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17 Attorneys for Defendant
18 **MICHAEL JOSEPH JACKSON**

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

JAN 10 2005

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

* Unsealed pursuant
to 6/16/05 court order

19 SUPERIOR COURT OF THE STATE OF CALIFORNIA
20 FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION

21 THE PEOPLE OF THE STATE OF
22 CALIFORNIA,

23 Plaintiffs,

24 vs.

25 MICHAEL JOSEPH JACKSON,

26 Defendant.

) Case No. 1133603

) EX PARTE APPLICATION FOR AN
) ORDER TO CONTINUE THE HEARING
) ON THE DISTRICT ATTORNEY'S
) "MOTION FOR ORDER ALLOWING USE
) OF EXPERT TESTIMONY ON THE
) SUBJECT OF CHILD ABUSE TRAUMA";
) DECLARATION OF ROBERT M. SANGER

) ~~UNDER SEAL~~

) Honorable Rodney S. Melville
) Date: January 12, 2005
) Time: 8:30 am
) Dept: SM 8

27 TO THE CLERK OF THE ABOVE-ENTITLED COURT AND TO THE DISTRICT
28 ATTORNEY OF THE COUNTY OF SANTA BARBARA, TOM SNEDDON, AND DEPUTY

EX PARTE APPLICATION FOR AN ORDER TO CONTINUE THE HEARING ON THE DISTRICT
ATTORNEY'S "MOTION FOR ORDER ALLOWING USE OF EXPERT TESTIMONY ON THE SUBJECT OF
CHILD ABUSE TRAUMA"

1 DISTRICT ATTORNEYS GERALD FRANKLIN, RON ZONEN AND GORDON

2 AUCHINCLOSS:

3 Mr. Jackson requests that the Court issue an order that the hearing on the District
4 Attorney's "Motion for Order Allowing Use of Expert Testimony on the Subject of Child Abuse
5 Trauma" be continued and for such other such further relief as the Court may deem just and
6 proper. This request is based on the fact that the failure to continue the hearing would deprive
7 Mr. Jackson of his right to a fair trial, due process of law, equal protection, privileges and
8 immunities and effective assistance of counsel within the meaning of the Fourth, Fifth, Sixth and
9 Fourteenth Amendments to the United States Constitution and the corresponding rights under the
10 California Constitution. The grounds for this application are: (1) the District Attorney served its
11 motion on the defense on the morning of January 10, 2005 and a continuance is necessary so that
12 Mr. Jackson has time to prepare a proper response to the motion; and (2) the prosecution did not
13 disclose Dr. Anthony Urquiza, the prosecution's CSAAS expert, until January 7, 2005, more than
14 a month after the discovery cutoff and less than a week prior to the hearing date requested by the
15 prosecution.

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28 EX PARTE APPLICATION FOR AN ORDER TO CONTINUE THE HEARING ON THE DISTRICT
ATTORNEY'S "MOTION FOR ORDER ALLOWING USE OF EXPERT TESTIMONY ON THE SUBJECT OF
CHILD ABUSE TRAUMA"

1 This application is based on this application, the memorandum of points and authorities
2 attached hereto, the declaration of counsel, the records, pleadings and papers herein, and such
3 other and further matters as may be submitted to the Court.

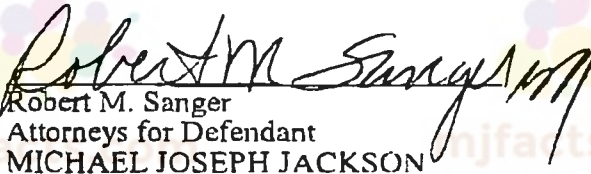
4 Dated: January 10, 2005

5 Respectfully submitted,

6 COLLINS, MESEREAU, REDDOCK & YU
7 Thomas A. Mescreau, Jr.
8 Susan C. Yu

9 SANGER & SWYSEN
10 Robert M. Sanger

11 OXMAN & JAROSCAK
12 Brian Oxman

13 By: 
14 Robert M. Sanger
15 Attorneys for Defendant
16 MICHAEL JOSEPH JACKSON

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 I.

3 **MR. JACKSON RESPECTFULLY REQUESTS A CONTINUANCE OF THE HEARING**
4 **DATE ON THE PROSECUTION'S "MOTION FOR ORDER ALLOWING USE OF**
5 **EXPERT TESTIMONY ON THE SUBJECT OF CHILD ABUSE TRAUMA" BECAUSE**
6 **THE DISTRICT ATTORNEY DID NOT PROVIDE THE DEFENSE WITH THE**
7 **MOTION UNTIL JANUARY 10, 2005**

8 Senior Deputy District Attorney Gerald Franklin hand-delivered a copy of the
9 prosecution's "Motion for Order Allowing Use of Expert Testimony on the Subject of Child
10 Abuse Trauma" to the office of defense counsel at approximately 10:00 a.m. on Monday, January
11 10, 2005. The hearing date requested by the prosecution is Wednesday, January 12, 2005 at 8:30
12 a.m. It is not possible for defense counsel to prepare a proper response to the District Attorney's
13 motion in the less than two days before the requested hearing date. Furthermore, Dr. Anthony
14 Urquiza, one of the two proposed expert witnesses in the prosecution's motion, was not disclosed
15 as a prosecution witness until January 7, 2005. A continuance of at least 5 days is necessary to
16 allow defense counsel time to file a proper response to the prosecution's motion and to prepare
17 for hearing on the motion. (Declaration of Robert M. Sanger.)

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28 EX PARTE APPLICATION FOR AN ORDER TO CONTINUE THE HEARING ON THE DISTRICT
ATTORNEY'S "MOTION FOR ORDER ALLOWING USE OF EXPERT TESTIMONY ON THE SUBJECT OF
CHILD ABUSE TRAUMA"

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II.

CONCLUSION

Therefore, based on the reasons set forth above, Mr. Jackson respectfully requests that the Court issue an order to continue the hearing on the District Attorney's "Motion for Order Allowing Use of Expert Testimony on the Subject of Child Abuse Trauma." at the very least, to the week of January 18, 2005, and for such other and further relief as the Court deems just and proper.

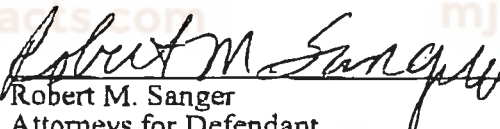
Dated: January 10, 2004

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

SANGER & SWYSEN
Robert M. Sanger

OXMAN & JAROSCAK
Brian Oxman

By:


Robert M. Sanger
Attorneys for Defendant
MICHAEL JOSEPH JACKSON

EX PARTE APPLICATION FOR AN ORDER TO CONTINUE THE HEARING ON THE DISTRICT ATTORNEY'S "MOTION FOR ORDER ALLOWING USE OF EXPERT TESTIMONY ON THE SUBJECT OF CHILD ABUSE TRAUMA"

PROOF OF SERVICE

I, the undersigned declare:

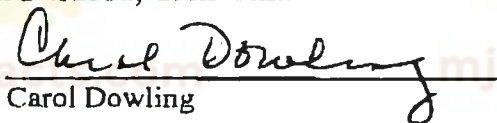
I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 233 East Carrillo Street, Suite C, Santa Barbara, California, 93101.

On January 10, 2004, I served the foregoing document **EXPARTE APPLICATION FOR AN ORDER TO CONTINUE THE HEARING ON THE DISTRICT ATTORNEY'S "MOTION FOR ORDER ALLOWING USE OF EXPERT TESTIMONY ON THE SUBJECT OF CHILD ABUSE TRAUMA" DECLARATION OF ROBERT M. SANGER** on the interested parties in this action by depositing a true copy thereof as follows:

Tom Sneddon
District Attorney
1105 Santa Barbara Street
Santa Barbara, CA 93101
805-568-2398

- BY U.S. MAIL** - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.
- BY FACSIMILE** - I caused the above-referenced document(s) to be transmitted via facsimile to the interested parties at
- X **BY HAND** - I caused the document to be hand delivered to the interested parties at the address above.
- X **STATE** - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed January 10, 2004 at Santa Barbara, California.


Carol Dowling