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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.
21
22
23

) Case No: 1133603

) SUPPLEMENTAL BRIEF IN SUPPORT OF
) OPPOSITION TO DISTRICT
) ATTORNEY'S MOTION FOR ADMISSION
) OF ALLEGED PRIOR OFFENSES (Evid.
) Code Sections 1108, 1101(b))

) ~~UNDER SEAT~~

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

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28 SUPPLEMENTAL BRIEF IN SUPPORT OF OPPOSITION TO DISTRICT ATTORNEY'S MOTION FOR
ADMISSION OF ALLEGED PRIOR OFFENSES (Evid. Code Sections 1108, 1101(b))

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

MAR 25 2005

GARY M. BLAIR, Executive Officer

Carrie L. Wagner
CARRIE L. WAGNER, Deputy Clerk

1 I.

2 THE PROSECUTION HAS FAILED TO CARRY THE BURDEN OF ESTABLISHING
3 A PRIMA FACIE CASE OF LEWD CONDUCT IN THE PRESENT CASE

4 The prosecution is attempting to shore up the testimony of weak witnesses with everything
5 but actual, credible evidence of the charged crimes. To date, the prosecution has presented a large
6 amount of indirect evidence in an attempt to make up for the fact that the only direct evidence, the
7 testimony of the Arvizo children, has proven to be contradictory and improbable.

8 II.

9 THE PROSECUTION CANNOT PROVE THE CHARGES AGAINST MR. JACKSON
10 BEYOND A REASONABLE DOUBT AND IT WOULD VIOLATE HIS STATE AND
11 FEDERAL CONSTITUTIONAL RIGHTS TO A FAIR TRIAL AND DUE PROCESS TO
12 ALLOW THE PROSECUTION TO INTRODUCE
13 THE PROFFERED PRIOR OFFENSE EVIDENCE

14 Since the standard of proof for such evidence is lower than beyond a reasonable doubt, if it
15 were to be the main or even a significant factor in conviction, it would violate the defendant's right
16 to proof beyond a reasonable doubt.

17 The prosecution has presented a CSAAS expert who failed to bolster the testimony of the
18 complaining witness. Dr. Anthony Urquiza, the government's CSAAS expert, did not address the
19 contradictions in the testimony of the Arvizo children. Dr. Urquiza did not explain how a 15 year
20 old complaining witness could attribute a statement, that if men do not masturbate they will rape
21 women, to Mr. Jackson, after repeatedly attributing the same statement to his grandmother. In any
22 other case, the prosecution would realize that the complaining witnesses are lying.

23 Dr. Urquiza did not explain why the Arvizo family told the police that almost everything they
24 said in the "rebuttal" video was scripted by Dieter Wiesner, including referring to Mr. Jackson as a
25 father figure, when it has been demonstrated that they sent cards and notes to Mr. Jackson that
26 referred to him as a father figure, months, if not years, before the "rebuttal" was taped.

1 B. Jason Francia

2 The prosecution claims that Jason Francia will testify that he was molested when he was as
3 young as 6 years old. However, the transcripts of his interviews with police reveal that he does not
4 remember these events and was only able to describe these alleged incidents after being coached by
5 the detectives who interviewed him. Furthermore, it is apparent from the interviews that his mother
6 made him aware of these alleged incidents.

7 The transcripts of the November 4, 1993, and March 24, 1994, interviews by law
8 enforcement and prosecutors are textbook examples of improperly suggestive interrogations.

9 For instance, in the November 4, 1993, interview, Jason Francia tells the detectives that he
10 does not remember Mr. Jackson putting his hands anywhere that made him feel uncomfortable. Det.
11 Neglia, one of the interviewers, responds by stating:

12 Okay, but what I am getting at is that maybe I am not being obvious enough. What
13 I am saying is maybe he put his hands someplace on you where he shouldn't have.
14 Maybe he put his hands on you someplace that made you feel uncomfortable. And
15 that's why you are not remembering. It's like there is a little bit of "Oh, I can't
16 remember that guy's name and I don't remember his last name, and I just don't
17 remember that. No I don't want to remember that, no I can't remember." It's a little
18 of bit of a different kind of not remembering, one is because you are choosing not to,
19 and one is that you just can't call back the uh, the event. And I think of what you
20 doing is tickling and all this stuff, is trying forcing yourself not to remember. And
21 you also kind of got to the one where you're saying that fourth time at the party you
22 said something like, "That was the time." What time was it Jason: What was the
23 time?

24 Later in the interview, the detectives tell Jason Francia that Mr. Jackson is currently
25 molesting Macaulay Culkin:

26 Det. Neglia: I realize how hard this is. I realize how painful it is to think of these
27 things you tried so hard not to think about but you are doing fine.
28 And you are also helping the kid that he is bothering now.

29 Jason Francia: What do you mean he's bothering?

30 Det. Birchim: He's doing the same thing.

31 Jason Francia: Macaulay Culkin.

32 Det. Neglia: Only he's getting a lot more into it. Like your mother pulled you out
33 of there. Macaulay's mother is not going to pull him out of there.
34 They are feeding him.

35 Det. Birchim: He's doing worse stuff.

36 Det. Neglia: It's much worse with him.

37 The detectives then tell him that another child actor is a drug addict based on his alleged

38 SUPPLEMENTAL BRIEF IN SUPPORT OF OPPOSITION TO DISTRICT ATTORNEY'S MOTION FOR
ADMISSION OF ALLEGED PRIOR OFFENSES (Evid. Code Sections 1108, 1101(b))

1 molestation by Mr. Jackson:

2 Det. Neglia: He's a junkie now, he gets arrested, he doesn't act or anything, he
3 gets high. He packs his nose with cocaine and he's going to die by
the time he is 22 years old.

4 Jason Francia: How old is he?

5 Det. Neglia: About 21. But that's the kind of life he is living, and it's got to do with being
exposed to people like this, and having nobody to protect them and to take
them out.

6 Det. Birchim: Like you had your mom.

7 Det. Neglia: Like your mom pulled you out, and you're, you're candid, and you're honesty
with us is going to help us. To pull the next kid out, it might even be too late
for Macaully already. But these kids that he's traveling with are on tour right
now. Maybe we can pull them out of it . . .

8
9 In order to defend against the false allegations of Jason Francia, it will be necessary to
10 present expert testimony regarding child interview techniques.

11 **C. The Quindoys**

12 The Quindoys have no credibility. They sold successive stories to magazines. The
13 Quindoys reserved their interviews for the media. When Santa Barbara law enforcement went to the
14 Philippines to talk to the Quindoy, they were not able to get an interview.

15 **D. Other alleged victims.**

16 The defense will seek to bring each one of the other alleged "victims" to testify as, based on
17 the information developed at this point, none of them would testify they were molested by Mr.
18 Jackson.

19 **E. The Abdool Plaintiffs**

20 The defense requests that the Court take judicial notice of the file in *Abdool v. Jackson*,
21 Santa Maria Superior Court, Case No. SM 89344. The plaintiffs in that case, including Adrian
22 McManus and Ralph Chacon, who are listed as witnesses in the prosecution's motion, and their
23 lawyer, Michael Ring, were sanctioned jointly on numerous occasions for lying in their depositions
and to the court.

24 The total sanctions were approximately \$66,000. The sanctions were imposed for discovery
25 violations and for forcing the defendants to prove, in open court, that the plaintiffs were lying. The
26 sanctions were imposed because the plaintiffs had lied in their depositions and, in some instances,
27 actually lied on the stand in open court. For instance, on one occasion, one of the plaintiffs, while
28 on the stand, blatantly contradicted her own testimony, given earlier in the day. The judge left the

1 bench saying he was disgusted.

2 The jury in the *Abdool* case found against the plaintiffs on all of their allegations. The jury
3 also found in favor of the defendant, Michael Jackson, and against Adrian McManus and Ralph
4 Chacon, for stealing from Mr. Jackson. The court imposed attorneys fees and costs of \$1.4 million
5 against the plaintiffs. The trial of these plaintiffs lasted 6 months and 1 day before The Honorable
6 Judge Canter. Were these plaintiffs to be called in this case, one would assume, based on the sixth
7 month duration of the *Abdool* trial, that the plaintiff's testimony and the defense would take at least
8 a month in and of itself.

9 Furthermore, these witnesses are not claiming to be percipient witnesses to actual sexual
10 offenses, with the exception of Ralph Chacon.

11 Ralph Chacon is a liar. He lied about being given a weapons permit based on his role as a
12 witness. He lied in deposition. He lied to reporters and he lied on the stand.

13 Adrian McManus had stolen from her own family members. She was sued for stealing her
14 niece and nephew's inheritance. She made all sorts of false and contradictory claims.

15 The plaintiffs were allowed to talk about the allegations in pretrial discovery, and did so. The
16 only person having anything salacious to say was Ralph Chacon. When the case came to trial, the
17 trial court disallowed evidence of the salacious allegations because they had nothing to do with the
18 causes of action in the litigation. Nevertheless, these plaintiffs were thoroughly discredited, not only
19 as to the allegations they made in court, but as to what Mr. Chacon had to say.

20 With regard to all of the *Abdool* plaintiffs, they lied about going to the media and selling to
21 their stories, when in fact, they had an agent and had gone to the media to sell their stories. It turned
22 out they were a bit too late to take advantage of the opportunities that Blanca Francia and the
23 Quindoys were able to cash in on. These people tried to hawk their false stories and were
24 unsuccessful, so they filed their meritless lawsuit. They lied about meeting with the media. As if
25 this were not enough, the stories that they told and personally edited were so fantastic and salacious,
26 that they had denied ever saying such things, when they believed that Mr. Jackson's counsel did not
27

28 SUPPLEMENTAL BRIEF IN SUPPORT OF OPPOSITION TO DISTRICT ATTORNEY'S MOTION FOR
ADMISSION OF ALLEGED PRIOR OFFENSES (Evid. Code Sections 1108, 1101(b))

1 know about it. Even after the stories appeared, they denied that they had talked with the journalists,
2 because they denied that the events in the stories occurred. In one instance, it was demonstrated that
3 their handwritten notes were on drafts of the stories. Once again, it will be necessary to relitigate
4 all of this.

5 **IV.**

6 **THE COMPLAINING WITNESSES WERE AWARE OF THE 1993 ALLEGATIONS**
7 **WHEN THEY FABRICATED THEIR STORY**

8 Gavin Arvizo made a reference to the alleged victim in the 1993 allegation in the Rebuttal
9 Tape. Gavin discussed the alleged victim in his meetings with Stan Katz. It is probable that the
10 1993 allegations were discussed with Larry Feldman, given that he was the lawyer in that case. Any
11 probative value is negated by the fact that Mr. Feldman possessed all the details of the 1993
12 allegations.

13 The probative value of the prior offense evidence is severely undermined by the fact that
14 Gavin, Star, Davellin and their mother, had access to Larry Feldman, who knows all the details of
15 the previous allegations. It is also severely undermined by the fact that It was not until after they
16 met with Mr. Feldman, on several occasions if his grand jury testimony is to be believed, that any
17 member of the Arvizo family made sexual abuse allegations against Mr. Jackson. Dr. Urquiza could
18 not explain this away with his testimony.

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V.

CONCLUSION

For the above stated reason, and the reasons stated in the opposition to the prosecution's motion, Mr. Jackson objects to the introduction of the prosecution's proposed Section 1108 and 1101(b) testimony.

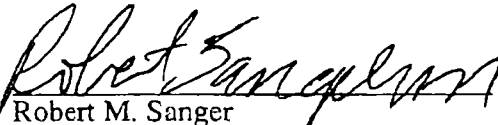
Dated: March 25, 2005

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By:


Robert M. Sanger
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MICHAEL JOSEPH JACKSON

PROOF OF SERVICE

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 233 East Carrillo Street, Suite C, Santa Barbara, California, 93101.

On March 25, 2005, I served the foregoing document SUPPLEMENTAL BRIEF IN SUPPORT OF OPPOSITION TO DISTRICT ATTORNEY'S MOTION FOR ADMISSION OF ALLEGED PRIOR OFFENSES (Evid. Code Sections 1108, 1101(b)); EXPARTE APPLICATION TO SEAL SUPPLEMENTAL BRIEF IN SUPPORT OF OPPOSITION TO DISTRICT ATTORNEY'S MOTION FOR ADMISSION OF ALLEGED PRIOR OFFENSES (Evid. Code Sections 1108, 1101(b)) on the interested parties in this action by depositing a true copy thereof as follows:

Tom Sneddon
District Attorney
312 East Cook Street
Santa Maria, CA 93454

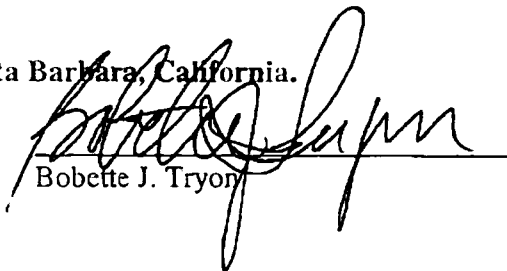
 BY U.S. MAIL - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.

 BY FACSIMILE - I caused the above-referenced document(s) to be transmitted via facsimile to the interested parties [SEE ABOVE]

 X **BY HAND** - I caused the document to be hand delivered to the interested parties at the address above.

 X **STATE** - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed March 25, 2005 at Santa Barbara, California.



Bobette J. Tryon