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13 OXMAN & JAROSCAK  
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Santa Fe Springs, CA 90670  
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16 Attorneys for Defendant  
MICHAEL J. JACKSON  
17

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
19 FOR THE COUNTY OF SANTA BARBARA  
20 SANTA MARIA DIVISION

21 THE PEOPLE OF THE STATE OF  
22 CALIFORNIA,

23 Plaintiff,

24 vs.

25 MICHAEL J. JACKSON

26 Defendant.  
27

CASE NO. 1133603

NOTICE OF MOTION AND  
MOTION TO COMPEL  
DISCOVERY; MEMORANDUM  
OF POINTS AND AUTHORITIES;  
DECLARATION OF STEVE  
COCHRAN; EXHIBITS

Hearing: September 16, 2004  
Time: 8:30 a.m.  
Place: Dept. 9

~~FILED UNDER SEAL~~

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

SEP 03 2004

GARY M. BLAIR, Executive Officer

*Carrie L. Wagner*  
CARRIE L. WAGNER, Deputy Clerk

*\*Unsealed pursuant  
to 6/16/05 court order*

1 TO PLAINTIFF, PEOPLE OF THE STATE OF CALIFORNIA, AND THEIR  
2 COUNSEL OF RECORD:

3 PLEASE TAKE NOTICE that on September 16, 2004 at 8:30 a.m., or as soon  
4 thereafter as the matter may be heard, before the Honorable Rodney S. Melville,  
5 defendant Michael J. Jackson ("Mr. Jackson") through his counsel, will and hereby  
6 does move for an order compelling discovery. Specifically, Mr. Jackson requests an  
7 order requiring the prosecution to produce information and materials gathered during  
8 the 1993-1994 investigation conducted by police and prosecutors in Los Angeles and  
9 Santa Barbara counties. Additionally, the results of forensic tests done by the  
10 prosecution must be produced.

11 This motion is brought pursuant to Penal Code § 1054.1. The discovery  
12 requested is relevant. The prosecution relies on information from the prior  
13 investigation in these proceedings, including the affidavit to justify searches in this  
14 case. That material also contains, or is likely to lead to, exculpatory evidence.

15 The results of forensic testing by the prosecution are long overdue. The  
16 production of that information should now be compelled.

17 The parties have met and conferred to impasse. The prosecution declines to  
18 produce this discovery.

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1 This motion is based upon this notice, the attached memorandum of points and  
2 authorities, declaration of Steve Cochran, exhibits, the file and record and any other  
3 information presented prior to a ruling hereon.

4 DATED: September 3, 2004 Respectfully submitted,

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

8 Steve Cochran  
9 Stacey McKee Knight  
KATTEN MUCHIN ZAVIS ROSENMAN

10 Robert M. Sanger  
SANGER & SWYSEN

11 Brian Oxman  
12 OXMAN & JAROSCAK

13 By: Steve Cochran  
14 Steve Cochran  
15 Attorneys for Defendant  
MICHAEL J. JACKSON

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. SUMMARY

3 During 1993 and 1994, Mr. Jackson was the subject of an investigation  
4 concerning alleged improprieties with a minor. The investigation was a coordinated  
5 effort among the Santa Barbara County District Attorney's Office, the Sheriff's  
6 Department of this county, the Los Angeles District Attorney's Office and the Los  
7 Angeles Police Department. Criminal charges were not brought against Mr. Jackson  
8 as a result of that investigation.

9 A large amount of information was developed during the '93-'94 inquiry.  
10 Searches occurred pursuant to warrant. Dozens of witnesses testified before grand  
11 juries convened in both counties. Scores of people were interviewed by law  
12 enforcement and boxes of documents were gathered.

13 The prosecution has relied on information from the prior investigation in this  
14 case. Moreover, in view of the scope and result of the prior investigation, materials  
15 in the possession of law enforcement likely contain or will lead to exculpatory  
16 evidence.

17 The prosecution refuses to produce reports, transcripts, witness statements and  
18 other materials from the prior investigation. This information is relevant and  
19 necessary to preserve Mr. Jackson's right to a fair trial. Therefore, the prosecution  
20 should be compelled to produce discovery from the '93-'94 investigation.

21 The prosecution has been investigating this matter for over a year. The seized  
22 items have been in the prosecution's possession for almost ten months. Defense  
23 counsel have informally requested, but have not yet received, the results of forensic  
24 tests. Therefore, the production of this discovery should be compelled.

25 II. THE PERTINENT FACTS

26 A. THE PRIOR INVESTIGATION

27 Between approximately August of 1993 and June of 1994, police and  
28 prosecutors from Los Angeles and Santa Barbara Counties coordinated efforts

1 investigating Mr. Jackson. The investigation involved allegations of sexual  
2 misconduct with a minor. Criminal charges were never filed.

3 Immense resources were devoted to that matter. Among other things, search  
4 warrants were sought and obtained for Mr. Jackson's ranch at Los Olivos and  
5 elsewhere. Grand juries were convened in both counties. Numerous witnesses were  
6 subpoenaed to testify.

7 According to news reports, police and prosecutors interviewed well over one  
8 hundred witnesses. Reports, witness statements and many other documents were  
9 generated during the course of the investigation. See Declaration of Steve Cochran.

10 B. THE PROSECUTION'S RELIANCE ON INFORMATION FROM  
11 THE PRIOR INVESTIGATION

12 The investigation that led to the charges in this case commenced sometime in  
13 2003. Arrest and search warrants were sought and obtained in mid-November.

14 The affidavit that has been used in support of the dozens of searches in this  
15 case refers to information developed during the prior investigation. The affidavit  
16 quotes material used to search Mr. Jackson's ranch in the prior investigation and  
17 summarizes the district attorney's explanation about how that investigation became  
18 inactive without criminal charges.

19 Recent hearings in this case have involved whether police acted in excess of a  
20 search warrant for certain parts of Mr. Jackson's ranch. The prosecution has sought  
21 to justify the breadth of the search by presenting witness testimony about information  
22 gathered during the prior investigation. See Declaration of Steve Cochran.

23 C. THE MEET-AND-CONFERENCE ON THIS ISSUE

24 Defense counsel have informally requested the materials from the prior  
25 investigation. Correspondence containing this request is attached hereto as Exhibit  
26 A. The prosecution has not responded in writing to this request. The prosecution has  
27 stated in court, however, that discovery from the prior investigation is irrelevant. See  
28 Declaration of Steve Cochran.

1 D. THE RESULTS OF FORENSIC TESTS HAVE NOT BEEN  
2 PRODUCED.

3 Police reports produced thus far indicate that the prosecution has  
4 commissioned forensic examinations of all kinds. Among other things, analyses of  
5 computer data, DNA and fingerprints have been done by the California Depr. of  
6 Justice and/or the Federal Bureau of Investigation.

7 The defense informally requested the results of such tests long ago. A copy of  
8 that correspondence is attached hereto as Exhibit B. To date, virtually no reports of  
9 the results of forensic tests have been produced. See Declaration of Steve Cochran.

10 **III. THIS DISCOVERY SHOULD BE COMPELLED BECAUSE THE**  
11 **PROSECUTION HAS RELIED ON INFORMATION FROM THE**  
12 **PRIOR INVESTIGATION AND THAT MATERIAL IS LIKELY TO**  
13 **CONTAIN OR LEAD TO EXCULPATORY EVIDENCE.**

14 Materials from the investigation of 1993-1994 are within the purview of  
15 discovery in this case. The prosecution has already utilized information developed  
16 during that investigation and innuendo from the settlement of civil proceedings  
17 initiated by the complainant in that matter. The prosecution relies on so-called  
18 information from the prior investigation to justify the scope of the November 2003  
19 search of Mr. Jackson's ranch. Resort to that information as part of this case obliges  
20 the prosecution to provide discovery.

21 Mr. Jackson's right to receive exculpatory information from the prosecution  
22 also requires production of materials from the prior investigation. Law enforcement  
23 unquestionably developed information rebutting allegations of misconduct from the  
24 many people who testified before the grand juries or submitted to informal interview.

25 The volume of material generated during the prior investigation appears to be  
26 large. Ample time is necessary for the defense to review and follow up on that  
27 information. The prosecution has already waited too long to provide this discovery.

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1 **IV. THE PROSECUTION SHOULD BE COMPELLED TO PRODUCE THE**  
2 **RESULTS OF FORENSIC TESTS.**

3 The prosecution has not yet produced the results of forensic examination going  
4 on for weeks, if not months. The forensic work covers a wide array of areas from  
5 fingerprints to computers to DNA.

6 Ample time is needed to review results obtained by the prosecution and  
7 conduct independent analyses. Accordingly, the prosecution should be ordered to  
8 produce promptly the results of all forensic examinations of any kind.

9 **V. CONCLUSION**

10 The materials gathered during the prior investigation are relevant and  
11 exculpatory, as are the results of forensic tests. Accordingly, Mr. Jackson  
12 respectfully requests an order compelling the prosecution to provide discovery.

13 DATED: September 3, 2004 Respectfully submitted,

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

16 Steve Cochran  
17 Stacey McKee Knight  
KATTEN MUCHIN ZAVIS ROSENMAN

18 Robert M. Sanger  
19 SANGER & SWYSEN

20 Brian Oxman  
21 OXMAN & JAROSCAK

22 By: Steve Cochran  
23 Steve Cochran  
24 Attorneys for Defendant  
MICHAEL J. JACKSON

25  
26  
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1 information gathered during the prior investigation.

2 8. Defense counsel have informally requested the materials from the prior  
3 investigation. Correspondence containing this request is attached hereto as Exhibit  
4 A.

5 9. The prosecution has not responded in writing to this request. The  
6 prosecution has stated in court, however, that discovery from the prior investigation  
7 is irrelevant.

8 10. Reports produced thus far indicate that the prosecution has  
9 commissioned forensic examinations of all kinds. Among other things, analyses of  
10 computer data, DNA and fingerprints have been done by the California Dept. of  
11 Justice and/or the Federal Bureau of Investigation.

12 11. The defense informally requested the results of such tests long ago. A  
13 copy of that correspondence is attached hereto as Exhibit B. To date, virtually no  
14 reports of the results of forensic tests have been produced.

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

16 Executed this 3<sup>rd</sup> day of September, 2004 at Los Angeles, California.

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\_\_\_\_\_  
Steve Cochran

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26 31214941-1

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# EXHIBIT A

# CMRY

ADMITTED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS  
ATTORNEYS AT LAW

1875 CENTURY PARK EAST, 7th FLOOR  
LOS ANGELES, CALIFORNIA 90067

TELEPHONE: (310) 284-3120 FACSIMILE: (310) 284-  
WEBSITE: WWW.CMRYLAW.COM  
EMAIL: MESEREAU@CMRYLAW.COM

THOMAS MESEREAU, JR.  
A PROFESSIONAL LAW CORPORATION  
SPECIALIZING IN CRIMINAL DEFENSE

August 11, 2004

VIA FACSIMILE (805) 568-2398

Thomas Sneddon, Esq.  
District Attorney's Office  
1105 Santa Barbara Street  
Santa Barbara, CA 93108

Re: People v. Jackson, SBSC Case No. 1133603

Dear Mr. Sneddon:

You have previously told the press that you are very familiar with the five boxes of documents gathered in the 1993 case. For instance, on December 3, 2003, the Santa Barbara News Press reported the following:

"Mr. Sneddon, who has been elected county district attorney six times, added that his decision to try the case himself came in part because he is so familiar with the five boxes of transcripts and evidence gathered in that first criminal investigation. The evidence includes photographs, statements from employees and items recovered by detectives in searches of Mr. Jackson's Neverland Valley Ranch and a home in Encino."

"None of that evidence was presented in court. The case fell apart — after months of investigation and testimony heard by criminal grand juries in Santa Barbara and Los Angeles — when the family of the 13-year-old alleged victim made a reported multimillion-dollar out-of-court settlement with the entertainer and declined to cooperate."

The 1993 case was also referenced and presented to the grand jury in this case at length. Request is hereby made that your office produce all documents relating to the 1993 case, including, but not limited to, all documents and items of evidence contained in the referenced five boxes, the entire grand jury transcripts, and any and all documents referencing, directly or indirectly, Jordie Chandler.

Thank you in advance for your professional cooperation in this regard.

Very truly yours,

  
Thomas A. Mesereau, Jr.

# EXHIBIT B

**KMZ Rosenman**  
KATTEN MUEHLEN ZAVIS ROSENMAN

2000 Century Park East, Suite 2000  
Los Angeles, CA 90067-4012  
310 748-4433 direct 310 748-4411 fax

STEVE COCHRAN  
steve.cochran@kzmr.com  
310 748-4433 direct 310 712 8465 fax

January 30, 2004

By fax and mail

Gerald Franklin  
Deputy District Attorney  
1105 Santa Barbara St.  
Santa Barbara, CA 93101

Re: People v. Michael Joe Jackson  
Case Number 1133603

Dear Mr. Franklin:

Please accept this informal discovery request pursuant to Penal Code § 1054.5(b). On behalf of Mr. Jackson, we request the following disclosures:

1. The names and current addresses and telephone numbers of all witnesses you intend to call to testify at trial and of all percipient witnesses and potential witnesses, whether or not the prosecution intends to call such witnesses to testify against Mr. Jackson at trial. Penal Code sections 1054.1(a), 1054.1(e); Brady v. Maryland (1963) 373 U.S. 93. See also, In re Littlefield (1993) 5 Cal.4th 122;

2. All statements or utterances by Mr. Jackson, oral or written, however recorded or preserved, whether or not signed or acknowledged by the defendant including, but not limited to, all audio and video tapes. Penal Code section 1054.1(b), 1054.1(c); Brady v. Maryland, supra;

3. The content of any statements made in Mr. Jackson's presence while being interrogated by law enforcement that were intended or might reasonably be expected to have the effect of encouraging Mr. Jackson to give a statement about the offense to the police. People v. Haydel (1974) 12 Cal.3d 190; Napue v. Illinois (1959) 360 U.S. 264;

Gerald Franklin  
Deputy District Attorney

January 30, 2004  
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4. All physical evidence obtained in the investigation of the case against Mr. Jackson. Penal Code section 1054.1(c), 1054.1(a);

5. Any record of criminal arrests or convictions of Mr. Jackson. Penal Code section 1054.1(d)-(e);

6. Any exculpatory evidence, information, documents, and other materials in the possession of, or that have come to the attention of, the District Attorney or of any police department involved in the investigation of the case against Mr. Jackson. Penal Code sections 1054.1(e), 1054(e). *Giglio v. U.S.* (1972) 405 U.S. 150, 92 S. Ct. 763; *Brady v. Maryland*, *supra*;

7. The identity and whereabouts of any material informants. Penal Code section 1054.1(c), 1054(e). *People v. Hobbs* (1994) 7 Cal.4th 978;

8. All written or recorded statements of witnesses who will testify at trial. Penal Code section 1054.1 (e)-(f);

9. All written or recorded statements of percipient witnesses, whether or not they will be called to testify. Penal Code section 1054.1 (e)-(f);

10. Any record of criminal arrests or convictions (whether felonies or misdemeanors) of any witness to be called to testify against Mr. Jackson. Penal Code section 1054.1 (e), 1054(e); *People v. Lang* (1989) 49 Cal3d 991; *People v. Harris* (1989) 47 Cal-3d 1047. See, *People v. Pinholster* (1992) 1 Cal.4th 865, 938, 939; *People v. Pensinger* (1991) 52 Cal.3d 1210,1271;

11. All records concerning arrests of any alleged victims, complaints filed against any alleged victims, or information concerning incidents of specific acts of aggression by any alleged victims, as well as the names, addresses, and phone numbers of witnesses to such acts. Penal Code section 1054.1(e); *Engstrom v. Superior Court* (1971) 20 Cal.App.3d 240, 245;

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Gerald Franklin  
Deputy District Attorney

January 30, 2004  
Page 3

12. All notes and reports of police officers and investigators concerning offenses charged. This includes field notes, bench notes and reports concerning all aspects of the case, e.g. the alleged crime, Mr. Jackson's arrest, law enforcement activities and observations, and conversations with witnesses. Penal Code section 1054.1(e) - (f):

13. Any evidence to be used in rebuttal of the defense case. *Izazaga v. Superior Court* (1991) 54 Cal.3d 356; *People v. Bunyard* (1988) 45 Cal.3d 1189.

14. The content and timing of communications between Larry Feldman and anyone from the sheriff or district attorney's offices.

15. The content and timing of communications between Dr. Stan Katz and anyone from the sheriff or district attorney's offices.

16. The content and timing of any communications between Tom Sneddon and anyone from the complainant's family.

17. A copy of physical evidence amenable to duplication, e.g., videotapes, audiotapes, etc.

18. Notice of evidence offered under Evidence Code §§ 1101 and 1108.

19. The results of any forensic analysis.

20. The content and timing of any communications between Jamie Masada and anyone from the sheriff or district attorney's offices.

21. The content and timing of any communications between Dr. Mathis Abrams and anyone from the sheriff or district attorney's offices relating to Mr. Jackson, the complainant and/or any member of the complainant's family.

Gerald Franklin  
Deputy District Attorney

January 30, 2004  
Page 4

22. The content and timing of any communications between anyone from the Federal Bureau of Investigation and anyone from the sheriff or district attorney's offices.

23. All telephonic records obtained as part of the investigation into the offenses charged.

24. All search warrants and supporting affidavits for phone records sought relating to Mr. Jackson, the complainant, the complainant's family and/or the offenses charged.

Please allow this letter to serve as a reminder that the prosecution has a duty to disclose evidence favorable to the defendant pursuant to the due process clause of the Fourteenth Amendment to the United States Constitution. (*United States v. Bagley* (1985) 473 U.S. 667, 674-78.) The prosecutor's duties of disclosure under the due process clause are wholly independent of any statutory scheme of reciprocal discovery. (*Irazaga v. Superior Court* (1991) 54 Cal.3d 356, 378.)

This is a request that continues through the completion of trial. Your cooperation and quick response to this request is appreciated.

Sincerely,

*Steve Cochran*  
Steve Cochran

*Benjamin Brafman*  
Benjamin Brafman

*Mark J. Geragos*  
Mark J. Geragos

*Robert M. Sanger*  
Robert M. Sanger



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**PROOF OF SERVICE**

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen and not a party to the within action, and my business address is Katten Muchin Zavis Rosenman (the "business"), 2029 Century Park East, Suite 2600, Los Angeles, California 90067.

On September 3, 2004, I served the foregoing documents described as **NOTICE OF MOTION AND MOTION TO COMPEL DISCOVERY; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF STEVE COCHRAN; EXHIBITS** on the interested parties in this action as follows:

- ( ) I am readily familiar with the business's practice for collection and processing of correspondence for mailing with the United States Postal Service; such correspondence would be deposited with the United States Postal Service the same day of deposit in the ordinary course of business.
- ( X ) By Facsimile Machine, I caused the above-referenced document(s) to be transmitted to the persons listed below:

Thomas W. Sneddon, Jr.  
District Attorney of Santa Barbara  
1105 Santa Barbara Street  
Santa Barbara, CA 93101

Fax: 805-568-2398

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

Executed on September 3, 2004 at Los Angeles, California.

  
DANA M. THOMPSON

**PROOF OF SERVICE**