

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

NOV 24 2004

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

[Declaration of Brian Oxman in Opposition to
Motion to Modify Teal Order]

The redacted form of the Declaration of Brian Oxman in Opposition to Motion to Modify Teal Order attached to this order shall be released and placed in the public file. The court finds that there is more material in the motion that should be redacted than that contained in the proposed redacted version. The unredacted originals shall be maintained conditionally under seal pending the hearing on November 29, 2004.

DATED: November 24, 2004

Rodney S. Melville

RODNEY S. MELVILLE
Judge of the Superior Court

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REDACTED
COPY

12
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION
15

16 THE PEOPLE OF THE STATE OF
17 CALIFORNIA,

18 Plaintiffs,

19 vs.

20 MICHAEL JOSEPH JACKSON,

21 Defendant.
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Case No. 1133603

DECLARATION OF BRIAN OXMAN
IN OPPOSITION TO MOTION TO
MODIFY TEAL ORDER

Honorable Rodney S. Melville

Date: November 29, 2004
Time: 8:30 p.m.
Dept: SM 2

DECLARATION OF BRIAN OXMAN IN OPPOSITION TO MOTION TO MODIFY TEAL ORDER

DECLARATION OF BRIAN OXMAN

I, Brian Oxman, declare and say:

1. I am an attorney at law admitted to practice before all the courts of the State of California and I am an attorney for Mr. Michael Jackson. I submit this declaration in opposition to plaintiff's Motion to Modify Teal Order.

2. I am the attorney who issued the subpoena that are the subject of plaintiffs motion. Mr Jackson's subpoena are material and relevant to this case and demonstrate the complaining witnesses [REDACTED] None of the subpoena invade any privilege or right to privacy and in the cause of the U.S. Army subpoena the Court has already endorsed the subpoena.

A. Mr. Jackson's Subpoena [REDACTED] are Relevant and Material

3. Plaintiff states:

"I am aware that subpoenas have been sent to at least three entities and two professional persons that have records relating to the Doe family. The entities are the [REDACTED] [REDACTED]. The professionals are [REDACTED] [REDACTED] (Franklin Dec., p. 4, ln 14-17).

4. In direct violation of this Court's July 9, 2004, Order, [REDACTED] [REDACTED] have informed the prosecution of the existence of a subpoena. Their disregard for this Court's orders after being served with a copy of the July 9, 2004, Order, demonstrates an overriding bias that is the product of their vested financial interest in this case that is so strong that it compels them to violate court orders. These individuals have no excuse for their inexcusable flaunting of the July 9, 2004, Order.

1. Mr. Jackson's subpoena [REDACTED] is relevant and material.

a. Plaintiff has placed the family's medical condition in issue.

5. Plaintiff argues:

"The subpoena [REDACTED] medical records demands all records of each member of the family, including their three month-old-baby. The demand is for actual copies of x-rays, lab tests, MRI films, ultrasounds, gynecological records, billing records, examinations, medical diagnosis and

1 history of medications. There is nothing a medical institution can do to a patient or for a patient that
2 isn't demanded by defendant's subpoena." (Zonen Dec., p. ln 5-11).

3 6. Plaintiff produced a medical report dated August 12, 2004, from [REDACTED]
4 [REDACTED] claiming the complaining mother was physically incapacitated and unable to attend court.
5 (Exhibit "A"). Plaintiff then asks this Court to block Mr. Jackson's subpoena that seeks to verify the
6 medical representations that the prosecution and the complaining witness made to this Court. There was no
7 limitation on the August 12, 2004, [REDACTED], and not only did plaintiff open the door to permit
8 Mr. Jackson's inquiry into the medical representations made in that letter, but also under Evidence Code
9 section 998, there is no physician-patient privilege in criminal proceedings. Evidence Code section 998.

10 7. The physician patient privilege did not exist at common law and is strictly controlled by statute.
11 Kramer v. Policy Holders Life Ins. Assn, 5 Cal. App. 2d 38, 384 (1935). Evidence Code section 998
12 provides, "There is no privilege under this article in a criminal proceeding." It is a fundamental tenant of
13 the physician patient privilege that it has no application in criminal proceedings. People v. Combes, 56
14 Cal. 2d 135, 149 (1961)(no individual may claim any privilege based on a physician-patient relationship in
15 any criminal proceeding).

16 8. The rule that there is no physician patient privilege has long been the law in California. People
17 v. Lane, 101 Cal. 513, 516 (1894); People v. West, 106 Cal. 89, 91 (1895). There is no doctor-patient
18 privilege in criminal cases. People v. Ditson, 57 Cal. 2d 415, 448 (1962), cert. denied, 371 U.S. 852, cert.
19 dismissed, 372 U.S. 933 (1963); People v. Gonzales, 182 Cal. App. 2d 276, 280 (1960); People v.
20 Griffith, 146 Cal. 339 (1905); People v. Dutton, 62 Cal. App. 2d 862 (1944). "There is no physician-
21 patient privilege for any communication sought to be disclosed in a criminal action. Evid C sec. 998." 2
22 Jefferson's California Evidence Benchbook, sec. 37.22, at 827 (3d ed. 2004).

23 9. In People v. Combes, 56 Cal. 2d 135, 149 (1961), the court stated:

24 "There is no physician-patient privilege in criminal cases. (Code of Civil Procedure, section 1881,
25 subdivision 4, provides for the privilege in civil cases only.) Testimony is admissible concerning
26 the results and findings of a physical examination of a defendant to which he has voluntarily
27 submitted. (People v. Gutierrez, 126 Cal.App. 526, 531.)"

10. The prosecutions objections are without foundation. [REDACTED]

b. The subpoena is relevant and made in good faith.

11. The subpoena seeks X-rays because the complaining mother has stated that [REDACTED]

[REDACTED] (GJ Tr., p. 1209, lns 17-21; Police Interview, 8-13-04, Exhibit "B," p. 13 ln 12 to p. 14, ln 7) [REDACTED]

12 [REDACTED]

(1) Laboratory tests are relevant and material.

13. The subpoena seeks lab tests [REDACTED]

[REDACTED] (See Motion for Medical Examination). Laboratory tests will reveal her use and non-use of medications, and those tests also reveal the non-existence of the various other illnesses and body complaints [REDACTED]

14. Laboratory tests for the complaining witnesses are critical in this case because the prosecution has claimed that Mr. Jackson was part of a vast conspiracy to dump a urine sample jar so that alcohol would not be detected in the older son's urine. [REDACTED]

[REDACTED] There was sufficient urine to test on the occasion in question, and the laboratory reports will demonstrate that fact.

1 15. The defense believes additional and other urine samples from both the mother and her children
2 will demonstrate [REDACTED] is the complaining witnesses who has raised these issue
3 and opened the door to the examination of their medical records. Mr. Jackson is entitled to subpoena those
4 records.

5 (2) MRI films are relevant to show claimed injuries.

6 16. MRI films of the mother will demonstrate if she has ever sustained a head injury. [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED] and Mr. Jackson is entitled
10 to MRI scans that demonstrate the nature and extent of [REDACTED] injuries to these complaining witnesses. In
11 addition, MRI films will demonstrate the presence of absence of injury [REDACTED]
12 [REDACTED]

13 (3) Gynecology records show the use or non-use of drugs

14 17. Mr. Jackson's subpoena seeks the complaining mother's most recent medical treatments at
15 UCLA and seeks gynecological records only to the extent they reflect her treatment, prescription of drugs,
16 and her use or non-use of drugs. The subpoena seeks all of her medical records, and the mother's
17 gynecological records are relevant to this proceeding because the mother became pregnant at the same time
18 she has given testimony in this case. Her medical records contain a history of the use of [REDACTED]
19 [REDACTED] drugs, and [REDACTED]
20 [REDACTED]
21 [REDACTED]. The records are relevant because they disclose other medical information dealing with the
22 truth of her claims and not for the sake of the gynecological portion of the records.

23 18. The mother testified before the Grand Jury without the benefit of medications, [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED] The complaining
28 mother's gynecological records will demonstrate the fact she failed to take her medication.

(4) Billing records will disclose [REDACTED]

19. [REDACTED]

20. [REDACTED]

The medical bills from health care provides will demonstrate the mother defrauded Michael Jackson.

c. Mr. Jackson's right to a fair trial outweighs privacy claims.

21. The complaining mother has testified about her medical condition and accused Michael Jackson of injuring her. She offered a report from [REDACTED] saying she was [REDACTED] physically unable to attend court on September 27, 2004. Mr. Jackson's interest in a fair trial far outweighs any of the mother's claims to privacy.

22. The constitutional right to privacy is not absolute and is outweighed by rights to a fair trial. Binder v. Superior Court, 196 Cal. App. 3d 893, 900 (1987). Other state interests, such as facilitating the ascertainment of truth in a criminal proceeding, outweigh privacy rights. Board of Trustees v. Superior Court, 119 Cal. App. 3d 516, 524-25 (1981). In Palav v. Superior Court, 18 Cal. App. 4th 919, 933 (1993), the court stated:

"The constitutional right to privacy is not absolute. ([Jones v. Superior Court,] 119 Cal.App.3d at p. 550; Board of Medical Quality Assurance v. Gherardini, supra, 93 Cal.App.3d at p. 679.) It may be outweighed by supervening concerns. (Ibid.) The state has enough of an interest in discovering the truth in legal proceedings, that it may compel disclosure of confidential material. (Jones v. Superior Court, supra, 119 Cal.App.3d at p. 550.) "[A]n individual's medical records may be relevant and material in the furtherance of this legitimate state purpose" (Board of Medical Quality Assurance v. Gherardini, supra, 93 Cal.App.3d at p. 679.) An "intrusion upon constitutionally protected areas of privacy requires a 'balancing of the juxtaposed rights, and the

1 finding of a compelling state interest.' [Citations.]" (Jones v. Superior Court, supra, 119 Cal.App.3d
2 at p. 550.)"

3 23. While the prosecution claims her medical records are irrelevant to this proceeding, the mother
4 is the one who claims physical injuries to her and her children because of Michael Jackson. It is improper
5 for anyone to offer a doctor's report to a court of law [REDACTED]
6 [REDACTED] and then to attempt to hide the medical records. Mr. Jackson has a
7 right to determine the veracity of not only the complaining mother, but also the physicians involved, and
8 the court should compel production of the medical records.

9 2. The American Express records are relevant to this case

10 24. Mr. Jackson seeks records of the complaining witnesses American Express credit card. [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 25. Attached as Exhibit "C" and "D" are copies of two (2) checks from the County of Los Angeles
17 made out to [REDACTED]. The first check (Exhibit "C") is dated January 2, 2003, in
18 the amount of \$769.00, and was cashed [REDACTED] on January 2, 2003, the same
19 day the check was issued. [REDACTED]

20 26. [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED] That American Express
25 card is also the means by which the funds collected by Fritz Coleman and others are expended.

26 27. But the second check (Exhibit "D") is [REDACTED] a check dated February 19,
27 2003, in the amount of \$769.00 from the County of Los Angeles [REDACTED]. It was
28 [REDACTED] cashed through [REDACTED] bank account on February 24, 2003, right in the middle of the

1 alleged child abduction, false imprisonment, and extortion. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 28. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 **3. The complaining family waived all privileges with Psychologist Katz.**

10 **A. Psychologist Katz publicly disclosed confidential communications.**

11 29. Plaintiff claims the subpoena to Psychologist Katz violates the psychotherapist-patient privilege
12 under Evidence Code section 1014, and demands the court to hold they are "privileged and confidential and
13 that such records not be turned over to any third party without the specific consent of the holder of the
14 privilege." (Zonen Dec., p. 6, ln 26 to p. 7, ln 1). However, under Penal Code section 11171, when
15 Psychologist Katz disclosed, with his patient's permission, his confidential patient communications by
16 making a public report concerning his allegations of abuse, all privilege was lost. When Psychologist Katz
17 testified before the Grand Jury, there is no basis for any claim of privilege under section 1014 because the
18 information was disclosed and the privilege lost.

19 30. Evidence Code section 912(a) provides:

20 "Except as otherwise provided in this section, the right of any person to claim a privilege
21 provided by Section ... 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), ...
22 is waived with respect to a communication protected by the privilege if any holder of the privilege,
23 without coercion, has disclosed a significant part of the communication or has consented to
24 disclosure made by anyone. Consent to disclosure is manifested by any statement or other conduct
25 of the holder of the privilege indicating consent to the disclosure, including failure to claim the
26 privilege in any proceeding in which the holder has the legal standing and opportunity to claim the
27 privilege."

28 31. In Roe v. Superior Court, 229 Cal. App. 3d 832, 838-39 (1991), the court stated:

1 "One of the primary reasons for our conclusion is that Mrs. Roe's confidential
2 communications have already been disclosed to several parties, including the DCS and at least two
3 social workers. Under these circumstances, it would be obstructionist to deny Mr. Roe discovery of
4 previously disclosed information."

5 32. Privileged information previously disclosed in a public forum may no longer be claimed as
6 privileged. Klang v. Shell Oil Co., 17 Cal. App. 3d 933, 938 (1971). Once a psychotherapist
7 communication has been disclosed, the patient can no longer claim the communication to be privileged.
8 Jasmine Networks, Inc. v. Marvell Semiconductor, Inc., 117 Cal. App. 4th 794, 805 (2004). Even if the
9 expert's communication is somehow protected, any privilege is lost once the expert is called to testify at
10 trial. Mitchell v. Superior Court, 37 Cal. 3d 591, 601 (1984).

11 33. The complaining family waived all privileges with Psychologist Katz when Katz publically
12 disclosed their communications with their consent, and Mr. Jackson is entitled to Psychologist Katz'
13 records, not only because he brought them to court on August 17, 2004, and testified utilizing them, but
14 also he has fully disclosed their content. People v. Gurule, 28 Cal. 4th 557, 593 (2001), and People v.
15 Milner, 45 Cal.3d 227, 241 (1988)(during cross-examination, the opposing party is entitled to delve into all
16 matters relied on or considered by the expert in reaching his conclusions). Mr. Jackson has the right to
17 cross-examine the expert witness on all aspects of the opinion rendered regarding the psychological state of
18 a person the expert has examined. Nielsen v. Superior Court, 55 Cal. App. 4th 1150, 1155 (1997). All of
19 the communications have been previously disclosed, and the privilege has been lost.

20 **b. Psychologist Katz' report to authorities waived the privilege.**

21 34. Psychologist Katz made a report under Penal Code section 11165 to the Department of
22 Children and Family Services on June 13, 2003, and the Santa Barbara Sheriff's Department. By making
23 that report, the psychotherapist privilege is not only lost through disclosure, but also by statute is no longer
24 available. Penal Code section 11171. Mr. Jackson is entitled to all records in Psychologist Katz'
25 possession.

26 35. In People v. Stritzinger, 34 Cal. 3d 505, 512 (1983), the court stated:

27 "Together these provisions [Evidence Code sections 11165 et seq.] impose on
28 psychotherapists the affirmative duty to report to a child protective agency all known and suspected

1 instances of child abuse. Lest there be any doubt that the Legislature intended the child abuse
2 reporting obligation to take precedence over the physician-patient or psychotherapist-patient
3 privilege, section 11171, subdivision (b), explicitly provides an exception to these very privileges:
4 "Neither the physician-patient privilege nor the psychotherapist-patient privilege applies to
5 information reported pursuant to this article in any court proceeding or administrative hearing." The
6 Legislature obviously intended to provide specific exception to the general privileges set out in the
7 Evidence Code (Evid. Code, §§ 994, 1014) so that incidents of child abuse might be promptly
8 investigated and prosecuted."

9 36. A psychotherapist is required to testify in court about any conversation the therapist has had
10 with a person which is reported to the authorities. People v. John B., 192 Cal. App. 3d 1073, 1077 (1987).
11 A psychotherapist who makes a mandatory report under Penal Code section 11165 et seq. must also reveal
12 to the person accused of improper conduct all communications to the psychotherapist from the complaining
13 witness. Roe v. Superior Court, 229 Cal. App. 3d 832, 838 (1991). The psychotherapist-patient privilege
14 is not absolute and must yield in the face of compelling state interests where there is a public child abuse
15 report. People v. Younghanz, 156 Cal. App. 3d 811, 816-17 (1984).

16 37. Psychologist Katz made a public report of the conduct he claims required a mandatory report
17 under Penal Code section 11165. That report waived all claims of psychotherapist-privilege and he is
18 required to disclose the communications with his patients as a result of that report. Mr. Jackson's subpoena
19 does not infringe on any psychotherapist-patient privilege.

20 **c. The subpoena to Psychologist Katz is not overbroad.**

21 38. Attorney Zonen states:

22 "I am informed by Dr. Stan Katz that a subpoena duces tecum issued on behalf of Defendant
23 by Attorney Brian Oxman calls for, among other information, all his telephone records over what I
24 assume are the past several years. Dr. Katz is concerned that the disclosure of such records will
25 readily lead to Defendant's discovery of the identities of his patients." (Zonen Dec., p. 6, ln 26 to p.
26 7, ln 2).

27 39. However, Attorney Zonen's information is not only incorrect, but also hearsay without
28 foundation. Kendall v. Allied Investigations, Inc., 197 Cal. App. 3d 619, 623-24 (1988)(attorney testimony

1 based on hearsay is inadmissible). Not only does the subpoena to Psychologist Katz not request
2 information regarding other patients, but also improper communications have repeatedly taken place
3 between the prosecution and Psychologist Katz. This court should demand Psychologist Katz produced
4 telephone records that demonstrate the communications with the prosecution that are so compelling that
5 both the prosecution and Psychologist Katz see fit to violate a Court Order dated July 9, 2004.

6 40. Not one of Mr. Jackson's subpoena requests to Psychologist Katz asks for revelation of other
7 patient information. Neither Psychologist Katz nor Attorney Zonen can point to any request in the
8 subpoena that seeks to invade other patients' information. The claim lacks foundation in law and fact.¹

9 **4. Attorney Feldman's Waived Attorney Client privilege.**

10 41. Attorney Feldman testified to the Grand Jury there was a waiver of the attorney-client privilege
11 [REDACTED] For the prosecution to now claim there is a privilege that prevents Mr.
12 Jackson from issuing a subpoena to Attorney Feldman defies explanation. The prosecution procured an
13 indictment against Mr. Jackson through Attorney Feldman's testimony, and Mr. Jackson is entitled to his
14 records.

15 42. Attorney Feldman told the Grand Jury on March 29, 2004:

16 "Q Okay. Did the subject of the conversations concern [REDACTED]?"

17 "A That was part of the subject. You have a waiver, right?"

18 "Q Yes, I do.

19 "A Okay. Yes.

20 "Q [REDACTED] has waived the attorney-client privilege?"

21 "A Right. Yes. The answer is yes." (Tr. p. 66, lns. 2-10).

22 43. This was a full and complete waiver of the privilege without any qualifications. Any
23 communications Attorney Feldman had with [REDACTED] along with Psychologist Katz,
24 are no longer privileged, not only because of the waiver, but also because Attorney Feldman testified about
25 his communications with his clients to the Grand Jury. Klang v. Shell Oil Co., 17 Cal. App. 3d 933, 938

26
27
28 ¹ Mr. Jackson is not interested in Psychologist Katz other clients and patients. Psychologist Katz
should take whatever means that are appropriate to redact other patients.

1 (1971)(privileged information previously disclosed in a public forum may no longer be claimed as
2 privileged). Once the communication between the attorney's clients was publicly disclosed or the privilege
3 was waived, the client can no longer claim the communication to be privileged. Mitchell v. Superior Court,
4 37 Cal. 3d 591, 601 (1984). Mr. Jackson is entitled to all of Attorney Feldman's records and his subpoena
5 to this attorney is proper.

6 **5. The Court has already approved the subpoena to [REDACTED]**

7 44. Plaintiff claims that the subpoenas [REDACTED] and American Express "seek
8 documents with little or no limitation on the information about the Doe family that would be revealed by
9 these documents. I have been asked by Mr. Doe, the victim's stepfather, to seek the court's intervention to
10 curb what he rightly believes to be Defendant Jackson's unlimited and unrestrained access to personal and
11 private records and materials." (Zonen Dec., p. 18-22). How Attorney Zonen learned of these subpoenas in
12 direct violation of the Court's July 9, 2004, Order has been concealed from the Court. Plaintiff appears
13 willing to knowingly violate the Court's July 9, 2004, Order, while at the same time neglecting to tell the
14 Court the Court previously approved [REDACTED] on October 22, 2004.

15 **a. [REDACTED] subpoena seeks relevant and material information.**

16 45. Plaintiff says:

17 "One of Defendant's 'everything-but-the-kitchen-sink' subpoenas was directed to [REDACTED]
18 [REDACTED] calling for a virtually complete copy of Mr. Doe's personnel file." (Plaintiff's Memo,
19 p. 18, lines 12-13).

20 46. However, on October 17, 2004, Mr. Jackson made an application to this court requesting his
21 subpoena [REDACTED] be approved as "material and relevant" under the rules and regulations

22 [REDACTED]
23 [REDACTED] The application made a showing of both probable cause and materiality of the requested records
24 and set forth for the court the [REDACTED] requirements for the approval of a subpoena. On October 22, 2004,
25 the court signed an Order endorsing the subpoena which stated:

26 "The Court having permitted Counsel to submit an Ex Parte Application, Counsel having
27 done so and GOOD CAUSE APPEARING THEREFORE,

1 "IT IS HEREBY ORDERED that the evidence of witnesses, the Custodian of Records for

2 [REDACTED]
3 [REDACTED]
4 [REDACTED] is material and relevant, and the Subpoena
5 Duces Tecum for work records of [REDACTED] is necessary and relevant to this proceeding,
6 the Court hereby endorses the subpoena attached hereto dated October 14, 2004." (Exhibit "E").

7 47. In Mr. Jackson's application to the court, he made a showing of why [REDACTED] work
8 records and personnel file are relevant to this proceeding. This [REDACTED] was present and
9 repeatedly spoke to the complaining witnesses during the entire time period the vast conspiracy to falsely
10 imprison, abduct, and threaten the complaining family took place. Yet, [REDACTED] saw nothing
11 improper, nor did he raise any alarm, and he was completely helpless to stop the forces of Neveland from
12 abducting his family.

13 **b. Plaintiff placed [REDACTED] reliability and background in issue.**

14 48. Plaintiff argues:

15 "The point here [REDACTED] is that most of the information sought by the
16 subpoena is (a) private in nature, and (b) irrelevant to any legitimate concern of the defendant's."
17 (Plaintiff's Memo, p. 18, line 18-20).

18 49. However, plaintiff makes no showing of what in the subpoena is irrelevant, and when the Court
19 entered its order on October 22, 2004, the court found the subpoenaed information was material and
20 relevant." That finding was based on:

21 (1) [REDACTED] was identified by the District Attorney as the confidential reliable
22 government informant in at least six (6) search warrants in this case. The government has vouched for his
23 history of trustworthiness, veracity, and credibility. The act of representing to this court that this man is
24 reliable and trustworthy renders all of his background, training, and employment records relevant to this
25 proceeding;

26 (2) [REDACTED] testified before this Court about his 22 years of experience as a
27 [REDACTED]. He told the police he was in contact with [REDACTED] at all times during the
28 period when the [REDACTED] family was being falsely imprisoned, yet [REDACTED]

1 [REDACTED] he did nothing regarding such false imprisonment. His failure to take action [REDACTED]

2 [REDACTED]
3 [REDACTED]
4 (3) [REDACTED] conducted surveillance of Bradley Miller prior to the search of his
5 office on November 18, 2003, with full knowledge that Mr. Miller was employed by Attorney Mark
6 Geragos because Jay Jackson was present at a tape recorded interview where Bradley Miller where he said
7 he worked for Attorney Geragos. However, according to his sworn testimony before this Court, [REDACTED]

8 [REDACTED] never once disclosed that information to the government. This blatant omission, or more
9 accurately concealment, renders his [REDACTED]

10 [REDACTED] relevant to this proceeding.

11 50. [REDACTED]

12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 c. [REDACTED]

16 51. [REDACTED]

1 52. [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]

5 **B. Plaintiff's Requests for Injunctive Orders are Without Foundation.**

6 53. Plaintiff has requested the Court enter a series of injunctive orders without providing any
7 evidence or support for them, and requests the Court to order Mr. Jackson to provide an accounting of each
8 subpoena issued by him that call for production of documents. (Plaintiff's motion, p. 2, lines 8-10)
9 However, on December 6, 2004, Mr. Jackson is required by the orders of this Court, Penal Code section
10 1054, and the express terms of Teal v. Superior Court, 17 Cal. App. 4th 488 (2004), to disclose all
11 information gathered by his subpoenas. Since the court has set December 6, 2004, as the date to turn over
12 such information, and Mr. Jackson will turn over all subpoenaed materials on December 6, 2004, plaintiff's
13 request is moot.

14 54. Plaintiff asks this court to order the defense to

15 "Commit to the court that no copies of documents obtained by subpoena duces tecum will
16 be made until after the court has determined that the materials subpoenaed are relevant to the
17 defense case and not overly intrusive [REDACTED]
18 [REDACTED]

19 55. The request is not only unworkable, but also designed to create a violation of a court order
20 before the court order is issued. Plaintiff presents no justification nor factual support as the basis for this
21 unduly burdensome request. With the plaintiff having engaged in more than 100 search warrants, gathered
22 documents itself in secret through the use of subpoenas, plaintiff has no basis to make such a request.

23 _____
24 2 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

1 56. Plaintiff asks the Court to required Mr. Jackson to notify recipients of subpoenas they are free
2 to communicate with the Plaintiff concerning the subpoena and to provide the Plaintiff with copies.
3 (Plaintiff's Motion, p. 2, 18-20). However, there is no reason to vitiate the holding of Teal v. Superior
4 Court, 117 Cal. App. 4th 488 (2004), nor is there justification to notify subpoenaed parties of anything.
5 Plaintiff will receive all subpoenaed materials on December 6, 2004, and whatever inquires plaintiffs
6 wishes to make concerning the materials will be plaintiff's decision.

7 57. Plaintiff requests the Court to enter an "order requiring that all materials received by defendant
8 pursuant to a subpoena duces tecum issued by him be kept secure and confidential and not be turned over to
9 any other party." (Plaintiff's Motion, p. 2, lines 21-23). This kind of "injunctive" order not only is without
10 factual support, but also the Court has in place a Protective Order dated January 23, 2004, that requires
11 non-disclosure of materials in this proceeding. Not once has the defense violated that protective order,
12 while on the other hand, the prosecution had repeatedly given the news media information that it
13 considered favorable to it.

14 **C. The Prosecution's Claim the Defense Will Leak Information is Without Merit.**

15 58. The problem of prosecution leaks has been so severe that Mr. Jackson can point to repeated
16 news reports of [REDACTED]
17 [REDACTED] the prosecution has leaked all of them. If
18 Mr. Jackson had ever been interested in leaking information concerning this case, he would have leaked
19 information contained in this memorandum. [REDACTED]
20 [REDACTED]. Mr. Jackson did not do that because
21 of his great respect for this Court.

22 59. In the face of this, plaintiff states:

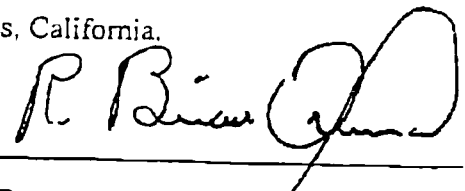
23 "The Doe family is concerned that sensitive materials subpoenaed by Defendant will
24 ultimately end up on NBC or CNN just as did the victim's DCFS file and the video of Jane Doe's
25 interview with detective." (Zonen Dec., p. 5, lines 2-4).

26 There is not one single document which has been subpoenaed by the defense in this case that has
27 wound up in the hands of any news organization. Unlike the prosecution that has repeatedly leaked the
28 reports indicated above, the defense has never done that. With the damning evidence Mr. Jackson has

1 produced through his subpoenas, this Court will recognize Mr. Jackson has not ever leaked any of it to any
2 outside source.

3 I declare under penalty of perjury under the laws of the State of California the foregoing is true and
4 correct.

5 Executed this 24th day of November, 2004, at Santa Fe Springs, California.



8 R. Brian Oxman

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EXHIBITS A - G OMITTED

PROOF OF SERVICE
1013A(1)(3), 1013(c) CCP

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 NOVEMBER 24, 20 04, I served a copy of the attached ORDER FOR RELEASE OF REDACTED DOCUMENTS (DECLARATION OF BRIAN OXMAN IN OPPOSITION TO MOTION TO MODIFY TEAL ORDER) 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: (310) 861-1007 (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.

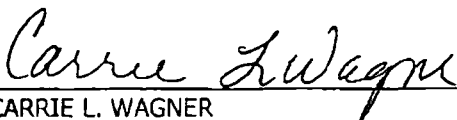
 PERSONAL SERVICE

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 24TH day of NOVEMBER, 20 04, at Santa Maria, California.


CARRIE L. WAGNER