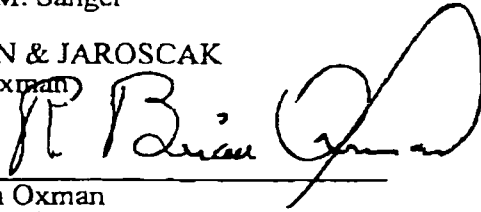
9 Dated: November 23, 2004

10 COLLINS, MESEREAU, REDDOCK & YU
 11 Thomas A. Mescreau, Jr.
 Susan C. Yu

12 SANGER & SWYSEN
 13 Robert M. Sanger

14 OXMAN & JAROSCAK
 15 Brian Oxman

16 By:

17 
 R. Brian Oxman
 Attorneys for
 MICHAEL JOSEPH JACKSON

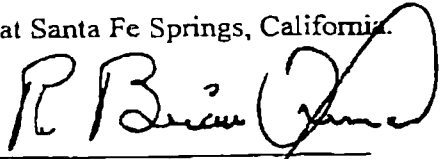
DECLARATION OF BRIAN OXMAN

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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 Declaration of Brian Oxman in Opposition to Motion to Modify Teal Order 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 23rd day of November, 2004 at Santa Fe Springs, California.



R. Brian Oxman

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 ²³ 2004, I served the following:

EX PARTE APPLICATION TO FILE UNDER SEAL
ORDER SEALING DECLARATION
DECLARATION OF BRIAN OXMAN IN OPPOSITION TO MOTION TO MODIFY TEAL
ORDER

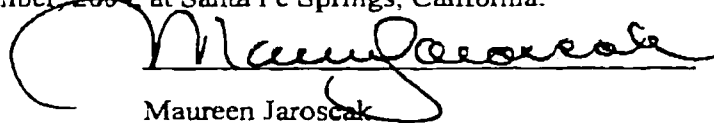
on the interested parties by placing a true copy of the document in a sealed envelope, and depositing it in the United States Mail with first class postage prepaid at La Mirada, California, and addressed as follows:

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 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 23rd day of November, 2004 at Santa Fe Springs, California.


Maureen Jaroscak

EX PARTE APPLICATION TO FILE UNDER SEAL