

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY  
County of Santa Barbara  
By: RONALD J. ZONEN (State Bar No. 85094)  
Senior Deputy District Attorney  
GORDON AUCHINCLOSS (State Bar No. 150251)  
Senior Deputy District Attorney  
GERALD McC. FRANKLIN (State Bar No. 40171)  
Senior Deputy District Attorney  
1112 Santa Barbara Street  
Santa Barbara, CA 93101  
Telephone: (805) 568-2300  
FAX: (805) 568-2398

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA

DEC 15 2004

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

\* unsealed pursuant to  
6116105 court order

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA BARBARA  
SANTA MARIA DIVISION**

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

MICHAEL JOE JACKSON,

Defendant.

No. 1133603

PEOPLE'S OPPOSITION  
RESPONSE TO DEFENSE  
MOTION TO CONTINUE

DATE: December 20, 2004  
TIME: 8:30 a.m.  
DEPT: SM 2 (Melville)

**FILED UNDER SEAL**

In addressing the defendant's motion to continue, we have no quibble with their statements of the law. The decision to continue a trial is, indeed, a discretionary, fact-based judicial decision. On the other hand, to say we quibble with the defense's factual assertions is an understatement. The following response will place the defendant's assertions in a more factual context.

The People's response must necessarily begin the defendant's ludicrous assertion that they had "... provided over 30,000 pages of discovery to the People." In fact, among the documents provided to the prosecution by the defense were documents related to the J.C.

1 Penny's case, which were provided to each side in early April of 2004 by mutual agreement  
2 and court order. Senior Deputy District Attorney Jerry Franklin drove to Los Angeles in April  
3 and picked up those materials, copies of which were eventually provided to the defense.  
4 Among the thousands of pages provided to us were simply materials that we had already  
5 provided to the defendant.

6 Similarly, among this alleged massive amount of material were the voluminous  
7 medical and school records previously subpoenaed to the court in September. Again, by  
8 mutual agreement, the court ordered the People to take those documents, make copies for both  
9 sides and return the originals to court. The documents were released to the People for that  
10 purpose on a Friday and returned to the court early the following week. Copies of those  
11 materials were provided to the defense even before the originals were returned to the court.  
12 Those medical and school records are approximately 10 to 11 inches thick and constitute  
13 almost all of the remainder of the alleged defense discovery.

14 In between the disc contains two rather large breaks in Bates numbers. The first  
15 is from #17243 to #22861. The second is another 2000 page break between Bates stamp  
16 #25870 and #27871. The assertion that 30,000 pages of discovery were provided to the People  
17 is a sham. In actuality, they simply returned to us documents that we had already provided to  
18 them over five months ago. It is no wonder that the defense whines about a lack of preparation  
19 for trial; they waste valuable time playing games in the discovery process.

20 The following addresses each defense contention by paragraph.

21 **Paragraph a.** The defense alleges that the prosecution "dumped" 14,000 pages of  
22 discovery on them in the last 60 days.

23 Actually the People haven't "dumped" anything on the defense. Discovery has  
24 been provided according to the court's directions, deadlines and orders. The "14,000-pages"  
25 figure also bears some discrete analysis in terms of the actual number of new materials  
26 provided.

27 -- **The 1993-94 Sheriff's Department Investigation Material.**

28 On September 17, 2004, after the defense requested discovery of the 1993-94

1 investigation during a proceeding in open court, the Court asked the People whether such  
2 documents were available to them. The People responded the next day that they had not yet  
3 determined whether any of the witnesses involved in that earlier investigation, or materials  
4 gathered in the course of that investigation would be used in the instant case. Nevertheless, we  
5 agreed without reservation to obtain and provide the information. The court ordered the  
6 production of the materials forthwith. Between January 29, 2004 and July 6, 2004, over 2,827  
7 pages of discovery had been provided to the defense. Between July 6 and September 18, the  
8 day of the court's order, it stood at 4,486. By September 28, 2004, the number had risen to  
9 4,770.

10 On October 8, 2004, in compliance with the court's order, the defense was given  
11 6,721 pages of discovery related to the Santa Barbara County Sheriff's Department's 1993-94  
12 investigation into the allegations against Michael Joe Jackson of child molestation.

13 One of the unfortunate consequences of our effort to comply with the court's  
14 concern that these materials be provided promptly to the defense was our decision to reproduce  
15 the documents without first carefully examining them. Our later examination revealed that  
16 over a quarter of the materials provided to the defense were duplicates. The numerous blank  
17 pages the defense complains of in their motion to compel are just simply that: They are copies  
18 of the divider sheets used by the detectives to separate one report from another. This fact is  
19 readily apparent to any reasonably thoughtful person.

20 Moreover, at least 2,000 of the pages involved deposition transcripts of witnesses  
21 in the Jordan Chandler lawsuit against the defendant. The defense has had those transcripts for  
22 years.

23 The assertion that the quantity of these materials has somehow created an  
24 obstacle to defense trial preparation simply is not consistent with the dates discovery was  
25 provided the defense, the nature of the materials provided and the appreciation that nowhere  
26 near the gross number of pages discovered involved new information or materials not already  
27 possessed by the defense.

28 Unquestionably, a discovery order more narrowly-tailored to be consistent with

1 the requirements of Penal Code section 1054.1 would have resulted in considerably less  
2 discovery. For example, among the materials provided the defense are at least 500 pages of  
3 reports involving allegations against Mr. Jackson that investigators determined to be  
4 unfounded. In addition, there are reports of a considerable number of interviews that do not  
5 even begin to come within the purview of section 1054.1 or *Brady*. It is difficult to see why  
6 the People's right to a speedy trial should now be compromised by the fact that we complied  
7 so completely, so rapidly and so thoroughly to the defense's request and court's order.

8 -- **Attorney General Investigation**

9 On October 29, 2004, over 1,100 pages of the Attorney General's report and  
10 investigation into the defendant's allegations against the Sheriff's Department, including the  
11 Attorney General's finding that the allegations were unfounded, were provided to the defense.  
12 This was done to accommodate an informal request for discovery by the defense and despite  
13 the fact that it is difficult to understand how discovery of that report would have been  
14 compelled by Penal Code section 1054.1. Nevertheless, the People sought and obtained an  
15 order of the Court requesting the Attorney General turn over the materials to the People. The  
16 People in turn provided the materials to the defense within three days of their receipt by the  
17 District Attorney's Office.

18 -- **Santa Barbara District Attorney's 1993-94 Investigation Materials**

19 On October 28, 2004, nearly 2,800 pages of materials from the 1993-1994  
20 investigation by the District Attorney's Office into the child molestation allegations against  
21 Michael Jackson were turned over to the defense. A review of those materials disclosed most  
22 were duplicates of the Sheriff's materials, except for several Grand Jury transcripts of Mr.  
23 Jackson's employees, none of whom are on the People's witness list.

24 -- **Document Search Warrant**

25 As the court is aware, numerous search warrants were issued to various  
26 telephone, bank and credit card companies. This is not a case where a large volume of  
27 discovered pages necessarily correlate to a larger number of witnesses. Those search warrants  
28 were issued to obtain telephone subscriber information, telephone call data, bank records and

1 credit card records relating to several individuals connected with the defendant in this case.

2 The defense included these warrants and business records in complaining about  
3 the large number of documents received by them. The effect of that inclusion was to overstate  
4 the impact on the defense preparation time its examination of those records would have. The  
5 true effect was far less burdensome than the numbers suggest.

6 **Paragraph b.** Evidence Code section 1054.1 requires the People to provide the  
7 names and addresses of witnesses they intend to call at trial. Defendant complains that  
8 Plaintiff's list of the names of its prospective witnesses did not include the addresses of those  
9 witnesses.

10 During the last 12 months the People have provided reports containing the  
11 names, addresses and in some appropriate instances, even the phone numbers of individuals we  
12 later listed as potential witnesses. The People are not aware of any case, nor has any decision  
13 been cited by the defense, that requires the People to cull, cross-reference and combine  
14 information already provided to the defense in earlier-discovered reports in order to create a  
15 single document naming prospective witnesses with names and addresses. Indeed, 70 of the  
16 164 names on the People's witness list appear with addresses on the defense's list of their  
17 prospective witnesses.

18 The names and addresses of Susan Hansen and Hiep Huyn were provided to the  
19 defense during the execution of the most recent Neverland search warrant and appear again in  
20 reports discovered to the defense shortly after those events.

21 The defense complains that "DuRoss O'Brien," one of the persons on the  
22 prosecution's list of witnesses, does not exist. Mr. O'Brien does exist. He is a forensic  
23 accountant, and his curriculum vitae has already been provided to the defense.

24 As for the witness, Dr. Ho, Lt. LeGault and Mr. Montague-Manchester, they  
25 cannot seriously contend that a telephone call could not have been faster and more expeditious  
26 than the time it took to incorporate this trivia into this motion.

27 However, to ease the burden about which defendant complains, the People  
28 prepared and provided the defense an amended witness list with addresses on December 16,

1 2004. While the task took several hours for us to accomplish, this is hardly the type of activity  
2 calculated to rob the defense team of valuable trial preparation opportunities.

3 **Paragraph c. The Prosecution's Newly Announced Battered Women's**  
4 **Syndrome Defense of Janet Arvizo.**

5 Janet Arvizo married David Arvizo when she was 16 years old. She remained  
6 married to him for 16 years. He was physically abusive to her, and to their children, during the  
7 entirety of their marriage. The marriage ended with David Arvizo's prosecution and  
8 conviction, by plea, to two different offenses of domestic abuse involving his wife and his  
9 daughter.

10 Although the parameters of the domestic abuse testimony likely will be resolved in  
11 a pretrial hearing, the People will ask leave to call an expert in domestic violence to assist the  
12 jury in properly understanding the issues victims of domestic violence contend with. This  
13 information would help the jury understand Janet Arvizo and why she responded to Michael  
14 Jackson and to his employees in the manner in which she did.

15 The expert witness will not be testifying to the facts of the case and therefore will  
16 not be furnishing a report. However, the prosecution has turned over to the defense the  
17 curriculum vitae of each of the witnesses. The People will only be calling one of the  
18 witnesses. The decision to list multiple witnesses was predicated upon the uncertainty created  
19 by the length of jury selection, the speed of the trial, and other pre-trial evidentiary rulings that  
20 could affect the date of the witnesses' appearance. Given these factors, we felt it wise to have  
21 backup witnesses in the event of the unavailability of the primary one.

22 **Paragraph d.** The defense is correct in their assertion that the People recently  
23 sought two search warrants. One was for a DNA sample from the defendant. The purpose for  
24 which the DNA was sought is outlined in the affidavit in support of the probable cause for the  
25 issuance of the search warrant.

26 Numerous biological samples were recovered from Defendant's residence. One  
27 particular DNA profile has been identified as "male 1." That profile is believed to be Michael  
28 Jackson's. If that is his profile, than he is potentially the source of a blood stain on a pair of

1 underpants that tests positive for both cocaine and Demerol. The extent of Mr. Jackson's drug  
2 problems at the time of his association with the Doe children may become an issue at trial and  
3 most certainly will if he takes the witness stand. "Male 1" is **not** the profile of a second  
4 biological sample from a different pair of underpants. The DNA is extracted from semen.  
5 Defendant's DNA sample is needed to confirm that he is in possession of briefs stained with  
6 the semen of another male, which would tend to corroborate John Doe's statement that Jackson  
7 kept his underpants possibly also semen stained.

8 None of this is new information for the defense. The DNA simply confirms what is  
9 already suspected and what has already been known to the defense for quite some time.

10 The December 3, 2004, warrant covered three subjects.

- 11 • The alarm system to Jackson's private quarters.
- 12 • The ranch's internal telephone system.
- 13 • Measurements to facilitate preparation of animated view of the crime  
14 scene inside Jackson's private quarters.

15 None involve matters that create good reason for a continuance. The crime scene  
16 has been under the defense's control and custody since November 18, 2003. The issues  
17 addressed in the probable cause for the execution of the search warrant and the search itself  
18 were simple in nature and not calculated to create evidentiary issues requiring the diversion of  
19 defense time or resources. The People were able to accomplish, through the employment of  
20 experts, two of the three subjects in less than a six-hour stay on the ranch's premises.

21 Inasmuch as the defense now knows exactly what the People were looking for, as well as what  
22 the People's experts found, it should be able to confirm the findings of the People's experts in  
23 a matter of hours. That effort would not require defense counsel's presence or participation.

24 As for the third item, the computer animation, defense attorneys and  
25 investigators were present during the entire time in which the animation people were on the  
26 premises. They have a videotape of the entire process. They are currently in a position to  
27 evaluate the expert's work.

28 **Paragraph e.** It is true that the People's witness list contains names of parties

1 to the *Abdool vs. Jackson* lawsuit. It is not true that their testimony will involve the issues  
2 framed by that lawsuit. The allegations involved in that lawsuit were wrongful termination,  
3 wage issues, alleged eavesdropping and intimidation by Mr. Jackson and several of his named  
4 employees, not child molestation. As defense well knows – Attorney Sanger was defendant’s  
5 attorney in that case -- the court in that particular proceeding specifically ruled that no  
6 reference to or evidence of the child molest allegations against Michael Jackson was to be  
7 admissible.

8 As the People’s discovery disclosed, several of the witnesses in that case made  
9 statements to law enforcement authorities in connection with the 1993-1994 investigation of  
10 allegations that Michael Jackson molested young boys. These statements have nothing to do  
11 with the civil suit brought years later.

12 The defense has had possession of information concerning that civil lawsuit for  
13 years. Their claimed need for further access to that information is not a legitimate ground for a  
14 continuance.

15 **Paragraph f.** The indictment in this case was filed on April 21, 2004. The  
16 defense motion to dismiss the indictment pursuant to Penal Code section 995 was filed in July  
17 and heard on July 27, 2004. The court ruled on the motion on October 14, 2004.

18 A request to produce the transcript of the selection process and/or a simple  
19 request to review any proposed questions submitted by grand jurors should and could have  
20 been submitted months ago. The information the defense needed to submit such request has  
21 been available to them since early May of 2004. The issue of the Grand Jury’s questions was  
22 raised at the last court hearing, but the defense made no effort to obtain and review this  
23 information. One must reasonably conclude that these requests were deliberately delayed to  
24 buttress the defense’s request for a continuance. The defense should not be rewarded with a  
25 continuance for its self-imposed delays.

26 **Paragraph g.** The People do not agree with this statement. The phrase,  
27 “significant amount” is typical defense hyperbole. The prosecution does, indeed, have an  
28 ongoing obligation to provide discovery to the defense. The courts have always recognized




1 that "ongoing" discovery occurs up to and including trial. The fact of the matter is there is very  
2 little discovery remaining to be provided the defense.

3 **CONCLUSION**

4 The defense motion to continue should be denied. The many reasons presented  
5 were self-imposed delays. Others are matters of some import or impact on their ability to  
6 prepare.

7  
8 DATED: December 15, 2004

9 Respectfully submitted,

10 

11 THOMAS W. SNEDDON, JR.  
12 District Attorney

1  
2  
3 **PROOF OF SERVICE**

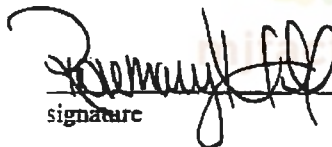
4 STATE OF CALIFORNIA }  
5 COUNTY OF SANTA BARBARA } SS

6 I am a citizen of the United States and a resident of the County aforesaid; I am over  
7 the age of eighteen years and I am not a party to the within-entitled action. My business  
8 address is: District Attorney's Office; Courthouse; 1112 Santa Barbara Street, Santa Barbara,  
9 California 93101.

10 On December 15, 2004, I served the within PEOPLE'S OPPOSITION RESPONSE  
11 TO DEFENSE MOTION TO CONTINUE on Defendant, by THOMAS A. MESEREAU, JR.,  
12 ROBERT SANGER, and BRIAN OXMAN by personally delivering a true copy thereof to Mr.  
13 Sanger's office in Santa Barbara, by transmitting a facsimile copy thereof to Attorney  
14 Mesereau, and by causing a true copy thereof to be mailed to Mr. Mesereau, first class postage  
15 prepaid, at the addresses shown on the attached Service List.

16 I declare under penalty of perjury that the foregoing is true and correct.

17 Executed at Santa Barbara, California on this 15th day of December, 2004.

18  
19   
20 signature

**SERVICE LIST**

THOMAS A. MESEREAU, JR.  
Collins, Mesereau, Reddock & Yu, LLP  
1875 Century Park East, No. 700  
Los Angeles, CA 90067  
FAX: (310) 284-3122  
Attorney for Defendant Michael Jackson

ROBERT SANGER, ESQ.  
Sanger & Swysen, Lawyers  
233 E. Carrillo Street, Suite C  
Santa Barbara, CA 93001  
FAX: (805) 963-7311  
Co-counsel for Defendant

BRIAN OXMAN, ESQ.  
Oxman & Jaroscak, Lawyers  
14126 E. Rosecrans Blvd.,  
Santa Fe Springs, CA 90670  
Co-counsel for Defendant