

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

MAR 04 2005

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CARRIE L. WAGNER, Deputy Clerk

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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 MICHAEL JOE JACKSON,)

16 Defendant.)

No. 1133603

PLAINTIFF'S MOTION FOR
RULING ON ADMISSIBILITY
OF DOCUMENTARY AND
NON-EXPERT TESTIMONY
CONCERNING DEFENDANT'S
FINANCIAL CONDITION
DURING RELEVANT TIMES

DATE: TBA
TIME: 9:30 a.m.
DEPT: SM 8

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20 TO: THE CLERK OF THE COURT AND TO DEFENDANT AND HIS

21 COUNSEL:

22 PLEASE TAKE NOTICE that as soon as the Court permits, Plaintiff will move the
23 Court for a ruling on the admissibility of evidence by Plaintiff of Defendant's financial
24 condition on and after January 1, 2003.

25 This motion is based on this Notice, the records and files in this matter, and upon
26 such argument as may be offered at the hearing of the motion.

27 ////

28 ////

DATED: March 4, 2005

Respectfully submitted,

THOMAS W. SNEDDON, JR.

District Attorney

By: Gerald McC. Franklin
Gerald McC. Franklin, Senior Deputy District Attorney

Attorneys for Plaintiff

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1 MEMORANDUM OF POINTS AND AUTHORITIES

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3 DOCUMENTARY AND TESTIMONIAL EVIDENCE OF
4 DEFENDANT'S FINANCIAL CONDITION ON AND AFTER
5 THE AIRING OF "LIVING WITH MICHAEL JACKSON,"
6 AS DISTINCT FROM EXPERT OPINION EVIDENCE, IS
7 PLAINLY RELEVANT AND ADMISSIBLE ON THE ISSUE
8 OF DEFENDANT'S MOTIVE TO CONSPIRE TO COMMIT
9 THE CRIMES ALLEGED IN COUNT ONE OF THE
10 INDICTMENT

11 A. Introduction:

12 The People previously moved the Court for permission to introduce the testimony of
13 an expert concerning the state of defendant's finances at times relevant to this lawsuit. That
14 motion was opposed. On January 28, 2005, the Court ruled as follows:

15 Attorneys Auchincloss and Sanger addressed the Court re: Plaintiff's
16 Motion in Limine for Admission of Expert Testimony on Defendant's
17 Finances and Application for Order that the Defense Response to the
18 District Attorney's Motion in Limine for Admission of Expert Testimony
19 on Defendant's Finances, Dated January 21, 2005 be Withdrawn. **The
20 Court finds that general testimony as it relates to this particular
situation may be admissible, but the Court shall reserve ruling at this
time. The Court further orders that a 402 hearing shall be held if such
witnesses are called."**

21 (Emphasis added.)

22 In his Opening Statement, the District Attorney attempted to inform the jury that
23 evidence of defendant's financial condition at relevant times would be introduced. That
24 statement was objected to, and the Court sustained the objection. And when Witness Ann
25 Gabriel was questioned on direct examination concerning the issue of defendant's financial
26 condition at the time "Living with Michael Jackson" was aired, first in the United Kingdom and
27 then in the United States, objection to her testimony was sustained.

28 The evidence the District Attorney referred to in his opening statement was

1 documentary evidence (e.g., defendant's bank records, other business records obtained in the
2 course of searches, and admissible statements of individuals with first-hand knowledge of the
3 subject), not to an expert's opinion evidence. Likewise, Ann Gabriel could competently have
4 testified concerning her knowledge of some aspects of defendant's financial situation.

5 B. Evidence of Defendant's Straightened Financial
6 Circumstance At Relevant Times Is Important
7 Evidence Of His Motive To Conspire With Others
8 To Mitigate The Disastrous Effect Of The Airing
9 Of Living With Michael Jackson

10 A fair amount of energy has been devoted to obtaining documentary evidence of
11 defendant's financial situation at the time the bad news about "Living with Michael Jackson"
12 was conveyed to him. Testimony before the grand jury touched on that issue. Search warrants
13 were upheld against the argument that they impermissibly trenched on defendant's privacy.
14 And as noted, the Court very recently stated its finding that "general testimony as it relates to
15 this particular situation may be admissible."

16 Plaintiff believes that such evidence is relevant on the critical issue of defendant's
17 motive to join with others in a conspiracy to commit the crimes alleged in Count One of the
18 Indictment.

19 In his opening statement on behalf of defendant, Mr. Mesereau plainly sought to
20 distance his client from defendant's alleged co-conspirators by stating the evidence would show
21 that whatever business schemes they may have cooked up in his name and even over his
22 signature (never mind their acts of sequestering the Doe family and extorting their cooperation
23 in the making of the "rebuttal video" on defendant's behalf, if only for the income it might
24 generate). Michael Jackson the Artist was kept in ignorance of them. The suggestion that Mr.
25 Jackson was unaware of the state of his finances before or after "Living with Michael Jackson"
26 threatened his very livelihood simply underscores the importance of evidence of Mr. Jackson's
27 declining financial situation and the reasons for that decline.

28 "Living with Michael Jackson" broke like a thunderclap over defendant and those

1 whose own financial well-being depended on Mr. Jackson's ability to continue to earn income
2 even as his career was well into its decline. Plaintiff believes that defendant was experiencing
3 severe "liquidity" problems before "Living with Michael Jackson" was aired, due in part to his
4 own profligate spending habits and in part to a general decline in sales of his record albums. If
5 that is so, the parlous state of his finances in January, 2003 is acutely relevant to explain the
6 motive for the actions undertaken by the co-conspirators with defendant's approval and
7 collaboration.

8 But, of course, Plaintiff's belief that defendant had a financial motive to keep the
9 Doe family from making unhelpful statements to the paparazzi is not evidence. The evidence of
10 his financial condition at that pivotal time in his career is the documentary material gathered by
11 the investigators in this case and studied by them over the last several months. It explains the
12 motive for the drastic steps undertaken by the conspirators to minimize the potential for further
13 adverse commentary on defendant's close relationship with young John Doe. For very good
14 reason, the relevance of that evidence has been regarded as an a priori proposition by Plaintiff.

15 The People respectfully, and most urgently, request the Court to consider for itself
16 the relevance of documentary evidence of defendant's financial circumstances (as distinct from
17 an expert's opinion of that evidence) to the motivation of the conspirators to isolate the Doe
18 family and secure their cooperation in a "rebuttal video" that, as defense counsel acknowledged
19 to the jury in his opening statement, held the promise of considerable income from commercial
20 television stations eager for a follow-up to "Living with Michael Jackson."

21 DATED: March 4, 2005

22 Respectfully submitted,

23 THOMAS W. SNEDDON, JR.
24 District Attorney

25 By: 
26 Gerald McC. Franklin, Senior Deputy District Attorney

27 Attorneys for Plaintiff
28

PROOF OF SERVICE

STATE OF CALIFORNIA }
COUNTY OF SANTA BARBARA } SS

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years and I am not a party to the within-entitled action. My business address is: District Attorney's Office; Courthouse; 1112 Santa Barbara Street, Santa Barbara, California 93101.

On March 4, 2005, I served the within PLAINTIFF'S MOTION FOR RULING ON ADMISSIBILITY OF EVIDENCE CONCERNING DEFENDANT'S FINANCIAL CONDITION DURING RELEVANT TIMES on Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER, and BRIAN OXMAN by personally delivering a true copy thereof to Mr. Sanger's office in Santa Barbara, and by transmitting a facsimile copy thereof to Attorney Mesereau at his confidential fax number in Santa Maria at the addresses shown on the attached Service List.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Santa Barbara, California on this 4th day of March, 2005.


Gerald McC. Franklin

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