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

14 *REDACTED*

15 THE PEOPLE OF THE STATE OF )  
16 CALIFORNIA, )

17 Plaintiffs, )

18 vs. )

19 MICHAEL JOSEPH JACKSON, )

20 Defendant. )

Case No. 1133603

) OPPOSITION TO DISTRICT  
) ATTORNEY'S MOTION RE: ADMISSION  
) OF EXPERT TESTIMONY ON  
) "BATTERED WOMEN'S SYNDROME"

) ~~UNDER SEAL~~

) Honorable Rodney S. Melville  
) Date: January 28, 2005  
) Time: 9:30 a.m.  
) Dept: 8  
)  
)  
)

24 MEMORANDUM OF POINTS AND AUTHORITIES

25 INTRODUCTION

26 The prosecution asks this Court to allow a yet to be named expert testify regarding  
27

28 OPPOSITION TO DISTRICT ATTORNEY'S MOTION RE: ADMISSION OF EXPERT TESTIMONY ON  
"BATTERED WOMEN'S SYNDROME"

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

JAN 21 2005

GARY M. BLAIR, Executive Officer

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

1 Battered Women's Syndrome (BWS). The prosecution has failed to establish the relevance of  
2 BWS expert testimony to this case. The District Attorney presents an argument, in summary  
3 form, that [REDACTED] was the victim of a violent spouse. This does not provide the Court with  
4 adequate information to make a determination as to whether or not [REDACTED] was ever  
5 actually abused, let alone, that she suffered from a pattern of abuse that would produce BWS.

6 The admission of such testimony threatens to deprive Mr. Jackson of his federal and state  
7 constitutional rights to a fair trial, due process of law, and right to a reliable verdict and sentence  
8 pursuant to the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States  
9 Constitution and Article 1, Sections 7, 15, 17 and 24 of the California Constitution.

10 ARGUMENT

11 I.

12 IT IS PREMATURE TO RULE ON THIS MOTION BECAUSE THE PROSECUTION  
13 HAS FAILED TO PRESENT FACTS TO THE COURT THAT WOULD JUSTIFY THE  
14 INTRODUCTION OF BATTERED WOMEN'S SYNDROME TESTIMONY

15 It is premature for the Court to be deciding these issues. It is not possible for the defense  
16 to adequately oppose this motion, because the prosecution has not provided the statements of the  
17 proposed witnesses, except in summary fashion, by way of argument. Defense counsel does not  
18 know the name of the prosecution's expert. Defense counsel does not know what the  
19 prosecution's experts will say.

20 The prosecution have not presented evidence that would lay a foundation for the  
21 admission for this type of testimony. They have not adequately shown that [REDACTED] was a  
22 battered woman or behaving in any way that was consistent with a battered woman. The  
23 prosecution's motion explains how BWS testimony would bolster the testimony of [REDACTED]  
24 but they have not established that her behavior was consistent with being a battered woman.

25 Evidence Code Section 1107 (b) states the requirements for the introduction of BWS  
26 testimony: "The foundation shall be sufficient for admission of this expert testimony if the  
27

1 proponent of the evidence establishes its relevancy and the proper qualifications of the expert  
2 witness." Here, the prosecution has not yet named its expert, let alone demonstrated to the Court  
3 that the expert is qualified. The prosecution has also failed to lay the necessary foundation to  
4 establish the relevancy of this type of testimony in a conspiracy/child molestation case.

5 Instead of acknowledging that [REDACTED] is not a credible witness and dismissing the  
6 case, the prosecution seeks to bring in "experts" and distractions with the hope that the jury will  
7 believe Mr. Jackson to be guilty in the absence of actual proof.

8 II.

9 CONCLUSION

10 For the above stated reasons, Mr. Jackson objects to the introduction of BWS testimony  
11 by a yet to be named expert.


12 Dated: January 21, 2005

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20 By:

21   
22 Robert M. Sanger  
23 Attorneys for Defendant  
24 MICHAEL JOSEPH JACKSON  
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26  
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