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18 MICHAEL JOE JACKSON

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

JAN 13 2005

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

*Unsealed pursuant
to 6/16/05 Court
order*

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

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

vs.

MICHAEL JOE JACKSON

Defendant.

CASE NO. 1133603

DECLARATION OF SUSAN C. YU

[IN RESPONSE TO PROSECUTION'S
RESPONSE TO MOTION TO COMPEL]

HEARING

DATE: JANUARY 12, 2005

TIME: 9:30 A.M.

Place: Dept. SM-2

FILED UNDER SEAL & BY FAX

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1. I am an attorney at law duly licensed to practice law in the courts of the State of California, a partner in the law firm of Collins, Mesereau, Reddock & Yu, and co-counsel for Mr. Michael Jackson in this criminal proceeding. I have personal knowledge of the facts set forth herein and, if called and sworn as a witness, I could and would competently testify thereto under oath.

2. This declaration is being submitted in response to the Prosecution's Response to Motion to Compel Discovery, with which my office was not served. I learned about this document this morning at approximately 7:30 a.m. through the Court's released version.

3. The Prosecution's Response omits two relevant letters. The first is a letter from Mr. Sneddon to me dated December 17, 2004, explaining the missing and/or incomplete pages, the numbering disarray, and other defects. (A true and correct copy of this letter is attached hereto as **Exhibit A**.) The second letter is dated January 3, 2005 from me to Mr. Sneddon in response to his letter of same date. (A true and correct copy of this letter is attached hereto as **Exhibit B**.) Mr. Sneddon did not respond to this letter.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on this 12th day of January 2005, at Los Angeles, California.

SUSAN D. & U



Exhibit A

THOMAS W. SNEDDON, JR.
District Attorney

MARNIE B. PINSKER
Assistant Director

DAVID M. SAUNDERS
Chief Investigator



PATRICK J. McKINLEY
Assistant District Attorney

CHRISTIE STANLEY
Assistant District Attorney

ERIC A. HANSON
Chief Trial Deputy

**COUNTY OF SANTA BARBARA
DISTRICT ATTORNEY**

December 17, 2004

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1875 Century Park East, 7th Floor
Los Angeles, CA 90067

Robert Sanger, Esq.
Sanger & Swysen, Lawyers
233 East Carrillo Street, Suite C
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Dear Ms. Yu and Mr. Sanger:

What follows is my account of the information provided, areas covered, and agreements we reached during yesterday's telephone call. I am told Chris and Bobette are to meet early next week and hopefully a good deal of the information contained in this letter should solve many of your questions.

SECTION A.

An amended witness list was delivered to Bob Sanger's office late Thursday afternoon. The cover letter and the attachment to the witness list cover the inquiries raised in section A(1).

Section A(2)(a) was identified as an error on the earlier witness list and was deleted on the one delivered on Thursday. Subsection (b) was also explained during the telephone call. Information relative to this name on the witness list was attached to the letter and witness list referenced above.

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FAX (805) 568-2453

☐ Lompoc Office
115 Civic Center Plaza
Lompoc, CA 93436
(805) 737-7760
FAX (805) 737-7732

☐ Santa Maria Office
312-D East Cook Street
Santa Maria, CA 93454
(805) 346-7540
FAX (805) 346-7588

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Subsection (c), was also clarified during the phone call and this individual appears on the witness list as Manchester. It is actually a hyphenated name. It is Alexander Montigu-Manchester.

All the names in section A(3)(a) through (j) were discussed during the telephone conversation. The spellings on the new witness list are consistent with our discussions and the acronym PMK will be used to cover those individuals described as "representatives" in our original witness list.

SECTION B (EXHIBIT F).

Paragraph 1. Missing Bates Stamp Pages. This paragraph purports to detail 13 missing Bates stamped discovery items. As I told Ms. Yu, we have signed receipts acknowledging receipt of 11 of the 13 items. What follows is an accounting detailing the date each purported item was receipted by the defense:

<u>Page</u>	<u>Dated Discovered</u>
916	03/12/2004
10401	10/08/2004
10692	10/08/2004
136871-13676	10/14 & 10/15/2004
12159	10/08/2004
12160	10/08/2004
12248-12254	10/08/2004
12648	10/14/2004
19741	11/12/2004
19859	11/12/2004
19862	11/12/2004

Nevertheless, I agree that the simplest way to resolve this issue to everyone's satisfaction is for us to provide these materials again. Please see the documents contained in Attachment A.

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As for the Bates stamp number #2945, there is no such page. The stamper inadvertently skipped the number. A review of the Bates-stamped documents #2944 and #2946, which are pages 1 and 2 of a Department of Justice report, should satisfy the fact.

Likewise, #10 through #14 was inadvertently skipped by the stamper. Again, examination of the Bates stamped pages #10 through #13 and pages #10 through #15 show them to be continuous pages of security log notes from 7-7-90.

Paragraph 2. Illegible, Incomplete and Overlapping Pages. There are 18 items addressed in paragraph 2. In all instances, our copies are identical to those described by the defense in this motion. Our copies of items #6509, #6659, #10667 and #16338 overlap, as do the defense's. Copies of items #4802-#4806, #4868-#4907, #5071-#5072, #8052, #8141, #10976-#10983, #10307 and #10287 are also very light, but readable. Likewise, our copy of #7851 and #7852 is cut and #7777 is simply a blank divider page.

Unfortunately, the reality is our copies are identical and in the same condition in almost all respects as those discovered to you.

Since it is clear that our working copies are in the same condition as yours, it will be necessary for us to go back to the source documents, which are in the possession of the Santa Barbara Sheriff's Department, to see if their original documents are any better than the ones that we have. This will require us to paw through 12,000 pages of documents in order to discovery these particular originals. However, I reiterate my commitment made during the telephone conversation that we will do so. I suggest that we then mutually meet and review the condition of the original documents so that everyone is completely satisfied that we are doing everything possible to obtain the best copy available. It well may be that the originals are no better than the copies that have been given to you and that we possess. We will begin this process next week.

Paragraph 3. Pages Discovered Without Bates Stamps. There are six items contained in this section. You may recall, this is the section that was problematic, because during the course of the discussion about the documents we discovered that there was a lack of correlation between the Bates stamp numbers on your copies and those on ours. This is the section that we committed Chris and Bobette to review and attempt to standardize the Bates stamp discrepancies. This section may in reality be a Bates stamp correlation issue as opposed to a discovery of pages without Bates stamps issue.

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As to #10388-#10390, #19438-#19439, and #8535-#8536, you are correct. As to the two un-Bates-stamped pages associated with #10388-#10390, they have been labeled #10388A and #10388B. Similarly, the one page associated with the Bates stamped numbered documents #19438-#19439, has been labeled #19438A and the additional pages associated with the documents Bates stamped #8535-#8536 has been labeled #8535A. All of these re-labeled documents have already been provided to the defense.

Paragraph 4. Same Bates Number Used for Different Documents. Bates stamp #137 was discovered almost a year ago on January 29, 2004 to previous counsel. Our records reflect only one item with a Bates stamp number #137. This is another area we felt could be more easily resolved by a face-to-face meeting between Chris and Bobette.

Paragraph 5. Blank Pages Bearing Bates Stamps (Contents Unknown). There are 38 items listed in this paragraph. Seventeen of these items are simply the last pages of the numerous depositions discovered to the defense.

<u>Page(s)</u>	<u>Dated Discovered</u>
6656	10/08/04
6763	10/08/04
7466	10/08/04
5904	10/08/04
11205	10/08/04
15542-15543	10/28/04
15676	10/28/04
19603	11/08/04
19605	11/08/04
16528	10/28/04
1618	10/28/04
15860	10/28/04
15991	10/28/04
16130	10/28/04
16198-16199	10/28/04
16301	10/28/04
15853	10/28/04

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Some of the remaining items are also blank pages. They were used as dividers by the Santa Barbara Sheriff's Department investigators to divide reports or topics associated with their 1993-1994 investigation into the child molestation allegations against Michael Jackson.

<u>Page(s)</u>	<u>Dated Discovered</u>
5939	10/08/04
5373	10/08/04
10283	10/08/04
10455	10/08/04
10465	10/08/04
10470	10/08/04
10548	10/08/04
11866	10/08/04

There are another ten items set forth below that are also dividers. They were blank pages inserted into Neverland Valley Ranch telephone records received through the execution of the search warrant. The dividers were used to separate subscriber information from billing and call information.

<u>Page(s)</u>	<u>Dated Discovered</u>
1146	04/30/04
1174	04/30/04
1211	04/30/04
1224	04/30/04
1240	04/30/04
1243	04/30/04
1268	04/30/04
1269	04/30/04
1301	04/30/04
1311	04/30/04

There are two questions related to the Attorney General investigation documents. They are 18858-18862 and 19268. Both are blank pages. These blank pages were in the original documents we received from the Department of Justice. Inasmuch as Section 7 is going to require us to re-contact the Department of Justice to check on certain other discrepancies in their

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materials, I will commit to confirming with the Department of Justice that these pages are indeed simply blank pages or inadvertent photocopying errors.

Lastly, that leaves Bates stamp number 14320. This is another divider inserted into records to differentiate between different accounts.

Paragraph 6. Redacted Documents. There are four items listed in this section. In three instances there are no unredacted versions.

The Bates stamp numbers documents 4778-4785, discovered on September 27, 2004, are the redacted version of the search warrant. You have the unredacted version. It can be found in Bates stamp numbers 4771-4777. If for some reason you are missing those pages, please let me know and we will provide another copy.

The documents covered by Bates stamp numbers 14572-15375 and 14104-14384, which were discovered to the defense on October 19, 2004, are search warrant returns. Portions of the records are redacted. They were redacted by the responding Custodian of Records. The redacted material was probably outside the scope of the warrant or its time period. What was provided is exactly what the Custodian of Record of those individual agencies produced in accordance with the search warrant's directions.

The last item, #10547-#10701, is indeed redacted. These materials were provided on October 8, 2004. They were reports prepared by private investigators hired by Attorney Larry Feldman in connection with the *Jordan Chandler vs. Michael Jackson* lawsuit in 1993. These investigative reports were subpoenaed to the Santa Barbara County Grand Jury in connection with the criminal investigation against Michael Jackson in 1993. At the time that the materials were subpoenaed, Mr. Feldman, as attorney of record for Jordan Chandler, claimed that certain portions of the material were covered by the attorney-client privilege. This invocation of the privilege was sustained and the redacted versions represent those items found not to be covered by the attorney-client privilege.

Paragraph 7.

1. 74-75 and 76-78 were resolved during our conference. It was agreed they are a single 13-page document. (See 074-086.)

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2. The following documents were provided by Custodian of Records as various telephone or business records. The Custodian of Records made the decision not to provide the records either before or after some of the pages were discovered materials. In other words, our items may have started at page 17 and ran to page 36. You listed these as missing because you felt that we had the other 17 pages. We do not. The Custodian of Records employed this method to redact information that they did not find to be within the parameters of the search warrants issued by the court.

Following are those items covered.

1030-1049	6045-6046	13827-13828
1050-1073	11368-11371	13829-13833
1074-1081	11424-11434	13834-13835
1082-1085	11438-11441	14058-14094
1182-1210	11443-11447	14237-14283
1225-1239	11448	14322-14326
1244-1255	11449-11451	14327-14343
1270-1300	11452	14358-14361
1603-1606	11454-11473	14362
1811-1812	11490-11500	14363-14367
2491-2499	11547-11552	14368-14370
2832-2834	11569-11578	14373
2912	11756-13772	14374-14377
2913	13801-13803	14378-14382
3095-3096	13804-13822	14383-14384
3321	13823-13826	

3. The following are Santa Barbara Sheriff's Department reports from the 1993-1994 investigation without cover sheets. As I indicated in the telephone call, it is my belief that cover sheets were not done, because the investigation was terminated and these were draft reports and never finalized.

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5192-5196	5336-5341	5430-5431
5197-5200	5342-5343	5456
5201-5206	5344	5457-5458
5207-5209	5345	5610-5612
5211-5212	5346	6834-6860
5213-5214	5347-5362	8144-8180
5215	5363-5370	8181-8217
5216	5371-5372	8218-8225
5216-5217	5374-5377	8229-8255
5218-5221	5378	8256-8276
5222-5233	5379	8277-8290
5256-5260	5380-5382	8291-8301
5261-5262	5383-5386	8302-8328
5263-5264	5387	8329-8332
5265-5266	5388-5402	8333-8335
5267-5291	5407-5411	8340-8343
5292-5300	5412	8344-8381
5301	5413-5415	8382
5302	5416	
5303-5309	5417-5429	

4. The following are Palladino investigative reports. The Palladinos were hired by Attorney Larry Feldman to do interviews in connection with the Jordan Chandler-Michael Jackson lawsuit. The blank pages are the materials redacted by Attorney Feldman as covered by the attorney-client privilege. The pages appear blank simply because all the materials on that page were redacted.

10603-10609
 10577-10587

10651-10658
 10661-10668

10785-10798

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5. The following materials were previously provided to the defense through the discovery process. However, in order to obtain closure and confidence that you have all materials, we are providing copies of the following materials to you. They can be found in Attachment B to this letter.

76-78
1148-1173
6368-6454
6571-6671
9158-9284
10816-10828
10907-10923
10995-11204
16200-16300
17028-17252
16538-16617

6. According to Santa Barbara Sheriff's Detective Craig Bommer, he has reviewed the following reports and determined that there were typographical errors made in the pagination.

236-240 was listed as 6 pages and should be 5.
579-581 was listed as 4 pages and should be 3.
678-680 was listed as 5 pages and should be 3.
2329-2331 was listed as 8 pages and should be 3.

7. **The Attorney General's Investigative Reports.** There are five items related to the Attorney's General's Investigation reports. They fall into two general areas. The first involves investigative reports dealing with inmate location records provided by the Santa Barbara Sheriff Department to the Attorney General investigators. Sheriff inmate location logs start at page 37 and run through page 41. Reference to these

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logs is found in investigative reports within the Attorney General's materials at the following locations.

18299-18300
18301-18302
18850-18853
18854-18857
19321-19324

It seems from the logs themselves and notations found on the discovered reports to which they are attached that different investigators were assigned to handle different portions of the same logs. The only pages provided by the Sheriff's Department were those running from page 37 through 41. Those are the only pages that we have. It appears that only the inmates located in areas to be possible percipient witnesses to the events surrounding the investigation's topics were given. Pages 1-36 and those following 41 were apparently relevant to the Attorney General's investigation.

As to the remaining reports, our records are consistent with yours. There are some questions about the following pages and some pages are indeed missing.

18886Missing a page.
18891Looks complete.
18909May be missing a page.
18911Missing a page.
18931Missing a page.
18937May be missing a page.
18939Missing a page.
18951Missing a page.
18939Missing a page.
18951Missing a page.
18953Missing a page

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As I indicated during our telephone conversation, we will take responsibility for contacting the Attorney General's Office and get clarification on the above-referenced discrepancies.

8. There are some Bates stamped materials included in Exhibit F for which we do not have documents. In some instances they were retained fax cover sheets, but not the items faxed.

6477 This is the fax cover sheet to San Francisco. The missing documents are the Subpoena Duces Tecum to the Palladino investigators. We do not have the Subpoena Duces Tecum.

8336 This is a fax involving Rodney Allen. We do not have the documents that were faxed. Rodney Allen will not be a part of this case.

8337-8339 Same as above.

8636 This is a fax cover sheet of documents sent by Detective Linden to Michael Jackson's attorney, Johnnie Cochran. We do not have the documents faxed.

9444-9448 Our pages are missing also.

9. The following are materials we believe have been provided and believe upon review are not missing any pages.

6368-6454 This is the Steve Tucker Grand Jury transcript. It is complete, but see also a second copy discovered on 10/28/04 (17530-17663).

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6571-6677 This is June Chandler's statement. Please check pages 16713-16785, which was another copy discovered to you. We believe that in both instances you have the complete versions.

10907-10923 This is the Jordan Chandler' civil case complaint. This is all of the pages that we have.

10995-11204 This is Joy Robson's Grand Jury testimony. We have compared it with the original and believe it to be complete.

16200-16300 There are no missing pages. See reporter's index documenting the fact that there was an exhibit attached to the deposition. This has led whoever reviewed the materials from your staff to believe that there were pages missing. Simply see pages 16302 through 16312.

16538-16617 This is the Wahl deposition. In comparing it with the original, we believe it to be complete.

17028-17252 These are the Grand Jury transcripts of Pellicano, Safechuck and Chacon. We have compared them to the originals and believe them to be complete.

After reviewing our comments, if you still believe that there is a problem with regard to these transcripts and the number of pages, please add this to the laundry list of items to be covered by Chris and Bobette.

10. **The Blanca Francia Deposition.** Our discovery cover letter of November 18, 2004, noted this deposition to be missing a substantial number of pages and our

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intention to try to obtain the original. We were successful in that regard and on December 8, 2004, we provided you with the complete deposition transcript (22485-22756).

11. Miscellaneous Explanations.

2317-2318 Your copies are the same as ours. The witness did not provide us each page of the e-mails, but only those e-mails she felt were information related to this case.

5310-5320 These are drafts of search warrant affidavits in the 5321-5335 1993-1994 investigation. There are no page 1's.

5403-5406 These were done as drafts, therefore the first page, the cover sheet, was not done. The 5403-5406 was never served. The other warrants were drafts of the body search warrant for Michael Jackson.

SECTION C.

As I explained to Ms. Yu during an earlier part of our telephone conversation, except for Mr. O'Bryan, we do not expect the testimony of the battered-wife syndrome expert or Mr. Lanning to be case specific. There are no reports. The curriculum vitae's of these experts have been provided.

As you are aware, under California law, these types of experts are only allowed to generally address the areas of their expertise, but not allowed to specifically opine about whether the particular subject of their testimony actually applies to the victim or a witness in the case. For that reason, we do not anticipate generating any reports such as when an individual witness or victim was actually examined by the expert with a view to

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offering an opinion about a particular individual's or witness's current emotional or physical state that is an issue in the case.

You do, of course, already have voluminous materials related to all local, state and Santa Barbara Sheriff's Department experts.

SECTION D.

The materials sought in subsection (1) and (2), except for the blueprints, were delivered to the defense on October 13, 2004, which was confirmed by Mr. Dunkle during the telephone conversation. The blueprints have been downloaded to a CD and will be delivered to Mr. Sanger's Office on Monday, December 20, 2004.

With regard to subsection (3), we agree that the materials sought are covered by the existing discovery order. We will deliver the results when completed. I committed to contacting the Department of Justice to determine an estimated time of completion.

SECTION E.

There seems to be some confusion over this section. As I explained to Ms. Yu, pursuant to the court's order, I prepared a Discovery Order for the defense's review. On December 1, 2004, I received a letter indicating that the defense agreed with the Discovery Order. I therefore forwarded the Discovery Order to Judge Melville. On December 9, 2004, Judge Melville signed the Discovery Order, which is the one currently in effect.

All materials informally provided to the defense since January 27, 2004, are covered by this order. If there is a specific area, topic or document that you feel exists and do not have, please let me know. I believe that we are in compliance with all of the dictates of the Discovery Order.

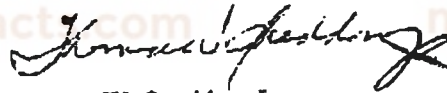
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SECTION F.

This report was discovered to Mr. Sanger's office on December 13, 2004. Mr. Dunkle confirmed this fact during the course of the conversation.

I hope this letter helps resolve these discovery issues. If any problems occur or questions arise, please feel free to contact me or Chris Linz.

Very truly yours,



Thomas W. Sneddon, Jr.
District Attorney

TWS:rm
Attachments



mjfacts.com



mjfacts.com



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mjfacts.com



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Exhibit B



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January 3, 2005

VIA FACSIMILE (800) 568-2398

Thomas Sneddon, Esq.
District Attorney's Office
1105 Santa Barbara Street
Santa Barbara, CA 93108

Re: People v. Jackson, SBSC Case No. 1133603

Dear Mr. Sneddon:

We are in receipt of your letter of today's date.

We are not interested in blaming your office for the Bates numbering disarray. Rather, we want a solution without jeopardizing our trial preparation time.

The problem with your proposal is that you are asking us to provide you with our work product. The scanned prosecution discovery contains our mental impressions by way of computer mark-ups.

At this juncture, we do not have the time or the resources to undo our mark-ups for your office. As stated in my December 23, 2004 and January 2, 2005 letters, your office may photocopy the hard-copy set we have. This is the only solution that makes sense.

Please let me know whether your office wants to photocopy our set.

Very truly yours,



Susan E. Yu

cc: Thomas A. Mesereau, Jr.
Robert Sanger
Brian Oxman