2 3 4	Thomas A. Mesereau, Jr., State Bar Number (Susan C. Yu, State Bar Number 195640 1875 Century Park East, 7th Floor Los Angeles, CA 90067 Telephone: (310) 284-3120 Facsimile: (310) 284-3133	SUPERIOR COURT OF CALIFORNIA COUNTY OF SANTA BARGARA		
-5 6 7	KATTEN MUCHIN ZAVIS ROSENMAN Steve Cochran, State Bar Number 105541 Stacey McKee Knight, State Bar Number 181 2029 Century Park East, Suite 2600 Los Angeles, CA 90067-3012 Telephone: (310) 788-4455 Facsimile: (310) 712-8455	CARRIEL WAGNES DEAL COL		
9 10 11 12	SANGER & SWYSEN Attorneys at Law Robert M. Sanger, State Bar Number 058214 233 East Carrillo Street, Suite C Santa Barbara, CA 93101 Telephone: (805) 962-4887 Facsimile: (805) 963-7311			
13	Attorneys for Defendant MICHAEL JOSEPH JACKSON			
14	njfacts.com mjfac	ts.com mjfacts.com		
15	SUPERIOR COURT OF THE STATE OF CALIFORNIA			
16	FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION			
18	THE PEOPLE OF THE STATE OF) CALIFORNIA,)	Case No. 11336 <mark>03</mark>		
19	Plaintiffs,	EX PARTE APPLICATION FOR CONTINUANCE OF HEARING ON		
20	vs.	MOTION TO SET ASIDE INDICTMENT; DECLARATION OF ROBERT M.		
21		SANGER; MEMORANDUM OF POINTS AND AUTHORITIES; AND [PROPOSED]		
22	MICHAEL JOSEPH JACKSON,)	ORDER THEREOF		
23	Defendant.	Honorable Rodney S. Melville		
24		Date: July 9, 2004		
25 26	jfacts.com mjfac	Time: 8:30 am. Dept: SM 2		
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28		ANCE OF HEARING ON MOTION TO SET ASIDE		
	INDICTMENT; DECLARATION OF ROBERT M. SANGER; MEMORANDUM OF POINTS AND AUTHORITIES; AND [PROPOSED] ORDER THEREOF			

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TO THE CLERK OF THE ABOVE ENTITLED COURT AND TO THE DISTRICT ATTORNEY OF THE COUNTY OF SANTA BARBARA, TOM SNEDDON, AND DEPUTY DISTRICT ATTORNEYS GERALD FRANKLIN, RON ZONEN, AND GORDON AUCHINCLOSS:

Defendant, Michael Jackson, respectfully applies to this Court ex partel for an order continuing the hearing on the Motion To Set Aside Indictment Pursuant To Penal Code Section 995 to July 27, 2004, at 8:30 am. or as soon thereafter as counsel may be heard in the above entitled courtroom before the Honorable Rodney Melville. This application is made on the grounds that there was an abbreviated briefing schedule on this matter in order to attempt to have it heard on July 9, 2004, said briefing schedule to require the prosecution to file and serve their opposition no later than 12:00 pm. on July 6, 2004; that said opposition was filed and served in part in the evening of July 6, 2004, and that the substantial remainder of said opposition, was not filed or served on defense counsel until the afternoon of July 7, 2004; and that it is impossible for defense counsel, consistent with its obligations under the sixth amendment to the United States Constitution to adequately represent their client, to prepare and serve a reply by the previously scheduled deadline of July 8, 2004 at 12:00 pm.

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 On July 7, 2004, this Honorable Court directed Counsel for Mr. Jackson to submit in writing its application for continuance of the hearing currently set on July 9, 2004, on the Motion To Set Aside Indictment Pursuant to Penal Code Section 995, to set forth the reasons therefor and to submit a proposed order thereon.

EX PARTE APPLICATION FOR CONTINUANCE OF HEARING ON MOTION TO SET ASIDE INDICTMENT; DECLARATION OF ROBERT M. SANGER; MEMORANDUM OF POINTS AND AUTHORITIES; AND [PROPOSED] ORDER THEREOF

	This application is based upon	this Ex Parte Application, th	e Declaration of Robert M.
	Sanger and Memorandum of Points and Authorities attached hereto, representations of counsel		
1. C. al. and and 3. II also 3in an assente and files begin			
	Dated: July 7, 2004		mjfacts.co
	Dutou. July 1, 200	Respectfully submitted	
		COLLINS, MESEREAU	I PEDDOCK & VII
		Thomas A. Mesereau, Jr Susan C. Yu	
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		Robert M. Sanger Attorneys for Defendant	
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DECLARATION OF ROBERT M. SANGER

I Robert M. Sanger declare:

I am an attorney at law duly licensed to practice law in the State of California and one of the attorneys of record for Michael Jackson, defendant herein.

Mr. Jackson was arraigned on the indictment in this case on April 30, 2004. The grand jury transcripts were not available on the date of the arraignment but were provided to counsel the following week.

The nature and extent of the prosecution's investigation extended far beyond the allegations originally made in the complaint which had theretofore been pending for preliminary examination. The grand jury transcript was immense and exceeded many of those seen in complicated white collar cases or special circumstance murder cases.

As a result, Mr. Jackson's lawyers used their best efforts to prepare a motion to set aside the indictment and filed it within the time period set forth in Penal Code section 1510.

The court selected the date of July 9, 2004 for hearing on the Motion To Set Aside The Indictment and set a briefing schedule whereby the District Attorney's office was to file and serve upon the Mr. Jackson's counsel their opposition no later than noon on July 6, 2004. Mr. Jackson's counsel was then to have until noon of July 8, 2004 within which to prepare, serve and file its Reply To The Opposition.

The District Attorney did not meet the deadline for filing and serving the opposition. Instead, they served upon counsel for Mr. Jackson a partial opposition by hand delivery at 4:27 pm. on July 6, 2004 and by fax to other defense counsel after the close of business that same day. Furthermore, the substantial appendix was not served on counsel for Mr. Jackson until approximately 2:30 pm. on July 7, 2004.

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EX PARTE APPLICATION FOR CONTINUANCE OF HEARING ON MOTION TO SET ASIDE INDICTMENT; DECLARATION OF ROBERT M. SANGER; MEMORANDUM OF POINTS AND

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AUTHORITIES; AND [PROPOSED] ORDER THEREOF

1	It is not possible for counsel for Mr. Jackson to adequately represent their client and to			
2	properly prepare an appropriate for the benefit of this court in less than one day.			
3	I declare under the penalty of perjury that the foregoing is true and correct and that this			
4	declaration is executed this 7th day of July, 2004, at Santa Barbara, California.			
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28	EX PARTE APPLICATION FOR CONTINUANCE OF HEARING ON MOTION TO SET ASIDE INDICTMENT; DECLARATION OF ROBERT M. SANGER; MEMORANDUM OF POINTS AND AUTHORITIES; AND (PROPOSED) ORDER THEREOF			
	AUTHORITIES, AND PROPOSED ORDER THEREOF			

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27 28 MEMORANDUM OF POINTS AND AUTHORITIES

A CONTINUANCE MAY BE GRANTED FOR THE PERIOD OF

TIME SHOWN TO BE NECESSARY BY THE EVIDENCE CONSIDERED AT THE HEARING ON THE MOTION.

Penal Code § 1050.

Under the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and relevant provisions of the California Constitution a defendant is entitled to due process, equal protection, and the effective assistance of counsel which includes a reasonable time to adequately prepare a defense. *People v. Courts* (1985) 37 Cal.3d 784 at p. 791[210 Cal. Rptr. 193].)

Without assigning blame, it is simply impossible for the defense to file a competent reply either in discharge of its duties to Mr. Jackson or to its duties to the Court in time to have a meaningful hearing on July 9, 2004. (See Declaration of Robert M. Sanger)

CONCLUSION

Therefore, we respectfully request this Court continue the hearing on The Motion To Set Aside The Indictment until July 27, 2004, at 8:30 am. and that the defense be permitted to file its reply on Monday, July 12, 2004, by 12:00 pm.

Dated: July 7, 2004

Respectfully submitted,

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

KATTEN MUCHIN ZAVIS ROSENMAN Steve Cochran Stacey McKee Knight

SANGER & SWYSEN Robert M. Sanger

By

EX PARTE APPLICATION FOR CONTINUANCE OF HEARING ON MOTION TO SET ASIDE INDICTMENT; DECLARATION OF ROBERT M. SANGER; MEMORANDUM OF POINTS AND AUTHORITIES; AND [PROPOSED] ORDER THEREOF