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8 Attorneys for Defendant
MICHAEL JOE JACKSON
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FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

MAY 03 2005

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

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

12 THE PEOPLE OF THE STATE OF CALIFORNIA,

13 Plaintiff,

14 vs.

15 MICHAEL JOE JACKSON

16 Defendant.

) CASE NO. 1133603

) **REDACTED**

) **SUPPLEMENTAL 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

I.

SUMMARY OF SUPPLEMENTAL REQUEST

On March 3, 2005, the Court issued a Certificate of Requesting State for Attendance of Witness Located Outside California ("Certificate") to allow the defense to call [REDACTED] to testify at trial on April 1, 2005. (Yu Decl., ¶ 2; true and correct copies of the issued Certificate and the underlying Request for issuance of said Certificate are collectively attached thereto as Exhibit A.)

[REDACTED] has not yet been served. The Certificate on its face is no longer valid because the date for [REDACTED] to appear, i.e., April 1, 2005, has expired. Accordingly, the defense respectfully requests that the Court issue another Certificate bearing different commencement date for [REDACTED] appearance, i.e., sometime between [REDACTED], subject to an on-call agreement with the defense. The defense anticipates that [REDACTED] testimony will last approximately [REDACTED] days. (Yu Decl., ¶ 3.)

The defense recently learned that [REDACTED] [REDACTED] [REDACTED] [REDACTED] is reflected in the new Certificate, filed concurrently herewith. (Yu Decl., ¶ 4.)

All other information set forth in the Request remains unchanged. Thus, in the interest of brevity, the defense hereby incorporates the Request underlying the first Certificate as though set forth herein in full. (Yu Decl., ¶ 5.)

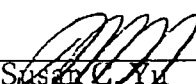
DATED: May 3, 2005

Respectfully submitted,

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

Robert M. Sanger
SANGER & SWYSEN

By:



Susan C. Yu
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. On March 3, 2005, the Court issued a Certificate of Requesting State for Attendance of Witness Located Outside California ("Certificate") to allow the defense to call [REDACTED] to testify at trial on April 1, 2005. True and correct copies of the issued Certificate and the underlying Request for issuance of said Certificate are collectively attached thereto as Exhibit A.

3. [REDACTED] has not yet been served. The Certificate on its face is no longer valid because the date for [REDACTED] to appear, i.e., April 1, 2005, has expired. Accordingly, the defense respectfully requests that the Court issue another Certificate bearing different commencement date for [REDACTED] appearance, i.e., sometime between [REDACTED], subject to an on-call agreement with the defense. The defense anticipates that [REDACTED] testimony will last approximately [REDACTED] days.

4. The defense recently learned that [REDACTED]
[REDACTED]
[REDACTED] is reflected in the new Certificate, filed concurrently herewith.

5. All other information set forth in the Request underlying the March 3, 2005 Certificate remains unchanged. Thus, in the interest of brevity, the defense hereby

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///

1 incorporates said Request as though set forth herein in full.

2 I declare under penalty of perjury under the laws of the State of California that the
3 foregoing is true and correct and that this declaration was executed on this 3rd day of May
4 2005, at Santa Maria, California.

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7 SUSAN C. YU

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EXHIBIT A

1 Thomas A. Mesereau, Jr. (SBN 91182)
Susan C. Yu (SBN 195640)
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7 Brian Oxman (SBN 072172)
8 OXMAN & JAROSCAK
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9 Santa Fe Springs, California 90670
Tel: (562) 921-5058; Fax: (562) 921-2298

10 Attorneys for Defendant
11 MICHAEL JOE JACKSON

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 FOR THE COUNTY OF SANTA BARBARA, SANTA MARIA DIVISION

14 THE PEOPLE OF THE STATE OF
15 CALIFORNIA,

16 Plaintiff,

17 vs.

18 MICHAEL JOE JACKSON

19 Defendant.

) CASE NO. 1133603

) **[PROPOSED] REDACTED**

) **CERTIFICATE OF REQUESTING STATE
FOR ATTENDANCE OF WITNESS
LOCATED OUTSIDE CALIFORNIA**

) **[UNIFORM ACT TO SECURE
ATTENDANCE OF WITNESSES]**

) HEARING: NOT REQUIRED

) DATE: N/A

) TIME: N/A

) Place: Dept. SM-2

) **FILED UNDER SEAL & BY FAX**

1 I do hereby certify as follows:

2 1. The above-entitled criminal prosecution against defendant Michael Joe
3 Jackson ("Mr. Jackson") is now pending in the Superior Court of the State of California for
4 the County of Santa Barbara. Mr. Jackson is charged with one count of conspiracy to
5 commit false imprisonment, child abduction and extortion (Count 1); four counts of lewd
6 conduct upon a child (Counts 2, 3, 4 and 5); one count of attempt to commit a lewd act
7 upon a child (Count 6); and four counts of administering alcohol to a minor to assist in
8 commission of a felony (Counts 7, 8, 9 and 10).

9 2. Mr. Jackson has entered a plea of not guilty to all charges. Trial is set to
- 10 begin on January 31, 2005.

11 3. [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 4. The presence of this witness is required for approximately [REDACTED] days,
20 commencing on April 1, 2005, in Department SM-2 of the above-entitled court, located at
21 312-C East Cook Street, Santa Maria, CA 93456-5369.

22 5. The laws of California afford the witness protection from arrest and service
23 of civil and criminal process during the time he is in California in obedience to the
24 subpoena directing him to appear and testify in this state, with respect to any matter
25 occurring before the witness' entrance into California under the subpoena.

26 6. This Certificate is made for the purpose of being presented to a Judge of a
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1 court of record in the State of [REDACTED]. The Judge in [REDACTED] may conduct a hearing and
2 make an order directing [REDACTED] to appear as a witness at the trial of the above-
3 entitled matter commencing on April 1, 2005, until his testimony is completed, including,
4 if necessary, the [REDACTED] day of his testimony, in Department SM-2 of the Superior
5 Court of the State of California for the County of Santa Barbara, located at 312-C East Cook
6 Street, Santa Maria, CA 93456-5369.

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

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16 Dated: _____

17 _____
18 RODNEY S. MELVILLE
19 Judge of the Superior Court of California
20 For the County of Santa Barbara
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Susan C. Yu (SBN 195640)
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Tel: (562) 921-5058; Fax: (562) 921-2298

10 Attorneys for Defendant
11 MICHAEL JOE JACKSON

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

14 THE PEOPLE OF THE STATE OF
15 CALIFORNIA,

16 Plaintiff,

17 vs.

18 MICHAEL JOE JACKSON

19 Defendant.

) CASE NO. 1133603

) **[PROPOSED] REDACTED**

) 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 [REDACTED] as a witness at his forthcoming trial. [REDACTED] 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: January 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 to
5 commit false imprisonment, child abduction and extortion (Count 1); four counts of lewd
6 conduct upon a child (Counts 2, 3, 4 and 5); one count of attempt to commit a lewd act
7 upon a child (Count 6); and four counts of administering alcohol to a minor to assist in
8 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 but
- 10 unindicted individuals, and other "uncharged" and "unknown" alleged co-conspirators to
11 commit child abduction, false imprisonment and extortion. Twenty-eight overt acts in
12 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 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED] (Yu Decl., ¶ 5.)

20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED] (Yu
26 Decl., ¶ 6.)

27 The Defense estimates that [REDACTED] will be required to testify for
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1 approximately [REDACTED] days. 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 [REDACTED]. Accordingly [REDACTED] 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 NEVADA ISSUE A SUBPOENA COMPELLING [REDACTED]
8 [REDACTED], A MATERIAL WITNESS IN THIS CASE, TO APPEAR AND TESTIFY

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

16 The provisions of the Uniform Act do not constitute the power to subpoena the out-
17 of-state witness. Rather, they are merely a procedure to request that the other state's court
18 issue a subpoena. (People v. DuBose, 10 Cal.App.3d 544, 549 (1970); People v.
19 Cavanaugh, 69 Cal.2d 262, 265-266 (1968).) In order for the Uniform Act to apply, the
20 person who is located in another state and whose presence in court is desired, must be a
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23 ¹ Also, if a person comes into California to attend and testify in an action pursuant to
24 proceedings under the Uniform Act, the witness is not subject to arrest or service of civil
25 or criminal process in connection with matters that arose before his or her appearance in
26 the matter. (Pen. Code §§ 1334.4, 1334.5; Vannier v. Superior Court, *supra*, 32 Cal.2d at
27 170-173.) 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. Murrey, 216 Cal. 707, 710 (1932);
Mattison v. Lichlyter, 162 Cal.App.2d 60, 63 (1958); Velkov v. Superior Court, 40 Cal.2d
289, 292 (1953).)

1 material witness in the case. (Pen. Code § 1334.2, 1334.3; People v. Cavanaugh, *supra*, 69
2 Cal.2d at 266; People v. Newville, 220 Cal.App.3d 267, 274 (1963).)

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

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

18 In this case, [REDACTED] is a material witness whose presence is essential to ensure
19 Mr. Jackson a fair trial. [REDACTED] is intimately familiar with the events surrounding
20 the alleged crimes in the Indictment, particularly the conspiratorial acts, and can testify to
21 Mr. Jackson's complete innocence. Accordingly, the requested Certificate should issue.
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23 _____
24 ² Penal Code Section 1334.3(b) provides: "If the witness subpoenaed to attend and
25 testify in this state is at the time he or she is required to appear and testify an inmate of a
26 state prison, county jail, or other penal facility, the witness shall, while attending in this
27 state as a witness, be furnished food and lodging in the jail or other appropriate penal
28 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)."

1 The defense will then take appropriate steps to forward this Certificate to a Court in
2 [REDACTED], in the county in which [REDACTED] is located. (Yu Decl., ¶ 7.)

3 V.

4 CONCLUSION

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

7 DATED: January 18, 2005 Respectfully submitted,

8
9 Thomas A. Mesereau, Jr.
10 Susan C. Yu
11 COLLINS, MESEREAU, REDDOCK & YU

12 Robert M. Sanger
13 SANGER & SWYSEN

14 Brian Oxman
15 OXMAN & JAROSCAK

16 By: _____
17 Susan C. Yu
18 Attorneys for Mr. MICHAEL J. JACKSON
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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. [REDACTED]

6. [REDACTED]

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[REDACTED]

[REDACTED]

7. The Defense estimates that [REDACTED] will be required to testify for approximately [REDACTED] days. Depending on the duration of the jury selection and the Prosecution's case in chief, the Defense could commence its case in chief on as early as [REDACTED]. Accordingly [REDACTED] should be required to appear for his testimony on this date. Once the Certificate issues, the defense will take appropriate steps to forward it to a Court in [REDACTED], in the county in which [REDACTED] is located.

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

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 18th day of January 2005, at Los Angeles, California.

SUSAN C. YU