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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.

27) Case No. 1133603

28) **NOTICE OF MOTION AND MOTION TO**
29) **RELEASE TRANSCRIPTS OF THE**
30) **GRAND JURY SELECTION PROCESS**

31) ~~UNDER SEAL~~

32) Honorable Rodney S. Melville

33) Date: November 29, 2004

34) Time: 10:00 am

35) Dept: SM 8 2

36 **TO THE CLERK OF THE ABOVE-ENTITLED COURT AND TO THE DISTRICT**
37 **ATTORNEY OF THE COUNTY OF SANTA BARBARA, TOM SNEDDON, AND DEPUTY**
38 **DISTRICT ATTORNEYS GERALD FRANKLIN, RON ZONEN AND GORDON**
39 **AUCHINCLOSS:**

40 **NOTICE OF MOTION AND MOTION TO RELEASE TRANSCRIPTS OF THE GRAND JURY SELECTION**
41 **PROCESS**

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

NOV 19 2004

GARY M. BLAIR, Executive Officer

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

1 Please take notice that Mr. Michael Jackson will hereby does, and will move on
2 November 29th, 2004, at ^{10:00}~~8:30~~ a.m., or as soon thereafter as counsel may be heard, in Department
3 ² of the above-entitled court, for the release of the transcripts of the grand jury selection process
4 and for such other relief as the Court may deem just and proper. This motion is based on the
5 grounds that, pursuant to *Johnson v. Superior Court* (1975) 15 Cal.3d 248, *People v. Backus*
6 (1979) 23 Cal.3d 360, 293, and *Cummiskey v. Superior Court* (1993) 3 Cal.4th 1018, Mr.
7 Jackson has the right to challenge improprieties in the grand jury process, and transcripts of the
8 grand jury selection process are necessary to make such a challenge. This motion is further based
9 on Penal Code Sections 893 and 894.

10 This motion is based on this Notice of Motion, the Memorandum of Points and
11 Authorities and the Court's papers, records and files in this case and such evidence and other
12 matters as may be received by the Court at or after the hearing scheduled on this motion.

13 Dated: November 19, 2004

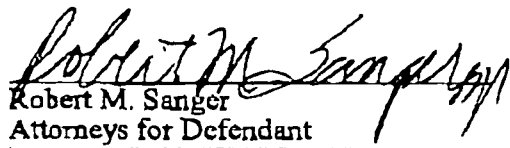
14 Respectfully submitted,

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

17 SANGER & SWYSEN
18 Robert M. Sanger

19 OXMAN & JAROSCAK
20 Brian Oxman

21 By:


22 Robert M. Sanger
23 Attorneys for Defendant
24 MICHAEL JOSEPH JACKSON
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.

3 A DEFENDANT MAY CHALLENGE IMPROPRIETIES IN THE GRAND JURY
4 PROCESS

5 Cases such as *Johnson v. Superior Court* (1975) 15 Cal.3d 248, *People v. Backus* (1979)
6 23 Cal.3d 360, 293, and *Cummiskey v. Superior Court* (1993) 3 Cal.4th 1018, stand for the
7 proposition that defendants may challenge inproprieties in the grand jury process. The selection
8 of the grand jurors, and, in particular, the role of the Court, or if applicable, District Attorney in
9 the selection process, may provide grounds for such a challenge in the case at bar. Therefore, it
10 follows that Mr. Jackson has a right to discovery of transcripts of grand jury selection.

11 II.

12 GRAND JURORS CAN ONLY BE EXCUSED ON LIMITED STATUTORY
13 GROUND

14 Penal Code Sections 893 and 894 provide an exhaustive list of qualifications for
15 prospective grand jurors. Grand jurors may only be excused from service on these limited
16 statutory grounds. Therefore, in order to challenge inproprieties in the grand jury process based
17 on a failure to abide by the statutes Mr. Jackson is entitled to transcripts of the grand jury
18 selection process. Unless, and until, the defense is provided a transcript of the selection process,
19 the defense has no basis to evaluate whether or not such a challenge is appropriate.

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III.

CONCLUSION

The Court should order the court reporter to prepare a transcript of the grand jury selection process and provide the transcript to counsel for Mr. Jackson and to the prosecution.

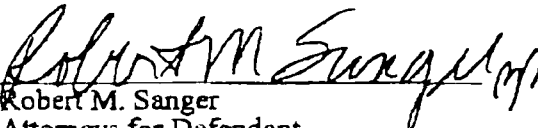
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