

1 COLLINS, MESEREAU, REDDOCK & YU
Thomas A. Mesereau, Jr., State Bar Number 091182
2 Susan C. Yu, State Bar Number 195640
1875 Century Park East, 7th Floor
3 Los Angeles, CA 90067
Tel.: (310) 284-3120, Fax: (310) 284-3133

4 SANGER & SWYSEN
5 Robert M. Sanger, State Bar Number 058214
233 East Carrillo Street, Suite C
6 Santa Barbara, CA 93101
Tel.: (805) 962-4887, Fax: (805) 963-7311

7 OXMAN & JAROSCAK
8 Brian Oxman, State Bar Number 072172
14126 East Rosccrans
9 Santa Fe Springs, CA 90670
Tel.: (562) 921-5058, Fax: (562) 921-2298

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

17 Plaintiffs,)

18 vs.)

19 MICHAEL JOSEPH JACKSON,)

20 Defendant.)

REDACTED
Case No. 1133603

OPPOSITION TO DISTRICT
ATTORNEY'S REQUEST TO ADMIT

~~UNDER SEAL~~

Honorable Rodney S. Melville

Date: January 28, 2005

Time: 9:30 a.m.

Dept.: 8

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22
23
24 MEMORANDUM OF POINTS AND AUTHORITIES

25 INTRODUCTION

26 The prosecution asks this Court to admit a variety of materials seized from Mr. Jackson's

27
28 OPPOSITION TO DISTRICT ATTORNEY'S REQUEST TO ADMIT SEIZED EVIDENCE OF "EROTIC MATERIALS"

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 home. The prosecution has failed to lay an adequate foundation that would justify the
2 introduction of these materials.

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

7 **ARGUMENT**

8 **I.**

9 **THE PROSECUTION HAS FAILED TO ESTABLISH AN ADEQUATE FOUNDATION**
10 **TO JUSTIFY THE ADMISSION OF THE SEIZED MATERIALS INTO EVIDENCE**

11 The prosecution essentially argues that any materials of [REDACTED]

12 [REDACTED]
13 [REDACTED] are relevant evidence of intent, plan, scheme and motive.¹ [REDACTED]
14 [REDACTED]

15 would have found [REDACTED]

16 [REDACTED] The Court should not allow the
17 prosecution to present these materials to the jury as evidence.

18 The problem with the prosecution's argument is that the prosecution has failed to
19 establish a foundation that these materials are relevant to material issues in this case. Instead
20 they are seeking to introduce anything that might sway the jury, whether relevant or not. The
21 District Attorney has a "belief" that the seized materials are evidence of a scheme or intent to
22 molest. (Motion, page 8.) A "belief" is not enough. He has to adequately establish a foundation

23
24 ¹ The prosecution is very apt at purporting to connect dots, when they think it helps
25 them, and not, when they think it hurts their case. For instance, everything the prosecution found
26 at Mr. Jackson's residence, that is even remotely sexual in nature, and in some cases not sexual at
27 all, is neatly tied to the charges against Mr. Jackson, according to the prosecution. On the other
hand, when the evidence is inconvenient, such as the behavior of the complaining witnesses, they
claim that it is either irrelevant to the charges against Mr. Jackson or must be explained to the
jury using a team of expert witnesses.

1 to introduce these or any other materials to the jury. The District Attorney's beliefs are so far
2 ranging that he believes that if anyone has anything [REDACTED]
3 [REDACTED] it can be introduced to bolster a weak, conflicting and dishonest witness.

4 Furthermore, the District Attorney believes that he can argue that these items would be
5 considered for the opposite of what they, in fact, are. According to the District Attorney,
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 The descriptions of the seized evidence tell us more about the minds of the prosecutors
12 than about the mind of Mr. Jackson. [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 The prosecution puts all of these lawful materials together and argues that they are admissible
21 because they provide useful fodder for the prosecution's bolstering "experts." This argument is
22 not the legal equivalent of a foundation to put these materials in front of a jury.

23 II.

24 [REDACTED] ARE NOT RELEVANT TO THE CURRENT CASE
25 [REDACTED]
26 [REDACTED]
27
28

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]

4 Furthermore, the District Attorney has not provided the [REDACTED]
5 [REDACTED] to defense counsel in discovery. It is too late in the process to introduce new materials.
6 These materials have nothing whatsoever to do with the present case and should not be admitted.

7 III.

8 THE PREJUDICE TO ADMITTING THESE MATERIALS FAR OUTWEIGHS ANY
9 SPECULATIVE PROBATIVE VALUE

10 There is no probative value to these materials. They are to be introduced simply to
11 distract form the underlying case the prosecution built on the allegations of a family of
12 opportunists. Instead of acknowledging the obvious and dismissing the case, the prosscution
13 seeks to bring in "experts" and distractions with the hope that the jury will "believe" Mr. Jackson
14 to be guilty in the absence of actual proof.

15 Under Evidence Code Section 352, there must: (1) be probative value; and (2) that
16 probative value must outweigh any prejudicial effect. The effect is prejudicial where, as here, it
17 is fodder for counterfactual aspersions and is designed to confuse and inflame the jury. If there is
18 evidence, let them present it, otherwise this case should be dismissed.

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IV.

CONCLUSION

For the above stated reasons, Mr. Jackson objects to the materials listed in the District Attorney's motion.

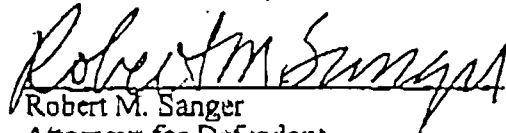
Dated: January 21, 2005

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Thomas A. Mesereau, Jr.
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By:


Robert M. Sanger
Attorneys for Defendant
MICHAEL JOSEPH JACKSON