FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

JAN 11 2005

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

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. MICHAEL JACKSON, Defendant.	Case No.: 1133603 Order for Release of Redacted Documents [People's Response to the Defense Motion to Compel]

The redacted form of the People's Response to the Defense Motion to Compel attached to this order shall be released and placed in the public file. The unredacted originals shall be maintained conditionally under seal pending the hearing on January 12, 2005.

DATED: January 11, 2005

Rodney S. Melville
RODNEY S. MELVILLE
Judge of the Superior Court

THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY
County of Santa Barbara
By: RONALD J. ZONEN (State Bar No. 85094)
Senior Deputy District Attorney
GORDON AUCHINCLOSS (State Bar No. 150251)
Senior Deputy District Attorney
GERALD McC. FRANKLIN (State Bar No. 40171)
Senior Deputy District Attorney
1112 Santa Barbara Street
Santa Barbara, CA 93101
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

SANTA MARIA DIVISION

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. MICHAEL JOE JACKSON, Defendant.	No. 1133603 PEOPLE'S RESPONSE TO THE DEFENSE MOTION TO COMPEL DATE: January 12, 2005 TIME: 8:30 a.m. DEPT: SM 2 (Melville)

FILED UNDER SEAL

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

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

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

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

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

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

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

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

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

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

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

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

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///

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

DATED: January 7, 2005

Respectfully submitted,

THOMAS W. SNEDDON, JR.
District Attorney

PROOF OF SERVICE

STATE OF CALIFORNIA)
) SS
COUNTY OF SANTA BARBARA)

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

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

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

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

signature

SERVICE LIST

THOMAS A. MESEREAU, JR.
Collins, Mesereau, Reddock & Yu, LLP
1875 Century Park East, No. 700
Los Angeles, CA 90067
FAX: (310) 284-3122
Attorney for Defendant Michael Jackson

ROBERT SANGER, ESQ.
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233 E. Carrillo Street, Suite C
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FAX: (805) 963-7311
Co-counsel for Defendant

BRIAN OXMAN, ESQ.
Oxman & Jaroscak, Lawyers
14126 E. Rosecrans Blvd.,
Santa Fe Springs, CA 90670

Co-counsel for Defendant

EXHIBIT "A"

DECLARATION OF CHRISTY N. LINZ

I, Christy Linz, declare:

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

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

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

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

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

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

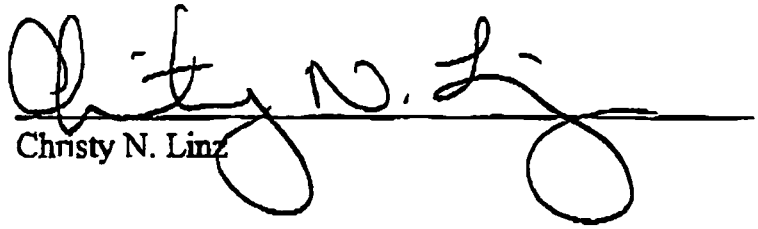
6. On December 23, 2004, I delivered a letter to Mr. Sanger's office suggesting Ms. Tryon and I meet again and compare our discovery documents. I further suggested, if a meeting was unacceptable, that Ms. Tryon provide me with a compact disk of their discovery in order to compare the discovery and resolve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

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

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

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

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



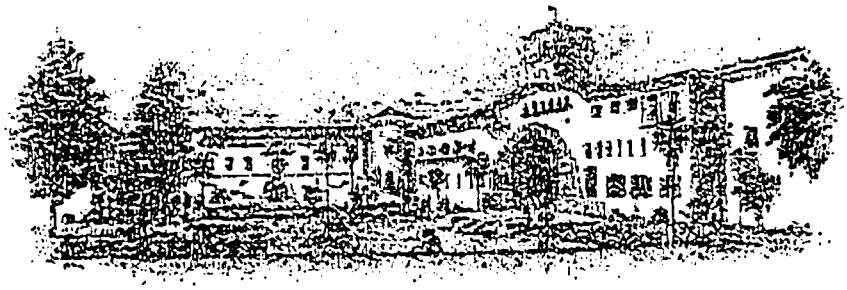
Christy N. Linz

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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EXHIBIT "C"

CMRY
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ATTORNEYS AT LAW

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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.

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"

[illegible] SNEDDON, JR.
District Attorney

MARNIE E. 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.

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(805) 346-7540
FAX (805) 346-7588

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,

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:

[redacted]

[redacted]

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

Very truly yours,

Susan C. Yu

EXHIBIT "F"

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

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:mm

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STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA:

I am a citizen of the United States of America and a resident of the county aforesaid. I am employed by the County of Santa Barbara, State of California. I am over the age of 18 and not a party to the within action. My business address is 312-H East Cook Street, Santa Maria, California.

On JANUARY 11, 2005, I served a copy of the attached ORDER FOR RELEASE OF REDACTED DOCUMENTS (PEOPLE'S RESPONSE TO THE DEFENSE MOTION TO COMPEL) addressed as follows:

THOMAS A. MESEREAU, JR.
COLLINS, MESEREAU, REDDOCK & YU, LLP
1875 CENTURY PARK EAST. 7TH FLOOR
LOS ANGELES, CA 90067

THOMAS W. SNEDDON, JR.
DISTRICT ATTORNEY'S OFFICE
1112 SANTA BARBARA STREET
SANTA BARBARA, CA 93101

X FAX

By faxing true copies thereof to the receiving fax numbers of: (805) 456-0699 (Thomas Mesereau, Jr.); (805) 568-2398 (Thomas Sneddon) . Said transmission was reported complete and without error. Pursuant to California Rules of Court 2005(i), a transmission report was properly issued by the transmitting facsimile machine and is attached hereto.

___ MAIL

By placing true copies thereof enclosed in a sealed envelope with postage fully prepaid, in the United States Postal Service mail box in the City of Santa Maria, County of Santa Barbara, addressed as above. That there is delivery service by the United States Postal Service at the place so addressed or that there is a regular communication by mail between the place of mailing and the place so addressed.

____ PERSONAL SERVICE

By leaving a true copy thereof at their office with the person having charge thereof or by hand delivery to the above mentioned parties.

____ EXPRESS MAIL

By depositing such envelope in a post office, mailbox, sub-post office, substation, mail chute, or other like facility regularly maintained by the United States Postal Service for receipt of Express Mail, in a sealed envelope, with express mail postage paid.

I certify under penalty of perjury that the foregoing is true and correct. Executed this 11TH day of JANUARY , 20 05 , at Santa Maria, California.

Carrie L Wagner

CARRIE L. WAGNER