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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

DEC 17 2004

GARY M. BLAIR, Executive Officer
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
Plaintiff's Objections to Subpoenas]

The redacted form of the Declaration of Brian Oxman in Opposition to Plaintiff's
Objections to Subpoenas 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 December 20, 2004.

DATED: _____ DEC 17 2004

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

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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.
22
23
24

) Case No. 1133603

) MR. JACKSON'S PROPOSED
REDACTED DECLARATION OF BRIAN
OXMAN IN OPPOSITION TO
PLAINTIFF'S OBJECTIONS TO
SUBPOENAS

) Honorable Rodney S. Melville

) Date: December 15, 2004
Time: 8:30 p.m.
Dept: SM 2

) FILED UNDER SEAL

RECEIVED
04 DEC 15 AM 9:21
COURT CLERK
SANTA BARBARA COUNTY

25
26 TO THE CLERK OF THE ABOVE ENTITLED COURT:

27 Please take notice that accompanying this document is Mr. Jackson's proposed redacted
28 Declaration of Brian Oxman in Opposition to Plaintiff's Objection to Subpoenas.

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These proposed redacted documents are submitted pursuant to the Ex Parte Application to
Seal filed with the court on December 15, 2004.

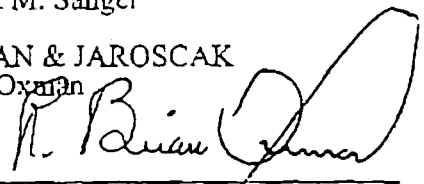
Dated: December 15, 2004

Respectfully submitted,

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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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23
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) Case No. 1133603

) DECLARATION OF BRIAN OXMAN IN
) OPPOSITION TO PLAINTIFF'S
) OBJECTION TO SUBPOENAS

) Honorable Rodney S. Melville

) Date: December 20, 2004

) Time: 8:30 p.m.

) Dept: SM 2

) FILED UNDER SEAL

I.

INTRODUCTION

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. Plaintiff has filed an Objection to Subpoenas in response to Mr. Jackson's Motion to Compel Compliance with Subpoena to [REDACTED]. In addition, plaintiff has added a new objection regarding Mr. Jackson's subpoena of the [REDACTED] and [REDACTED] records from [REDACTED]. Plaintiff's objections are without foundation because:

(1) There is no physician-patient privilege in criminal proceedings, and the complaining mother's [REDACTED] records from [REDACTED] are relevant because she has placed her mental and physical conditions in issue by claiming injuries as a result of Mr. Jackson's conduct.

(2) The subpoena to the [REDACTED] is relevant because [REDACTED] is a government informant who has placed his reliability as a government employee in issue by the prosecution vouching for his veracity, and he has apparently committed [REDACTED] by failing to disclose his [REDACTED] income on his [REDACTED];

(3) Plaintiff has no standing to assert the individual privacy rights of witnesses, and plaintiff again fails to address the fact the court issued an order finding the [REDACTED] subpoena "material and relevant" on October 22, 2004.

II.

THE COURT SHOULD COMPEL PRODUCTION OF THE SUBPOENAED RECORDS

BECAUSE THEY ARE RELEVANT AND NOT COVERED

BY ANY PRIVILEGE

A. Plaintiff has No Standing to Raise Private Objections for Complaining Witnesses

1. The prosecutor represents the People not the witnesses.

2. Mr. Jackson has received no objections or responding papers from the complaining witnesses regarding his Motion To Compel Compliance with Subpoena to [REDACTED]. They were served with the subpoenas themselves on December 1, 2004, and a Notice setting forth their rights to complain on

1 December 3, 2004. (Exhibit "A"). Because they did not object within the five (5) court days set forth by
2 the court, the court should release all of the subpoenaed records.¹

3 3. The public prosecutor is not the attorney for the complaining witnesses.² Without statutory
4 authority a district attorney may not represent a third party in a criminal proceeding. Bullen v. Superior
5 Court, 204 Cal. App. 3d 22, 25 (1988). The district attorney's function is governed by statute and is
6 designated by statute as an officer of the County. Government Code section 24000(a). The duties and
7 restrictions imposed on a district attorney are prescribed by statute. Id. sec 26500 et seq. Government
8 Code section 26500 provides "[t]he district attorney is the public prosecutor .. [who] shall attend the courts,
9 and within his or her discretion shall initiate and conduct on behalf of the people all prosecutions for public
10 offenses."

11 4. In Shepard v. Superior Court, 17 Cal. 3d 107, 122 (1976), the court stated:

12 "The district attorney is not an 'attorney' who represents a 'client' as such. He is a public officer,
13 under the direct supervision of the Attorney General (Cal. Const. art. V. sec. 13), who 'represents
14 the sovereign power of the people of the state, by whose authority and in whose name all
15 prosecutions must be conducted.' (Fleming v. Hance (1908) 153 Cal. 162, 167.)"

16
17
18 ¹ Attorney Zonan complains that the Notice served on the complaining witnesses "contains an
19 advisement that they must object within 'five [calendar] days' rather than five court days." (Zonen Dec., p.
20 4, line 5). When this apparent error was discovered, Mr. Jackson promptly served an Amended Notice on
21 the complaining witnesses on December 3, 2004, correcting the error. (Exhibit "A"). Complaining
witnesses had to December 10, 2004, to file an objection. They did not. There is no basis for plaintiff to
complain the complaining witness were not properly notified.

22 ² Attorney Zonan stated under penalty of perjury:

23 "I have reviewed each of the subpoenas duces tecum issued by defendant to various entities,
24 a copy of which his counsel sent to the Doe family in compliance with the court's order dated
November 29, 2004." (Zonen Dec., p. 3, lines 6-8).

25 On November 29, 2004, the court ruled that it was not modifying the portions of the July 9, 2004,
26 Teal Order that required the recipient of subpoenas to maintain their confidentiality. Despite knowing the
27 Teal Order prohibited disclosure of the subpoenas to plaintiff, Attorney Zonan knowingly violated the July
28 9, 2004, Order by reviewing the subpoenas turned over to him from the Doe family. Not only did Attorney
Zonan and the entire District Attorney's office aid and abet the Doe family to violate the July 9, 2004,
Order, but also they directly violated the July 9, 2004, Order by viewing material they knew they were not
supposed to receive.

1 5. The district attorney does not have standing to file an objection to a subpoena involving a
2 witness. The complaining witnesses have an attorney who has appeared in this action to represent the
3 complaining witnesses. The public prosecutor is not the attorney for the witnesses

4 2. Plaintiff's cited authorities do not support its position.

5 6. Plaintiff cites Neal v. Bank of America, 93 Cal. App. 2d 678 (1949), for the proposition the court
6 has the authority to prevent an abuse of its process. (Plaintiff's Memo, p. 5, line 8-9). However, in Neal,
7 plaintiff brought a civil action against a bank claiming the bank and not paid to plaintiff the final
8 installment on a construction loan to build a house. The bank's demurrer to the complaint was sustained on
9 the grounds the loan was to the owner, not the contractor plaintiff, and the bank had no duty to plaintiff to
10 make any payment. Plaintiff then filed an amended complaint in which plaintiff omitted the facts of the
11 case and plead defendant held money belonging to plaintiff and owed plaintiff the unpaid balance. The trial
12 court sustained the demurrer, and the Court of Appeal affirmed, finding plaintiff could not withdraw
13 material allegations from the complaint or change facts without explanation. The court found "the courts
14 have inherent power, by summary means, to prevent frustration, abuse, or disregard of their processes." Id.
15 at 682. The amended complaint was filed without authority and the court ordered its stricken.

16 7. Neal had nothing to do with a subpoena and nothing in that case permits a court to reverse an
17 order finding a subpoena is material and relevant. The showing Mr. Jackson made that the subpoena to the
18 [REDACTED] was material and relevant is not only powerful, it is a demonstration of the [REDACTED]
19 which forms the basis of the complaint in this action.

20 8. Plaintiff cites Mansel v. Otto, 108 Cal. App. 4th 265 (2003), for the proposition the prosecution
21 may request an order directing a crime victim's psychiatric records be returned to the victim. (Plaintiff's
22 Memo, p. 5, lines 14-16). However, in Mansel a civil plaintiff brought an tort claim against a criminal
23 defendant and the defendant's attorney claiming the defense violated her constitutional rights to privacy by
24 reading her psychiatric records. The criminal defendant subpoenaed the plaintiff's psychiatric records and
25 the hospital declined to produce them. The defendant then obtained a court order requiring their production
26 under seal. The court gave the records to the prosecution who then turned them over to the defense. The
27 trial court sustained defendant's demurrer, and the court of appeal affirmed finding there was no
28

1 constitutional violation. The court found the defense had received the records in the course of litigation
2 and their acts were protected by a litigation privilege under Civil Code section 47. Id. at 271-72.

3 9. In this case, Mr. Jackson subpoenaed [REDACTED]
4 [REDACTED] on March 17, 2004. As discussed below, the records arrived in court and the prosecutor
5 took custody of them. The plaintiff then voluntarily turned over the records to the defense. The
6 prosecutor's claim that it now has standing to complain about follow up subpoenas to get full and complete
7 records such as billing records from hospitals is without merit.

8 **B. The Complaining Witnesses Waived Any Privilege to [REDACTED] Records.**

9 **1. The [REDACTED] records were publically disclosed.**

10 10. Plaintiff argues:

11 "The records subpoenaed by the defense from [REDACTED] include records of [REDACTED]
12 [REDACTED] therapies protected under Civil Code section 1014. Records of [REDACTED] therapies
13 should be redacted from those records to be furnished to the defense unless and until a waiver has
14 been established." (Plaintiff's Memo, p. 21-24).³

15 11. However, a waiver has been established because all of the complaining family's [REDACTED]
16 records were produced in connection with the case of [REDACTED] v. J.C. Penny, Inc.,
17 Los Angeles County Superior Court Case No. KC 027876. All of these records were previously reviewed
18 by [REDACTED] when they were disclosed to him. (See Motion for Mental Examination filed
19 November 19, 2004, and accompanying [REDACTED] reports reviewing [REDACTED] records).
20 There are no [REDACTED] records which were not fully disclosed in connection with that case, including
21 all medical and [REDACTED] records from [REDACTED].

22 12. Privileged information previously disclosed in a public forum may no longer be claimed as
23 privileged. Klang v. Shell Oil Co., 17 Cal. App. 3d 933, 938 (1971). Once a privileged records have been
24 disclosed, the patient can no longer claim the communication or record to be privileged. Jasmine Networks,

25 _____
26 ³ Plaintiff has not attached a copy of the subpoena to [REDACTED] and without that document,
27 this court cannot assess the nature or quality of plaintiff's argument. For plaintiff to repeatedly ask this
28 court to assess subpoenas in a vacuum is improper. Plaintiff did the same thing in connection with it's
motion to modify the teal order regarding records from [REDACTED], [REDACTED], and
[REDACTED]

1 Inc. v. Marvell Semiconductor, Inc., 117 Cal. App. 4th 794, 805 (2004) Once confidential medical records
2 or psychotherapist records have been disclosed, the patient may not claim the records privileged because
3 the prior disclosure eliminates claims of confidentiality. Roe v. Superior Court, 229 Cal. App. 3d 832, 838-
4 39 (1991).

5 13. All of the complaining witness family produced their [REDACTED] records in the J.C. Penny case.
6 The prosecution knew this because it got a copy of those records. Plaintiff's claim that the records are
7 confidential or that no waiver has been established is disingenuous.

8 2. Plaintiff turned over these records to Mr. Jackson in this case.

9 14. Attorney Zonen states:

10 "Defendant directed a subpoena duces tecum to [REDACTED], seeking all [REDACTED]
11 records of each member of the family since birth, including [REDACTED] records of Jane Doe that are
12 subject to legal privilege." (Zonen Dec., p. 3, lines 19-21).⁴

13 15. However, in this case plaintiff came into possession of the complaining [REDACTED]
14 [REDACTED] records through a subpoena issued by former counsel [REDACTED] on March 17, 2004,
15 (Exhibit "B"), and through the subpoena of J.C. Penny's documents to this Court (Exhibit "C"). The
16 documents were produced in this court room, and the prosecution agreed to copy them and turn them over
17 to Mr. Jackson in April and May, 2004. Plaintiff made no objection before agreeing to turn the records
18 over to Mr. Jackson, and when the prosecution obtains privileged records of a witness, the prosecution is
19 obligated to disclose that information to the defense because the privilege has been breached. People v.
20 Hammon, 15 Cal. 4th 1117, 1125-28 (1997). See also Pennsylvania v. Ritchie, 480 U.S. 39 (1987);
21 California Criminal Defense Practice, sec. 70.07[7][b] to [c], at 70.66.4 to -.5 (2003 M. Millman, C. Sevilla
22 & B. Tarlow ed.). Both the complaining witnesses and the prosecution itself have waived all
23 [REDACTED] privileges regarding records by turning them over to the defense.

24 16. Mr. Jackson's more recent subpoena to [REDACTED] was a follow up to a prior subpoena
25 dated March 17, 2004, served on [REDACTED] from Mr. Jackson's former counsel, [REDACTED]. It was [REDACTED]
26 [REDACTED] subpoena that sought the complaining witness' [REDACTED] records. Mr. Jackson's follow up
27

28 ⁴ Plaintiff's claim that ordinary medical records are privilege is without foundation. There is no
physician-patient privilege in criminal cases. Evidence Code section 998. See discussion pp.6-7 infra.

1 subpoena sought billings for [REDACTED] services, including [REDACTED] services rendered to the complaining
2 witnesses.

3 17. If Attorney Zonan had any objections to turning over the records at that time, he should have
4 made the objection then and there. Instead, he freely and voluntarily turned all of the records over to Mr.
5 Sangcr. He cannot now be heard to tell this court that a follow up subpoena seeking the billings for such
6 records is in any manner improper.

7 **C. The Subpoena to [REDACTED] Seeks Material and Relevant Information.**

8 18. Attorney Zonan states:

9 "Defendant directed a subpoena duces tecum to the [REDACTED], seeking all
10 records of Jane Doc including prenatal, postnatal, birth records, baby health care etc." (Zonen Dec.,
11 p. 3, lines 19-21).

12 19. Once again Attorney Zonan fails to attach a copy of the subpoena for this court to assess what is
13 and what is not being sought in the subpoena. The Court is left to guess what the subpoena seeks. The
14 Objector has the burden of demonstrating the subpoena seeks improper information and by failing to show
15 the Court what is being sought, the Objector has failed to assume their burden in making the objection.

16 **1. Plaintiff has placed the family's [REDACTED] in issue.**

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

24 21. The physician patient privilege did not exist at common law and is strictly controlled by statute.
25 Kramer v. Policy Holders Life Ins. Assn, 5 Cal. App. 2d 38, 384 (1935). Evidence Code section 998
26 provides, "There is no privilege under this article in a criminal proceeding." It is a fundamental tenant of
27 the physician patient privilege that it has no application in criminal proceedings. People v. Combes, 56
28

1 Cal. 2d 135, 149 (1961)(no individual may claim any privilege based on a physician-patient relationship in
2 any criminal proceeding).

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

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

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

15 24. The plaintiff's objections are without foundation. The plain fact is the complaining mother has
16 been prescribed [REDACTED] to control her [REDACTED] and she has not been taking them. The
17 records from [REDACTED] will demonstrate both her [REDACTED] and her failure to take her [REDACTED].

18 **2. The subpoena is relevant and made in good faith.**

19 25. Plaintiff argues:

20 "If Attorney Oxman truly believes Jane Doe fabricated both a pregnancy and a C-section
21 delivery, never mind the existence of the baby boy currently in her household as a result of that
22 pregnancy and delivery, then the court can review as much of her [REDACTED] records as is necessary
23 to determine that she really did deliver a baby boy on August 27."

24 Plaintiff's Memo. p. 7, lines 14-18).

25 26. However, it is not the fabrication of her pregnancy that concerns Mr. Jackson. Rather, it is the
26 [REDACTED], [REDACTED] history, and prior injuries revealed in those records that concern Mr. Jackson.
27 [REDACTED] records recount prior [REDACTED] history, along with the current impact of those injuries, and because
28

1 the complaining witness's [REDACTED] and allegations of injuries Mr. Jackson
2 caused, Mr. Jackson has a right to those records, including when she does and not take her [REDACTED]..

3 27. The subpoena seeks X-rays because the complaining mother has stated that [REDACTED]
4 [REDACTED]. (GJ Tr., p. 1209, lns 17-21; Police
5 Interview, 8-13-04, Exhibit "E," p. 13 ln 12 to p. 14, ln 7). [REDACTED]

6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 28. [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]

14 a. Laboratory tests are relevant and material.

15 29. The subpoena seeks lab tests [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]. (See Motion for Mental Examination filed
20 November 19, 2004). Laboratory tests will reveal her use and non-use of [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 30. Laboratory tests for the complaining witnesses are critical in this case because the prosecution
24 has claimed that Mr. Jackson was part of a vast conspiracy to dump a urine sample jar so that alcohol
25 would not be detected in the older son's urine. [REDACTED]
26 [REDACTED]. There was sufficient
27 urine to test on the occasion in question, and the laboratory reports will demonstrate that fact.

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

4 b. MRI films are relevant to show claimed injuries.

5 32. MRI films of the mother will demonstrate if she has ever sustained a head injury. [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED] and Mr. Jackson is entitled
9 to MRI scans that demonstrate the nature and extent of [REDACTED] to these complaining witnesses. [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 c. Gynecology records show the use or non-use of drugs

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

22 34. The mother testified before the Grand Jury without the benefit of [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]. The complaining
27 mother's [REDACTED] records will demonstrate the fact she failed to take her [REDACTED].

28 d. Billing records will disclose [REDACTED].

1 35. [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]

6 36. [REDACTED]
7 [REDACTED]
8 [REDACTED]. The [REDACTED]
9 [REDACTED]

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

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

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

20 "The constitutional right to privacy is not absolute. (Jones v. Superior Court,] 119
21 Cal.App.3d at p. 550; Board of Medical Quality Assurance v. Gherardini, supra, 93 Cal.App.3d at p.
22 679.) It may be outweighed by supervening concerns. (Ibid.) The state has enough of an interest in
23 discovering the truth in legal proceedings, that it may compel disclosure of confidential material.
24 (Jones v. Superior Court, supra, 119 Cal.App.3d at p. 550.) "[A]n individual's medical records may
25 be relevant and material in the furtherance of this legitimate state purpose" (Board of Medical
26 Quality Assurance v. Gherardini, supra, 93 Cal.App.3d at p. 679.) An "intrusion upon
27 constitutionally protected areas of privacy requires a balancing of the juxtaposed rights, and the
28

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

3 39. While the plaintiff claims the [REDACTED] records are irrelevant to this proceeding, the mother is
4 the one who claims physical injuries to her and her children because of Michael Jackson. It is improper for
5 anyone to offer a doctor's report to a court of law [REDACTED]
6 [REDACTED], and then to attempt to hide the [REDACTED] 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 [REDACTED] records.

9 C. The Court has Already Approved the Subpoena to [REDACTED].

10 40. Attorney Zonan states:

11 [REDACTED]
12 The records are for any document ever generated by the [REDACTED] during the 23 years Mr.
13 Doe has been associated with them either on [REDACTED]." (Zonen Dec., p. 3, lines 13-
14 15).

15 41. However, not only does Attorney Zonan fail to attach a copy of the subpoena for the court to
16 assess what is and is not being sought, but also the records Mr. Jackson seeks from the [REDACTED] are
17 designed to demonstrate [REDACTED] has committed [REDACTED] not only to the U.S.
18 government, but also the County of Los Angeles and this Court. The court cannot assess plaintiff's
19 objection without a copy of the subpoena. Plaintiff's objection lacks foundation.

20 42. On October 17, 2004, Mr. Michael Jackson made an application to this Court requesting his
21 subpoena to the [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]'s 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,
28

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 "F").

7 43. 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 Neverland from
12 abducting his family.

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

14 44. Plaintiff claims that [REDACTED] has a right to privacy over his [REDACTED] records and the
15 subpoena seeks irrelevant material. (Plaintiff's Memo, p. 8, lines 12-23). However, plaintiff makes no
16 showing of what in the subpoena is irrelevant, and when the Court entered its order on October 22, 2004,
17 the court found the subpoenaed information was "material and relevant." That finding was based on:

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

23 (2) [REDACTED] testified before this Court about his 22 years of experience as a
24 [REDACTED]. He told the police he was in contact with [REDACTED] at all times during the
25 period when the [REDACTED] family was being falsely imprisoned, yet [REDACTED]
26 [REDACTED], he did nothing regarding such false imprisonment. His failure to take action as
27 [REDACTED]
28 [REDACTED]

1 (3) [REDACTED] conducted surveillance of Bradley Miller prior to the search of his
2 office on November 18, 2003, with full knowledge that Mr. Milier was employed by [REDACTED]
3 [REDACTED] because [REDACTED] was present at a tape recorded interview where Bradley Miller said he worked
4 for [REDACTED]. However, according to his sworn testimony before this Court, [REDACTED]
5 never once disclosed that information to the government. This blatant omission, or more accurately
6 concealment, renders his [REDACTED]
7 [REDACTED] relevant to this proceeding.

8 45. [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 c. [REDACTED]
13 46. Mr. Jackson believes [REDACTED] when he petitioned for
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 47. However, [REDACTED] to this court on August 19, 2004, that he had been in the
20 [REDACTED] for the past 22 years. (Tr., p 6, ln 23-28). Either [REDACTED] in this Court by
21 claiming employment with the [REDACTED] for 22 years, or he [REDACTED]
22 [REDACTED] was not included. Whatever the true facts, Mr. Jackson has a right to this material to [REDACTED]
23 [REDACTED].

24 48. Mr. Jackson has the right to not only demonstrate [REDACTED],
25 [REDACTED], but also he has [REDACTED]
26 [REDACTED] through his bank account where he deposits his [REDACTED] of [REDACTED] a month. In addition,
27 [REDACTED] deposited [REDACTED] signed [REDACTED] into his bank account on February 24, 2003,
28 right in the middle of the so called false imprisonment, child abduction, and extortion that he and his wife

1 have charged against Mr. Jackson. (Exhibit "H"). Mr. Jackson seeks [REDACTED]
2 [REDACTED] to demonstrate the amount of money he received, and when he received it in order to demonstrate
3 [REDACTED]
4 [REDACTED] right in the middle of the non-existent false imprisonment, child abduction, and extortion.

5 c. [REDACTED]
6 49. [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]

14 d. No privacy interest is involved in a [REDACTED] records.
15 50. [REDACTED] undertook the role as a confidential government informant. When he did that he
16 waived any claim of privacy for his employment records. When he [REDACTED]
17 [REDACTED], he lost any claims of privacy of his [REDACTED].

18 51. The constitutional right to privacy is not absolute. Jones v. Superior Court, 119 Cal. App. 3d
19 534, 550 (1981). It may be outweighed by supervening concerns such as a defendant's right to a fair trial.
20 Board of Medical Quality Assurance v. Gherardini, 93 Cal. App. 3d 669, 679 (1979). The state has enough
21 of an interest in discovering the truth in legal proceedings, that it may compel disclosure of confidential
22 material. Palay v. Superior Court, 18 Cal. App. 4th 919, 933 (1993).

23 52. Any claim [REDACTED] has to privacy of his [REDACTED] records is outweighed by Mr. Jackson's
24 right to a fair trial. An individual cannot have the government vouch for him as reliable and trustworthy

25 _____
26 5 [REDACTED]
27 [REDACTED]
28 [REDACTED]

1 and then hide his employment records. [REDACTED] cannot be permitted to hide his [REDACTED]
2 and pay records when he declared [REDACTED]
3 [REDACTED]

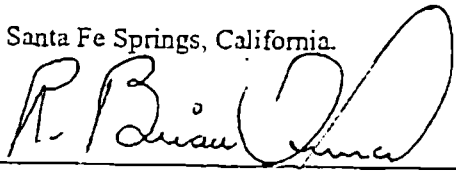
4 III.

5 CONCLUSION

6 For the foregoing reasons, Mr. Michael Jackson requests plaintiff's Objection to Subpoenas be
7 overruled.

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

10 Executed this 15th day of December, 2004. at Santa Fe Springs, California.

11 
12 _____
13 R. Brian Oxman
14 /

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EXHIBITS "A" THROUGH "L" OMITTED

PROOF OF SERVICE
1013A(1)(3), 1013(e) 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 DECEMBER 17, 20 04, I served a copy of the attached ORDER FOR RELEASE OF REDACTED DOCUMENTS (DECLARATION OF BRAIN OXMAN IN OPPOSITION TO PLAINTIFF'S OBJECTIONS TO SUBPOENAS) 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(l), 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.

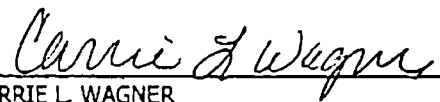
 PERSONAL SERVICE

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 17TH day of DECEMBER, 20 04, at Santa Maria, California.


CARRIE L. WAGNER