

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
6116605 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**

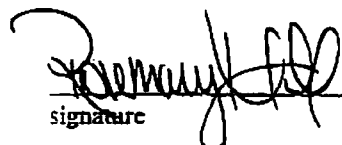
4 STATE OF CALIFORNIA }
5 COUNTY OF SANTA BARBARA } SS

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

1
2
3 THOMAS A. MESEREAU, JR.
4 Collins, Mesereau, Reddock & Yu, LLP
5 1875 Century Park East, No. 700
6 Los Angeles, CA 90067
7 FAX: (310) 284-3122
8 Attorney for Defendant Michael Jackson
9

10
11 ROBERT SANGER, ESQ.
12 Sanger & Swysen, Lawyers
13 233 E. Carrillo Street, Suite C
14 Santa Barbara, CA 93001
15 FAX: (805) 963-7311
16 Co-counsel for Defendant
17

18
19 BRIAN OXMAN, ESQ.
20 Oxman & Jaroscak, Lawyers
21 14126 E. Rosecrans Blvd.,
22 Santa Fe Springs, CA 90670
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000