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

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.

~~Proprietary~~ REDACTED

) Case No. 1133603

) RESPONSE TO PROSECUTION'S
) MEMORANDUM REGARDING
) DEFENDANT'S OBLIGATION
) PURSUANT TO *PEOPLE V. SANCHEZ* TO
) LODGE WITH THE COURT CERTAIN
) TAPE CASSETTES OF INTERVIEWS OF
) JANE DOE

) ~~UNDER SEAL~~

) Honorable Rodney S. Melville

) Date: November 4, 2004

) Time: 8:30 am

) Dept: SM 8

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RESPONSE TO PROSECUTION'S MEMORANDUM REGARDING DEFENDANT'S OBLIGATION
PURSUANT TO *PEOPLE V. SANCHEZ* TO LODGE WITH THE COURT CERTAIN TAPE CASSETTES OF
INTERVIEWS OF JANE DOE

1 This is a Response to the prosecution's "Memorandum Regarding Defendant's Obligation
2 Pursuant to *People v. Sanchez* [REDACTED]
3 [REDACTED] which has now been filed by the District Attorney. First, the Court denied the
4 prosecution's "*Sanchez*" Motion and this Memorandum requests the same relief the Court has
5 already denied.¹ Second, this Memorandum does not comport with the requirements of a motion
6 for reconsideration. Third, this Memorandum is filed by the prosecution after the defense
7 voluntarily provided copies of the two tapes to them and offered to make the "originals" (or the
8 source tapes) available for inspection. Fourth, these tapes are exculpatory and are not the sort of
9 real evidence described in *Sanchez*. Fifth, the prosecution has not fully and accurately disclosed
10 the parties' discussions regarding the two tapes in question.

11 At the meet and confer session regarding discovery held at the District Attorney's Office
12 on October 26, 2004, the undersigned specifically stated to Mr. Sneddon, Mr. Auchincloss, Mr.
13 Franklin and Ms. Linz the following:

- 14 1) The defense would turn over a copy of the tapes we received;
- 15 2) The defense would maintain the source tape (the original, to the extent that
16 was what it was);
- 17 3) The defense would make the source tape available for inspection under the
18 same conditions that the government would make its original tapes
19 available to the defense for inspection.

20 Mr. Auchincloss objected to making the prosecution's original tapes available to the
21 defense and said that such a condition was not acceptable. The undersigned then responded that
22 the defense will follow points one and two above and that, after the prosecution had a chance to
23 examine the contents, we would meet and confer on the procedures for inspection. The defense
24 has NEVER refused to allow inspection of the original of these tapes and continued to agree to

25 ¹The Memorandum concludes by saying that it "suggests" that the Court make an order
26 doing exactly what the Court had declined to do in denying the prosecution's so-called "*Sanchez*"
27 motion.

1 meet and confer on the aforementioned conditions.²

2 Instead of meeting and conferring on this last issue (point 3), we are now the recipient of
3 yet another pleading in this matter which says we are ethical but suggests that we are not. If
4 counsel for the prosecution does not choose to meet and confer on this subject, they should not
5 be returning to court on a motion that was already denied.

6 Were this a civil case, we would be in a position to request sanctions for the failure of the
7 prosecution to deal with this matter in good faith, including their failure to meet and confer on
8 our proposed resolution of point 3. However, instead of continuing to argue this in the abstract,
9 we will make an *in camera*, *ex parte* submission to the Court under seal. We do not concede that
10 this is necessary. However, the continuing waste of Court's resources by the prosecution and the
11 distraction from our ability to prepare this case for trial suggest that we should resolve it as
12 expeditiously as possible.

13 The prosecution did not properly move for any relief and none should be granted. They
14 "suggest" an order, which has already been denied, without following the requirements of a
15 motion for reconsideration. The request should be denied.

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22 ²In addition, the prosecution neglects to point out that during the meet and confer session,
23 we spent over two hours patiently discussing discovery with the prosecution. Much of this time
24 was spent listening to Mr. Sneddon explain in detail why he would or would not comply with
25 certain discovery requests by the defense. We agreed on some things, reserved others for further
26 discussion and agreed to disagree on others.

27 Mr. Auchincloss then turned the discussion to the defense. He was rude and abrupt in his
28 manner in contrast to the professional discussion all counsel had with Mr. Sneddon. Auchincloss
demanded to know if we were turning over discover and demanded the we answer "yes or no."
The undersigned tried to answer politely and to clearly state the three points set forth above. Mr.
Mesereau and the undersigned tried to reason with him, but he persisted in a rude fashion at
which time Mr. Mesereau thanked everyone and terminated the conversation.

28 RESPONSE TO PROSECUTION'S MEMORANDUM REGARDING DEFENDANT'S OBLIGATION
PURSUANT TO *PEOPLE V. SANCHEZ* TO LODGE WITH THE COURT CERTAIN TAPE CASSETTES OF
INTERVIEWS OF JANE DOB

1 Dated: November 1, 2004

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

5 SANGER & SWYSEN
6 Robert M. Sanger

7 OXMAN & JAROSCAK
8 Brian Oxman

9 By: 

10 Robert M. Sanger
11 Attorneys for Defendant
12 MICHAEL JOSEPH JACKSON
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RESPONSE TO PROSECUTION'S MEMORANDUM REGARDING DEFENDANT'S OBLIGATION
PURSUANT TO *PEOPLE V. SANCHEZ* TO LODGE WITH THE COURT CERTAIN TAPE CASSETTES OF
INTERVIEWS OF JANE DOE

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 November 1, 2004, I served the foregoing document **RESPONSE TO PROSECUTION'S MEMORANDUM REGARDING DEFENDANT'S OBLIGATION PURSUANT TO *PEOPLE V. SANCHEZ* TO LODGE WITH THE COURT CERTAIN TAPE CASSETTES OF INTERVIEWS OF JANE DOE AND REDACTED VERSION** on the interested parties in this action by depositing a true copy thereof as follows:

Tom Sneddon
Gerald Franklin
Ron Zonen
Gordon Auchincloss
District Attorney
1105 Santa Barbara Street
Santa Barbara, CA 93101
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 568-2398.
- BY HAND** - I caused the document to be hand delivered to the interested parties at the address above.
- STATE** - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed November 1, 2004, at Santa Barbara, California.


Bobette J. Tryon