

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY OF SANTA BARBARA

JAN 07 2005

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

1 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY
County of Santa Barbara
2 By: RONALD J. ZONEN (State Bar No. 85094)
Senior Deputy District Attorney
3 GORDON AUCHINCLOSS (State Bar No. 150251)
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** Unsealed pursuant
to 0616105 court
order*

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SANTA BARBARA
10 SANTA MARIA DIVISION

12 THE PEOPLE OF THE STATE OF CALIFORNIA,

No. 1133603

14 Plaintiff,

PEOPLE'S RESPONSE
TO THE DEFENSE
MOTION TO COMPEL

15 v.

17 MICHAEL JOE JACKSON,

18 Defendant.

DATE: January 12, 2005
TIME: 8:30 a.m.
DEPT: SM 2 (Melville)

FILED UNDER SEAL

22 On December 10, 2004, the defense filed a Motion to Compel relative to several
23 areas of discovery. On December 21st, the date set for the hearing on the Motion to Compel, it
24 was continued by stipulation until January 12, 2005. The purpose of the continuance was the
25 belief by both parties that most of the issues could be resolved without a hearing.

26 As a result, almost all of the issues set forth in the Motion to Compel have been
27 resolved, except for one. The one unresolved area involves the fact that the meet and confer
28 sessions disclosed that in two identified areas there is a discrepancy in the Bates stamp

1 numbers assigned certain reports. It is not the reports that are missing, but they were just
2 given conflicting numbers.

3 The first area identified was in the initial reports discovered to Jackson's former
4 attorney, Mark Geragos. These were hard copy, signed reports to replace the CD unsigned
5 reports. The reports were the same, but the CD versions were unsigned and the decision to
6 replace the unsigned with the signed was made to avoid any problems at trial. Because of the
7 manner in which those two sets were delivered to the District Attorney's Office and to
8 minimize the inconvenience of the defense correlating the reports to the former CD reports, it
9 was necessary to segregate and match the reports to the order in which they appeared on the
10 CD. As a result, each set was hand-numbered separately. While it appears the total number of
11 pages is correct, some of the reports in the second group retained by the prosecution were not
12 in the same order as those provided to the defense; hence, the different Bates stamp numbers.

13 The second Bates stamp problem identified involved some of the 1993-1994
14 investigative reports. Again, it appears the discovery is complete, but it is the Bates stamps in
15 a few of the reports that do not match. The prosecution accepts full responsibility for the
16 confusion caused by these problems and for that reason has agreed to unilaterally correct the
17 numbering problem and to use the defendant's Bates stamp numbers to eliminate any
18 inconvenience to them. (See Exhibit "D" and "F.")

19 To this end, Chris Linz, who has been in charge of our discovery since July 27,
20 2005, and Bobette Tryon, an employee of Mr. Sanger's office, assigned similar
21 responsibilities, met to discuss a solution. As Chris Linz's affidavit points out, Ms. Tryon
22 described the process used by the defense to process the hard copy materials provided by the
23 People. (See Exhibit "A.") As noted in the affidavit and represented to Mrs. Linz, the
24 defense process was simply the scanning of the documents onto a CD. The hard copies were
25 then retained in Mr. Sanger's office. Given this information, we requested that the defense
26 provide us with a copy of the scanned materials on a CD or allow us to review the hard copies
27 retained in Mr. Sanger's office. We would be responsible for reconciling the numbering
28 discrepancies. We estimated that it would take no longer than two days. (See Exhibit "B.")

1 After several delays of silence from the defense, Ms. Linz was instructed to
2 again contact Bobette Tryon to expedite the resolution of this problem. Eventually, Ms. Tryon
3 told Chris Linz that the matter was now being handled by Susan Yu.

4 Thus, began a series of letters between Ms. Yu and the District Attorney, which
5 have been attached as Exhibits "B," "C," "D," "E," and "F," respectively.

6 As one can see through a review of the letters, some of the assertions contained
7 in Exhibits "C" and "E" are at odds with Bobette Tryon's statements to Mrs. Linz about the
8 way the defense is handling their discovery process and the likelihood that the CD's would
9 contain defense work product. The defense's solution to the problem was an ultimatum that it
10 would be necessary for somebody from the prosecution to go to Los Angeles, copy all of their
11 documents and then attempt to reconcile the numbers. (See Exhibit "E.") This suggested
12 solution is neither necessary, practical, or acceptable.

13 It is the People's observation that if these inconsistencies are not resolved and if
14 the Bates stamp numbers or documents are used by attorneys during the course of the trial to
15 reference discovered documents, unnecessary confusion, delay and bickering in front of the
16 jury will result..

17 Therefore, absent any change in the defense's posture or direction from the
18 court, the People propose the court direct that both sides use the usual trial practice of referring
19 to documents by their date, author and subject and that no reference be made to the Bates
20 stamp numbers in front of the jury.

21 With regard to the discovery issues raised in Ms. Yu's January 2, 2005, letter
22 (Exhibit "E"), the DOJ bench notes should be in their possession before the January 12
23 hearing. They were forwarded to Charlene Maric on December 23, 2004. She has been on
24 vacation. Presumably, they are sitting in her unopened mail. She will return Monday, January
25 10, 2005. As to the items listed on page 2, all such videos and/or DVD's possessed by law
26 enforcement have been previously discovered to the defense. With regard to item (2)(b),


27 ///

28 ///

1 according to investigators no item matching the description was ever seized.

2 DATED: January 7, 2005

3 Respectfully submitted,

4
5 
6 THOMAS W. SNEDDON, JR.
7 District Attorney
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1 **PROOF OF SERVICE**

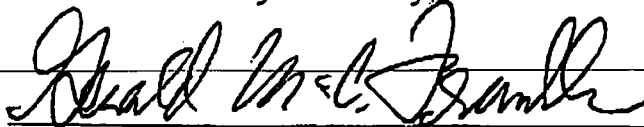
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3 STATE OF CALIFORNIA
4 COUNTY OF SANTA BARBARA } SS
5

6 I am a citizen of the United States and a resident of the County aforesaid; I am over
7 the age of eighteen years and I am not a party to the within-entitled action. My business
8 address is: District Attorney's Office; Courthouse; 1112 Santa Barbara Street, Santa Barbara,
9 California 93101.

10 On January 7, 2005, I served the within PEOPLE'S RESPONSE TO DEFENSE
11 MOTION TO COMPEL on Defendant, by THOMAS A. MESEREAU, JR., ROBERT
12 SANGER, and BRIAN OXMAN by personally delivering a true copy thereof to Mr. Sanger's
13 office in Santa Barbara, by transmitting a facsimile copy thereof to Attorney Mesereau , and
14 by causing a true copy thereof to be mailed to Mr. Mesereau, first class postage prepaid, at the
15 addresses shown on the attached Service List.

16 I declare under penalty of perjury that the foregoing is true and correct.

17 Executed at Santa Barbara, California on this 7th day of January, 2005.

18 
19 _____
20 signature

SERVICE LIST

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5 1875 Century Park East, No. 700
6 Los Angeles, CA 90067
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8 Attorney for Defendant Michael Jackson

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10 ROBERT SANGER, ESQ.
11 Sanger & Swysen, Lawyers
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14 FAX: (805) 963-7311
15 Co-counsel for Defendant

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EXHIBIT "A"

1 DECLARATION OF CHRISTY N. LINZ

2
3 I, Christy Linz, declare:

4 1. I am a paralegal for the District Attorney's office in Santa Barbara, California.

5 2. I was present during the telephonic conference between Thomas Sneddon, Susan
6 Yu, and Robert Sanger on December 16, 2004. This conference was arranged in order to
7 resolve discovery issues. All parties agreed that a meeting between myself and Bobette Tryon,
8 a paralegal for Attorney Sanger, may resolve many of the discovery issues.

9 3. On December 17, 2004, I delivered a letter to Mr. Sanger from Mr. Sneddon.
10 This letter was in response to Ms. Yu's letter of December 10, 2004, regarding unresolved
11 discovery issues (i.e., missing pages and defects in the Bates numbering). Attached to Mr.
12 Sneddon's letter were approximately two thousand pages of documents previously discovered
13 to Mr. Sanger's office. Ms. Tryon and I agreed to compare these documents during our
14 meeting on December 20, 2004 in order to ensure the Bates numbering of the documents
15 correlated with each other. Ms. Tryon informed me she intended to bring a copy of the
16 discovery we had previously provided to the defense, on compact disk, along with a laptop to
17 view the disk, to the district attorney's office for our meeting on Monday.

18 ~~4. Ms. Tryon and I met at the District Attorney's office on Monday, December 20,~~
19 2004. Ms. Tryon remarked that my office looked like Mr. Dunkle's office (an attorney
20 employed at Sanger & Swysen) because my office was filled with all of the notebooks
21 containing the hard copies of discovery we have provided to the defense in this case; she
22 remarked that she kept all of their discovery notebooks in Mr. Dunkle's office. We resolved
23 many of the discovery issues however, there were more issues to be discussed, so we agreed to
24 meet again on December 21, 2004.

25 5. On December 21, 2004, Ms. Tryon faxed me several discovery pages that did not
26 correspond to the discovery pages I possessed. Ms. Tryon requested more time to investigate
27 the problem and we scheduled a meeting for December 22, 2004. Ms. Tryon had to re-
28 schedule the meeting due to other projects. We discussed the possibility of comparing our

1 discovery and Ms. Tryon informed me she would discuss that possibility with Mr. Sanger.

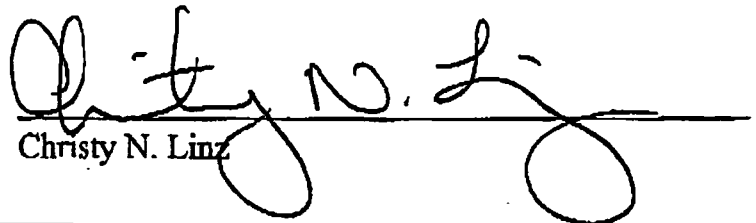
2 6. On December 23, 2004, I delivered a letter to Mr. Sanger's office suggesting Ms.
3 Tryon and I meet again and compare our discovery documents. I further suggested, if a
4 meeting was unacceptable, that Ms. Tryon provide me with a compact disk of their discovery
5 in order to compare the discovery and resolve any numbering defects.

6 7. On December 27, 2004, I delivered a letter to Mr. Sanger's office suggesting that
7 I correct the defects in the Bates numbering and use the numbers on their documents in order to
8 alleviate any changes of the Bates numbering on their documents.

9 8. On December 28, 2004 I phoned Ms. Tryon in order to schedule a time to pick
10 up the compact disk containing their discovery pages.

11 9. On December 30, 2004, Ms. Tryon informed me I should direct my discovery
12 questions to Ms. Yu.

13 I declare under penalty of perjury that the foregoing is true and correct and that this
14 declaration was executed this 7th day of January, 2005 at Santa Barbara, California.

15 
16 _____
17 Christy N. Linz

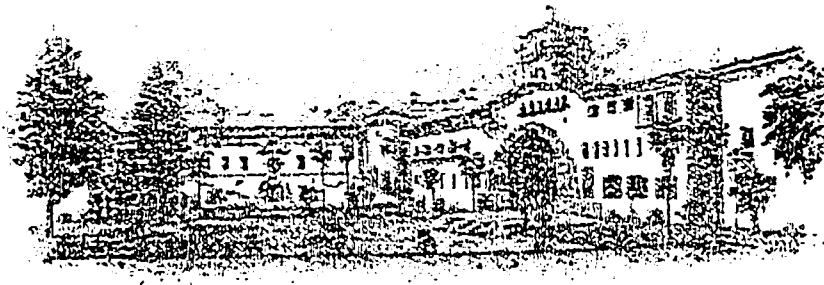
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EXHIBIT "B"

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 23, 2004

Robert Sanger, Esq.
Sanger & Swysen, Lawyers
233 East Carrillo Street, Suite C
Santa Barbara, CA 93101

Hand Delivered

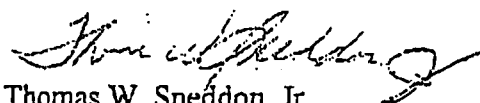
Re: *The People of the State of California vs. Michael Joe Jackson*
Superior Court Case No. 1133603

Dear Bob:

Pursuant to our telephonic conference regarding discovery issues on Thursday, December 16, 2004, Bobette Tryon and Chris Linz met on Monday, December 20, 2004 in order to reconcile the completeness of discovery. I was informed that many of the discovery issues were resolved in that meeting; however there appears to be a problem with the coordination of the Bates numbering. In order to resolve this matter, I suggested on Tuesday that Bobette and Chris meet and compare discovery to ensure the Bates numbering of your discovery matches with ours. Chris attempted to schedule a time with Bobette to meet. Bobette informed Chris that she was awaiting your answer on whether such a meeting would occur. Additionally, Chris offered to compare your discovery (on compact disc) with ours if Bobette was unavailable to meet. We have not received an answer on whether such meeting can occur or if Chris can check your discovery against ours in order to ensure the Bates numbers coordinate.

We would prefer to resolve these discovery matters as soon as possible in order to avoid any confusion or unnecessary delays it may cause. Please contact me or have Bobette contact Chris and let us know when a meeting can take place to resolve these discovery issues. I anticipate once Bobette and Chris get together, we can resolve the numbering problems within two days.

Very truly yours,



Thomas W. Sneddon, Jr.
District Attorney

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Santa Maria, CA 93454
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FAX (805) 346-7500

EXHIBIT "C"

CMRY

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
ATTORNEYS AT LAW

1875 CENTURY PARK EAST, 7th FLOOR
LOS ANGELES, CALIFORNIA 90067

TELEPHONE: (310) 284-3120 FACSIMILE: (310) 284-3133
WEBSITE: WWW.CMRYLAW.COM

December 23, 2004

VIA FACSIMILE (805) 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:

This will respond to your letter of today's date to my co-counsel, Bob Sanger. There are two problems with the Prosecution discovery. The first is relatively minor and can be resolved. The second is so severe that it is virtually impossible to correct it at this juncture. I will address these two problems below.

First, in your December 17, 2004 letter to me and Bob, you have articulated various reasons underlying the defects we have found from the first 20,069 pages of the Prosecution discovery. ~~As to illegible copies, redacted documents, blank pages bearing Bates numbers, missing pages, and other similar trivial defects, I believe we can resolve them. Your office can furnish us with legible copies (if possible) and unredacted documents (if possible). As to blank pages bearing Bates numbers, we accept your explanation that the numbers were inadvertently stamped (or handwritten) on blank pages. As to missing pages, you have provided them to us. In theory, the missing pages you have recently provided will fill the gaps. In reality, however, these missing pages pose more problems for both sides.~~

Second and more problematic with the Prosecution discovery is the fact that the Prosecution and the Defense have many different documents bearing same Bates (or handwritten) numbers. For *illustration purposes only*, suppose you have Bates number 1108, a letter dated 12/04/04 from Person A to Person B. We, on the other hand, have the same Bates number 1108, yet the document is different, i.e., a police report dated 12/04/03.

Your office recently provided us with the missing documents (as referenced above). However, for some reason, these missing pages do not sequentially follow the numbers we have.

12/23/2004 05:06 318-881-1887 MESEREAU & TO PAGE 05/05
Thomas Sneddon, Esq.
December 23, 2004
Page 2

The only explanation for the parties to have different documents bearing same Bates numbers is that the numbering system in your office lost control. It appears that your office gave us a set of documents bearing consecutive Bates numbers, starting from number 1. This is fine. The problem is, instead of using a copy of the exact same documents produced to the defense, it appears that your office numbered a brand new set of documents from scratch. That is why the Prosecution and the Defense have different documents bearing same numbers.

As of today, we have received 24,312 pages discovery from your office.¹ You have requested that Bobbette and Chris meet again and compare the prosecution documents we received from your office with the documents your office possesses. You also requested, in the alternative, that we provide you with a CD containing Prosecution discovery, so that your office can resolve the numbering defects.

Trial is only a month away. It is impossible for the defense to help the Prosecution fix the numbering defects it has created at this juncture. The defense cannot now utilize another set of documents your office has generated. We have invested substantial amount of time preparing for trial based on the documents you gave us. We had no idea that your office would number another set of documents, resulting in a discovery mess.

At trial, the defense and the prosecution will have different documents bearing the same numbers. The only solution to this mess at this juncture is to treat the documents you have produced to us as the official numbers. If you want to send someone to our office and copy what you gave us, we will accommodate you. You, of course, will have to bear the cost of such undertaking.

Very truly yours,


Susan C. Yu

¹ We have provided you with a list of defects found in the first 20,069 pages of the Prosecution discovery. (The list is attached to our motion to compel discovery.) Your December 17, 2004 letter to me and Bob outlines the various defects you believe have been cured. My staff is reviewing your analysis for accuracy. I will let you know of our findings early next week. My staff is also reviewing the balance of the Prosecution discovery, i.e., 20,070 through 24,312 for defects. I will advise you of the defects early next week as well.

EXHIBIT "D"

THOMAS W. SNEEDDON, 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 27, 2004

Susan C. Yu, Esq.
Collins, Mesereau, Reddock & Yu, LLP
1875 Century Park East, 7th Floor
Los Angeles, CA 90067

Robert Sanger, Esq.
Sanger & Swysen, Lawyers
233 East Carrillo Street, Suite C
Santa Barbara, CA 93101

Hand Delivered

Re: *The People of the State of California vs. Michael Joe Jackson*
Superior Court Case No. 1133603

Dear Ms. Yu and Mr. Sanger:

This will respond to Ms. Yu's letter of December 23, 2004. It will serve to answer both problems set forth in that letter.

In regards to paragraph one, dealing with illegible copies, redacted documents, blank pages bearing Bates numbers, missing pages and other trivial defects, I replied with a detailed response of our account of the discovery information provided to Mr. Sanger's office on December 17, 2004. Attached to that response were copies of many of the items you brought into question in your motion. Further, Bobette and Chris met on December 20th in order to resolve any remaining issues not covered in my letter of December 17th.

Regarding your second paragraph, dealing with the Prosecution and Defense having different documents bearing the same Bates number, I have suggested a few ways in which to resolve this problem. None of my suggestions have been to your satisfaction. I propose that Bobette furnish Chris with a copy of the Defenses' discovery on compact disk (I will provide the disk); we will go through your discovery and find where there are mistakes and correct them. We will use the numbers you have and alter our numbers to coordinate with yours. This will alleviate you having to alter any numbers you have used for preparation of trial and ensure that both parties have documents bearing the same Bates number.

Santa Barbara Office
1112 Santa Barbara Street
Santa Barbara, CA 93101
(805) 568-2300
FAX (805) 568-2453

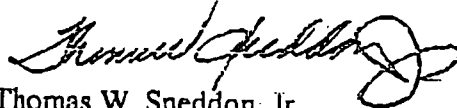
Lompoc Office
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Lompoc, CA 93436
(805) 737-7760
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Santa Maria Office
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Susan C. Yu, Esq.
Collins, Mesereau, Reddock, & Yu
Robert Sanger, Esq.
Sanger & Swysen, Lawyers
Page 2
December 27, 2004

We are available to begin this process immediately. Please feel free to contact me in order to discuss any issues or questions that arise.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Thomas W. Sneddon, Jr.", with a large, stylized flourish at the end.

Thomas W. Sneddon, Jr.
District Attorney

TWS:cl

EXHIBIT "E"

CMRY

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January 2, 2005

VIA FACSIMILE (805) 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:

This letter will address two discovery matters.

First, receipt of your letter dated December 27, 2004 to me and Bob Sanger is hereby acknowledged. Unfortunately, we cannot provide you with a CD containing the prosecution discovery because, to do so, we will be releasing work product. As stated in my December 23, 2004 letter, your office may photocopy the hard-copy set we have. You may do so, however, at your expense. Since Bob's office sent the "original" copy set to our office, your office will need to copy our set for accuracy.

Because the prosecution documents are highly sensitive, we are unable to have a third-party vendor take them and copy for you. The safer option is for your office to send someone to our office and copy them on-site. We are willing to reserve a conference room in our office for your use next week.

Second, it has come to our attention that we still have not received the following discovery:

(1) Any and all Bench Notes for all scientific and forensic analyses, including, but not limited to:

- (a) The most recent DNA analysis and/or comparison of a known sample with unknown samples.
- (b) Department of Justice analysis of the alleged drugs found on underwear.

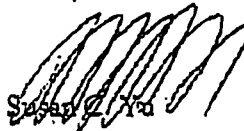
Thomas Sneddon, Esq.
January 2, 2005
Page 2

(2) Any and all video tapes and/or DVDs the prosecution seized to date, including, but not limited to, video tapes and/or DVDs of:

- (a) The Arvizo family, i.e., Janet, Davellin, Gavin, and Star Arvizo, in Neverland, Hamid Moslei's house, Calabasas Inn, Turnberry Hotel and else where.
- (b) Gavin Arvizo singing and dancing in the theatre at Neverland.

We will advise you of other discovery issues as soon as we discover them.

Very truly yours,



Susan Z. Yu

EXHIBIT "F"

THOMAS W. SNEDDON, JR.
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COUNTY OF SANTA BARBARA
DISTRICT ATTORNEY

January 3, 2005

Susan C. Yu
1875 Century Park East, 7th Floor
Los Angeles, California 90067

Via Facsimile (310) 284-3133

Re: People v. Jackson, Bate Stamp Reconciliation

Dear Ms. Yu:

I was hoping that I would have received some response to my last letter attempting to resolve the Bate Stamps numbering issue. I believe your proposed solution will lead to unnecessary and avoidable problem during trial.

We are at the point, where this is no longer an issue of fault. It is simply an issue of reconciling a problem. I am again offering to you unilaterally reconcile those issues using your numbers. All I need is the disk which I have been informed Bobbitt can provide. I would prefer to resolve this reconciliation issue short of requesting the court to order a meet and confer conference to resolve the issue. I sincerely believe it is in the best interest of both parties to not to have to resort to the court to order us to resolve these issues.

Very truly yours,

Thomas W. Sneddon, Jr.
District Attorney

TWS:mmm

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