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

FEB 18 2005

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CRC 2073

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18 MICHAEL JOE JACKSON

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

21 THE PEOPLE OF THE STATE OF  
22 CALIFORNIA,

23 Plaintiff,

24 vs.

25 MICHAEL JOE JACKSON

26 Defendant.

) CASE NO. 1133603  
)  
) REQUEST FOR ATTENDANCE OF OUT-  
) OF-STATE WITNESS (PEN. CODE §  
) 1334); DECLARATION OF SUSAN C. YU  
) IN SUPPORT THEREOF

) [CERTIFICATE OF REQUESTING STATE  
) FOR ATTENDANCE OF WITNESS  
) LOCATED OUTSIDE CALIFORNIA  
) CONCURRENTLY FILED HEREWITH]

) HEARING : NOT REQUIRED

) DATE: N/A  
) TIME: N/A  
) Place: Dept. SM-2

FILED UNDER SEAL & BY FAX

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TO THE HONORABLE JUDGE RODNEY S. MELVILLE:

Defendant Michael Joe Jackson ("Mr. Jackson"), by and through his counsel, hereby requests this Court to issue a Certificate of Requesting State for Attendance of Witness Located Outside California to enable the defense to call Vinnie Amen ("Mr. Amen") as a witness at trial. Mr. Amen is a material witness whose testimony is essential to Mr. Jackson's defense.

This Request is made pursuant to the Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings, codified at Penal Code Sections 1334 through 1334.6, and is based on the attached memorandum of points and authorities and the declaration of Susan C. Yu.

DATED: February 18, 2005

Respectfully submitted,

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

Robert M. Sanger  
SANGER & SWYSEN

Brian Oxman  
OXMAN & JAROSCAK

By:

  
\_\_\_\_\_  
Susan C. Yu  
Attorneys for Mr. MICHAEL J. JACKSON

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.

3 STATEMENT OF FACTS

4 The indictment imagines ten counts against Mr. Jackson: one count of conspiracy  
5 to commit false imprisonment, child abduction and extortion (Count 1); four counts of  
6 lewd conduct upon a child (Counts 2, 3, 4 and 5); one count of attempt to commit a lewd  
7 act upon a child (Count 6); and four counts of administering alcohol to a minor to assist  
8 in commission of a felony (Counts 7, 8, 9 and 10). (Yu Decl., ¶ 2.)

9 The indictment further imagines a conspiracy among Mr. Jackson, five named  
10 but unindicted individuals, and other "uncharged" and "unknown" alleged co-  
11 conspirators to commit child abduction, false imprisonment and extortion. Twenty-  
12 eight overt acts in furtherance of this imaginary conspiracy are alleged. (Yu Decl., ¶ 3.)

13 Mr. Jackson has pled not guilty to all counts. He vehemently denies the false  
14 allegations planted in the indictment and maintains his complete innocence. (Yu Decl.,  
15 ¶ 4.)

16 Mr. Amen is one of the 5 unindicted named co-conspirators in this case. The  
17 defense is informed and believes and thereon submits that he currently resides in the  
18 State of [REDACTED]  
19 (Yu Decl., ¶ 5.)

20 Mr. Amen is a material witness in this case because he can testify to the issue of  
21 Mr. Jackson's innocence to the charged crimes, particularly the alleged conspiratorial  
22 acts. Mr. Amen is intimately familiar with the accusers' activities and the activities of  
23 various Prosecution's witnesses. (Yu Decl., ¶ 6.)

24 The Defense estimates that Mr. Amen will be required to testify for  
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1 approximately 1 court day. Depending on the duration of the jury selection and the  
2 Prosecution's case in chief, the Defense could commence its case in chief on as early as  
3 April 1, 2005. Accordingly, Mr. Amen should be required to appear for his testimony on  
4 this date. (Yu Decl., ¶ 7.)

5 II.

6 THIS COURT MAY ISSUE A CERTIFICATE RECOMMENDING THAT A COURT  
7 IN THE STATE OF [REDACTED] ISSUE A SUBPOENA COMPELLING MR. VINNIE  
8 AMEN, A MATERIAL WITNESS IN THIS CASE, TO APPEAR AND TESTIFY

9 The presence of out-of-state witnesses can be secured through procedures  
10 outlined in the Uniform Act to Secure the Attendance of Witnesses from Without A  
11 State in  
12 Criminal Proceedings ("Uniform Act"). (Pen. Code §§ 1334-1334.6; also see Vannier v.  
13 Superior Court, 32 Cal.App.3d 163, 170-173 (1982); People v. Superior Court (Jans), 224  
14 Cal.App.3d 1405, 1408-1412 (1990). The purpose of the Uniform Act is to make a  
15 uniform law throughout the states that adopt it, so that procurement of witnesses  
16 beyond state borders is possible.<sup>1</sup> (Pen. Code § 1334.6.)

17 The provisions of the Uniform Act do not constitute the power to subpoena the  
18 out-of-state witness. Rather, they are merely a procedure to request that the other  
19 state's court issue a subpoena. (People v. DuBose, 10 Cal.App.3d 544, 549 (1970);  
20 People v. Cavanaugh, 69 Cal.2d 262, 265-266 (1968).) In order for the Uniform Act to  
21 apply, the person who is located in another state and whose presence in court is desired,  
22 must be a material witness in the case. (Pen. Code § 1334.2, 1334.3; People v.

23  
24 <sup>1</sup> Also, if a person comes into California to attend and testify in an action pursuant to  
25 proceedings under the Uniform Act, the witness is not subject to arrest or service of civil or criminal  
26 process in connection with matters that arose before his or her appearance in the matter. (Pen. Code  
27 §§ 1334.4, 1334.5; Vannier v. Superior Court, *supra*, 32 Cal.2d at 170-173.) This statutory immunity  
originally arose from public policy considerations to encourage voluntary appearances in cases where  
the witness otherwise would not appear due to fear of arrest or service of process. (Murrey v.  
Superior Court, 40 Cal.2d 289, 292 (1953).)

1 Cavanaugh, supra, 69 Cal.2d at 266; People v. Newville, 220 Cal.App.3d 267, 274  
2 (1963).)

3 A motion is made to the judge in the court in which the action is pending to  
4 request the presence of the witness. (Pen. Code § 1334.3.) Upon a showing that the  
5 witness is material, the judge of the court in which the action is pending may issue a  
6 certificate under the seal of the court stating the facts showing that the witness is  
7 material, and the number of days the witness will be required to appear. (Id.) This  
8 certificate is then forwarded to a judge of a court of record in the county of the state in  
9 which the witness is located. (Id.)

10 Pursuant to California Penal Code Section 1334.3, the witness, at the time the  
11 trial subpoena is served on him, shall be tendered the sum of ten cents (\$ 0.10) for each  
12 mile necessarily traveled (if he elects surface travel) or the minimum round trip  
13 scheduled airlines fare plus twenty cents (\$ 0.20) a mile for necessary surface travel at  
14 either end of the flight if the witness elects air travel, and except as provided in  
15 subdivision (b) of Section 1334.3,<sup>2</sup> a per diem of twenty dollars (\$ 20) for each day that  
16 he is required to travel and attend as a witness. Further, the witness shall be  
17 reimbursed for any additional expenses which the Court finds reasonable and  
18 necessary.

19 In this case, Mr. Amen is a material witness whose presence is essential to  
20 ensure Mr. Jackson a fair trial. Mr. Amen is intimately familiar with the events  
21 surrounding the alleged crimes in the Indictment, particularly the conspiratorial acts,  
22 and can testify to Mr. Jackson's complete innocence. Accordingly, the requested

23 \_\_\_\_\_  
24 <sup>2</sup> Penal Code Section 1334.3(b) provides: "If the witness subpoenaed to attend and testify in this  
25 state is at the time he or she is required to appear and testify an inmate of a state prison, county jail, or  
26 other penal facility, the witness shall, while attending in this state as a witness, be furnished food and  
lodging in the jail or other appropriate penal facility in the county in which the witness is attending  
court, and food and lodging of that penal facility shall be rendered in lieu of the per diem specified in  
subdivision (a).  
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1 Certificate should issue. The defense will then take appropriate steps to forward this  
2 Certificate to a Court in [REDACTED], in the county in which Mr. Amen is located. (Yu  
3 Decl., ¶ 7.)

4  
5 V.

6 CONCLUSION

7 For all of the foregoing reasons, Mr. Jackson respectfully requests that the Court  
8 grant this motion and issue the requested Certificate.

9 DATED: January 18, 2005

Respectfully submitted,

10  
11 Thomas A. Mesereau, Jr.  
12 Susan C. Yu  
13 COLLINS, MESEREAU, REDDOCK & YU

14 Robert M. Sanger  
15 SANGER & SWYSEN

16 Brian Oxman  
17 OXMAN & JAROSCAK

18 By:

19   
20 Susan C. Yu  
21 Attorneys for Mr. MICHAEL J. JACKSON

DECLARATION OF SUSAN C. YU

I, Susan C. Yu, declare as follows:

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. The indictment alleges ten counts against Mr. Jackson: one count of conspiracy to commit false imprisonment, child abduction and extortion (Count 1); four counts of lewd conduct upon a child (Counts 2, 3, 4 and 5); one count of attempt to commit a lewd act upon a child (Count 6); and four counts of administering alcohol to a minor to assist in commission of a felony (Counts 7, 8, 9 and 10).

3. The indictment further alleges a conspiracy among Mr. Jackson, five named but unindicted individuals, and other "uncharged" and "unknown" alleged co-conspirators to commit child abduction, false imprisonment and extortion. Twenty-eight overt acts in furtherance of this imaginary conspiracy are alleged.

4. Mr. Jackson has pled not guilty to all counts. He vehemently denies the false allegations planted in the indictment and maintains his complete innocence.

5. Mr. Amen is one of the 5 unindicted named co-conspirators in this case. The defense is informed and believes and thereon submits that he currently resides in the [REDACTED]

6. Mr. Amen is a material witness in this case because he can testify to the issue of Mr. Jackson's innocence to the charged crimes, particularly the alleged conspiratorial acts. Mr. Amen is intimately familiar with the accusers' activities and the activities of various Prosecution's witnesses.

7. The Defense estimates that Mr. Amen will be required to testify for

1 approximately 1 court day. Depending on the duration of the jury selection and the  
2 Prosecution's case in chief, the Defense could commence its case in chief on as early as  
3 April 1, 2005. Accordingly, Mr. Amen should be required to appear for his testimony on  
4 this date.

5 8. Pursuant to California Penal Code Section 1334.3, I will cause Mr. Amen,  
6 at the time the trial subpoena is served on him, to be tendered the sum of ten cents (\$  
7 0.10) for each mile necessarily traveled (if he elects surface travel) or the minimum  
8 round trip scheduled airlines fare plus twenty cents (\$ 0.20) a mile for necessary surface  
9 travel at either end of the flight if the witness elects air travel, and except as provided  
10 in subdivision (b) of Section 1334.3, a per diem of twenty dollars (\$ 20) for each day that  
11 he is required to travel and attend as a witness. Further, I will cause Mr. Amen to be  
12 reimbursed for any additional expenses which this Court finds reasonable and  
13 necessary.

14 I declare under penalty of perjury under the laws of the State of California that  
15 the foregoing is true and correct and that this declaration was executed on this 18<sup>th</sup> day  
16 of January 2005, at Los Angeles, California.

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18 SUSAN C. YU  
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