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County of Santa Barbara

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

APR - 5 2005

GARY M. BLAIR, Executive Officer

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

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 RESPONSE TO
DEFENDANT'S OBJECTION TO
ADMISSION OF "1108 AND
1101 EVIDENCE"

DATE: TBA
TIME: TBA.
DEPT: SM-2 (Melville)

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20 Defendant objects to the admission of third party witnesses (whatever he means by
21 that) under Evidence Code sections 1108 and 1101 regarding his prior sexual offenses "when
22 the alleged victims will not be testifying," on the grounds that "he could not address 1108 or
23 1101 evidence in opening statement," and that such evidence violates his right to "confront
24 witnesses."

25 Nonsense. It was defendant who objected (vigorously, if we recall correctly) to any
26 reference by plaintiff's counsel to such evidence in his opening statement, because the
27 admissibility of that evidence had not been determined. He is not well positioned to complain
28 about his own inability to address that evidence in his opening statement.

1 Defendant has not yet been denied the opportunity confront and
2 cross-examine the witnesses against him, nor will he be. His Sixth Amendment right to
3 confront and cross-examine witnesses is limited to those witnesses who give evidence from the
4 witness stand. "The right of the accused to be confronted with witnesses is the right to have the
5 witnesses testify in his presence and the right of the accused to cross-examine them; it is not
6 required that all witnesses or persons who may have knowledge of the crime be produced in
7 court or called to testify." (*People v. Taylor* (1958) 159 Cal.App.2d 752, 756.)

8 Defendant's objection is not well taken. It should be overruled.

9 DATED: April 5, 2005

10 THOMAS W. SNEDDON, JR.
11 District Attorney

12 By: 
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14 Gerald McC. Franklin
15 Senior Deputy District Attorney

16 Attorneys for Plaintiff
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3 **PROOF OF SERVICE**

4 STATE OF CALIFORNIA }
5 COUNTY OF SANTA BARBARA } SS

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 April 5, 2005, I served the within PLAINTIFF'S RESPONSE TO
11 DEFENDANT'S OBJECTION TO ADMISSION OF "1108 AND 1101 EVIDENCE" on
12 Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER and BRIAN OXMAN, by
13 personally delivering a true copy thereof to Mr. Sanger's office in Santa Barbara and
14 transmitting a copy by facsimile to Mr. Mesereau at the confidential FAX number of their
15 temporary office in Santa Maria.

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

17 Executed at Santa Maria, California on this 5th day of April, 2005.

18 
19 _____
20 GERALD McC. FRANKLIN

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3 **SERVICE LIST**

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8 FAX: [CONFIDENTIAL]

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15 Co-counsel for Defendant

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20 Co-counsel for Defendant
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