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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

FEB - 9 2005

GARY M. BLAIR, Executive Officer
Carrie L. Wagner
CARRIE L. WAGNER, Deputy Clerk

*unsealed pursuant to
111665 court order

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF SANTA BARBARA

10 SANTA MARIA DIVISION

11
12 THE PEOPLE OF THE STATE OF CALIFORNIA,

13 Plaintiff,

14 v.

15
16
17 MICHAEL JOE JACKSON,

18 Defendant.

No. 1133603

PLAINTIFF'S REPLY TO
OPPOSITION TO MOTION TO
LIMIT INTRODUCTION OF
EVIDENCE OF PRIOR
LITIGATION INVOLVING THE
DOE FAMILY

DATE: ~~February 10, 2005~~

TIME: ~~9:30 a.m.~~

DEPT: TBA (Melville)

~~UNDER SEAL~~

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21 Defendant argues that Jane Doe was involved in having her 8-year-old son shoplift
22 school clothing from the JCPenny store in West Covina.

23 Defendant's only evidence of Jane Doc's supposed involvement is the statement of
24 one of the security guards, written in a report after the arrests, which quotes Gavin as saying
25 "They made me do it". The security officer had to justify why both Jane Doe and David (her
26 then husband) were taken into custody, of course, and needed an excuse why Jane Doe was
27 bruised over much of her body. It is simple enough to change a pronoun, or even make up the
28

1 sentence in the first place. It would have been impossible for them to say she was in the store
2 when she had a completely alibi.

3 Jane Doe was in a sporting goods store near the JCPennèy store, processing a job
4 application. The notion that she would instruct her child to steal his school uniform while in
5 the car driving to her job interview is nonsense. All reasonable interpretations suggest that the
6 idea to steal the clothing was spontaneous and entirely David's. This is the same man who was
7 ultimately convicted by plea on two different occasions of crimes of spousal abuse and child
8 abuse.

9 Defendant has made it clear he intends to litigate the JCPennèy lawsuit issue in its
10 entirety: whether Jane Doe was involved in the initial decision to steal the property; whether
11 she struck the security guard (who had no injury as against Jane Doe's multiple injuries);
12 whether her blouse opened; whether she was taunted by the guards; whether she prepared her
13 children for the depositions; whether she engaged in progressively worsening the facts
14 supporting her lawsuit.

15 This level of litigation will necessitate the presentation of each and every witness
16 associated with the case: the police who responded to the scene; each of the security guards; the
17 doctors who examined each of the plaintiffs, and the lawyers who represented them. Each of
18 the witnesses will be drilled on statements contained in thousands of pages of depositions and
19 reports.

20 And what is it the defense is seeking to establish? That Jane Doe coached her
21 children to fabricate their testimony during the depositions, thereby suggesting that she did the
22 same in this case.

23 JCPennèy had all of this information at its disposal when the company settled the
24 case. There was no one left to depose. JCPennèy settled the case in favor of the Plaintiffs
25 because its agents beat up Janet and injured both boys. Jane Doe's injuries were photographed
26 and thoroughly documented. She received injections in her back for many months thereafter.
27 John Doe had a fractured elbow and James Doe, age seven, had a bruise over his eye.
28 JCPennèy settled because it understood how badly its security personnel had overreacted to a

1 petty theft and then compounded the matter by having a woman they knew to be innocent
2 arrested and charged with a criminal offense. It took months for the truth to emerge and for
3 charges to be dismissed.

4 Defendant's response to our argument that the litigation would consume an
5 extraordinary amount of court time on a collateral issue was not to deny it, nor to suggest that
6 the case could be tried with a minimum of witnesses or time. Defendant's response was only to
7 say that the People's 1108 evidence will also take a great deal of time, therefore they can take a
8 great deal of time as well.

9 Evidence of prior sexual misconduct is expressly admissible by statute to show a
10 propensity to commit sex offenses. Given the multitude of boys who have shared Defendant's
11 bed (admitted to by him on national television) it would appear that such evidence is entirely
12 appropriate in this case. If that is the best and only argument why Evidence Code section 352
13 does not apply to the introduction of the JCPenney suit, in its entirety, then it appears that the
14 issue of "undue consumption of time" is conceded.

15 Equally important is the concern that the production of otherwise relevant but
16 collateral evidence "will create substantial danger of undue prejudice, of confusing the issues,
17 or of misleading the jury." (Evid. Code, § 352.) Defendant would much prefer to have the jury
18 spend weeks debating the JCPenney suit as against deciding whether Defendant fondles
19 children or just sleeps with them. It is exactly that distraction that is contemplated when the
20 courts express concern that collateral evidence could be confusing and misleading to a jury.

21 Is there a reasonable likelihood that Jane Doe orchestrated a complex conspiracy to
22 have an international superstar framed for a crime he did not commit? This is a woman who
23 can't string two consecutive sentences together and have them make sense. The same person
24 who the defense argues is a psychotic, delusional, paranoid schizophrenic. More remarkably is
25 that she accomplished this conspiracy without ever asking Jackson for a penny, without ever
26 saying a bad word about him and without ever telling a single person that he had molested her
27 child. Her complaints were exclusively against co-conspirators Dieter Weisner and Ronald
28 Konitzer for having threatened her and her children, and against journalist Martin Bashir for

1 having exposed her children to public ridicule. Until Jane Doc was told by law enforcement
2 that her child had been molested (not the other way around) she had never said anything bad
3 about the defendant.

4 There is nothing in Defendant's Opposition brief that would satisfy the Court that
5 relitigation of the JCPenney lawsuit as a means of impeaching Jane Doc will be anything but
6 extensive, burdensome, confusing and misleading. More importantly, evidence of the
7 JCPenney lawsuit is being proposed by the defense on the pretext that it might reveal a motive
8 of the victim's mother. This is entirely too burdensome an endeavor for a purpose so lacking
9 in probative value. People's motion in limine to exclude references to the JCPenney lawsuit
10 should be granted.

11 DATED: February 8, 2005

12 Respectfully submitted,

13 THOMAS W. SNEDDON, JR.
14 District Attorney

15 By: Ronald Zonen by G.M.C. F.
16 Ronald Zonen, Senior Deputy

17 Attorneys for Plaintiff
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1 **PROOF OF SERVICE**

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3 STATE OF CALIFORNIA
4 COUNTY OF SANTA BARBARA } SS
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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 February 8, 2005, I served the within PLAINTIFF'S REPLY TO OPPOSITION
11 TO MOTION TO LIMIT INTRODUCTION OF EVIDENCE OF PRIOR LITIGATION
12 INVOLVING THE DOE FAMILY on Defendant, by THOMAS A. MESEREAU, JR.,
13 ROBERT SANGER and BRIAN OXMAN, by transmitting a true copy thereof to Mr.
14 Mesereau at the confidential fax number for his Santa Maria office and to Mr. Sanger at the fax
15 number 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 8th day of February, 2005.

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