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10 Attorneys for Defendant
11 **MICHAEL JOSEPH JACKSON**

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

14 **THE PEOPLE OF THE STATE OF**
15 **CALIFORNIA,**

16 Plaintiffs,

17 vs.

18 **MICHAEL JOE JACKSON,**

19 Defendant.

Case No. 1133603

SUPPLEMENTAL BRIEF IN SUPPORT OF
MOTION TO CONTINUE TRIAL;
DECLARATION OF ROBERT M. SANGER

Honorable Rodney Melville

Date: December 20, 2004
Time: 8:30 am.
Dept: SM 8

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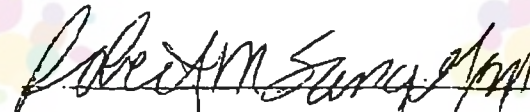
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SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION TO CONTINUE TRIAL.

DECLARATION OF ROBERT M. SANGER

I, Robert M. Sanger, declare as follows:

1. The District Attorney did not disclose the specific Section 1108 allegations until December 10, 2004, when Mr. Jackson was served with the prosecution's 1108 motion. The prosecution's defective witness list, served on defense counsel on December 6, 2004, included witnesses who were part of the 1993-1994 investigation, however defense counsel had not been provided with reports for all of those witnesses as of the day the witness list was served.
2. The prosecution maintained the position that they had not determined whether or not they intended to introduce any evidence from the 1993-1994 investigation of Mr. Jackson until October of 2004. In October, Mr. Jackson was provided with raw files from the 1993-1994 investigation, without indicating what evidence, if any, the prosecution intended to introduce at trial. The materials provided amounted to at least 9,000 pages.
3. During a telephonic conversation with Tom Sneddon yesterday, he stated that many of the 1993-1994 "reports" are actually drafts of reports.
4. Defense counsel has an obligation to defend against each allegation as if it was a separate case. Mr. Jackson is entitled to put on a defense case for each allegation. Given the late production of the 1993-1994 materials, the fact that many of the reports from that time period are in draft form, the late identification of Section 1108 witnesses, and the fact that Section 1108 witness reports have been provided as recently as December 13, 2004, a 3 month continuance is necessary so that Mr. Jackson can defend against the alleged evidence.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct this 17th day of December, 2004, at Santa Barbara, California.


Robert M. Sanger

1 INTRODUCTION

2 After Mr. Jackson requested that trial be continued for 6 weeks and after the discovery
3 deadline passed, the District Attorney served and filed its 63 page Evidence Code Section 1108
4 Motion. In light of the substantial Section 1108 evidence that the District Attorney intends to
5 introduce at trial and significant problems with the prosecution's discovery, it has become
6 apparent that a continuance in the area of 3 months is necessary to allow defense counsel to
7 prepare to defend against the alleged prior offenses listed in the prosecution's motion. The
8 grounds for such a continuance are that the failure to continue the trial would deprive Mr.
9 Jackson of his right to a fair trial, due process of law, equal protection, privileges and immunities
10 and effective assistance of counsel within the meaning of the Fourth, Fifth, Sixth and Fourteenth
11 Amendments to the United States Constitution.

12 MEMORANDUM OF POINTS AND AUTHORITIES

13 I.

14 THE DISTRICT ATTORNEY RECENTLY INDICATED FOR THE FIRST TIME THAT
15 HE INTENDED TO PUT ON SUBSTANTIAL SECTION 1108 EVIDENCE

16 The District Attorney did not disclose the specific Section 1108 allegations until
17 December 10, 2004, when Mr. Jackson was served with the prosecution's 1108 motion. The
18 prosecution's defective witness list, served on defense counsel on December 6, 2004, included
19 witnesses who were part of the 1993-1994 investigation, however defense counsel had not been
20 provided with reports for all of those witnesses as of the day the witness list was served.

21 (Declaration of Robert M. Sanger.)

22 The prosecution maintained the position that they had not determined whether or not they
23 intended to introduce any evidence from the 1993-1994 investigation of Mr. Jackson until
24 October of 2004. In October, Mr. Jackson was provided with raw files from the 1993-1994
25 investigation, without indicating what evidence the prosecution intended to introduce at trial.
26 The materials provided amounted to at least 9,000 pages. Many of the those materials consist of
27 rough notes and many of the "reports" are actually drafts of reports. (Declaration of Robert M.
28

1 Sanger.)

2 II.

3 A CONTINUANCE OF 3 MONTHS IS NECESSARY SO THAT DEFENSE COUNSEL
4 CAN PREPARE TO DEFEND AGAINST HE SUPPOSED SECTION 1108 EVIDENCE

5 Defense counsel has an obligation to defend against each allegation as if it was a separate
6 case. Mr. Jackson is entitled to put on a defense case for each allegation. (*People v. Callahan*
7 (1999) Cal.App. 4th 356.) Given the late production of the 1993-1994 materials, the fact that
8 many of the reports from that time period are in draft form, the late identification of Section 1108
9 witnesses, and the fact that Section 1108 witness reports have been provided as recently as
10 December 13, 2004, a 3 month continuance is necessary so that Mr. Jackson can defend against
11 the alleged evidence. (Declaration of Robert M. Sanger.)

12 III.

13 THE LATE AND INCOMPLETE PRODUCTION OF SECTION 1108 MATERIALS
14 MUST BE TAKEN IN THE CONTEXT OF THE ISSUES RAISED IN THE MOTION TO
15 CONTINUE TRIAL

16 The Court should consider the belated Section 1108 disclosures in light of: (1) the
17 tremendous amount of discovery that the prosecution has provided to defense counsel in the last
18 two months; (2) the fact that much of that discovery could have provided months, if not years
19 earlier; (3) the prosecution's [REDACTED]
20 (4) the District Attorney's refusal to heed the Court's warnings and stop requesting new search
21 warrants; (5) the fact that defense counsel must not go through more than 25 boxes of materials
22 related to the *Abdool v. Jackson* civil case; and (6) the fact that there is significant prosecution
23 discovery still outstanding, and in particular, materials related to the Section 1108 evidence and
24 the prosecution's expert witnesses.

1 IV.

2 CONCLUSION

3 Therefore, respectfully submits that the trial should be continued for 3 months.

4 Dated: December 17, 2004

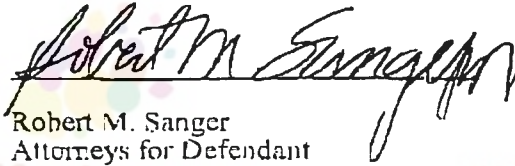
5 Respectfully submitted,

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

9 SANGER & SWYSEN
10 Robert M. Sanger

11 OXMAN & JAROSCAK
12 Brian Oxman

13 By:

14 

15 Robert M. Sanger
16 Attorneys for Defendant
17 MICHAEL JOSEPH JACKSON