

MAY 17 2005

GARY M. BLAIR, Executive Officer  
*Carrie L. Wagner*  
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

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12  
13 THE PEOPLE OF THE STATE OF CALIFORNIA,  
Plaintiff,

14 vs.

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17  
18 MICHAEL JOE JACKSON.  
Defendant.  
19  
20

No. 1133603

PLAINTIFF'S MOTION TO  
EXCLUDE TESTIMONY OF  
DEFENSE WITNESS  
CHRISTINE ESPEJO  
PURSUANT TO EVIDENCE  
CODE § § 352

DATE: TBA  
TIME: 8:30 AM  
DEPT.: SM2 (Melville)

21 INTRODUCTION

22  
23 The defense has stated they intend to call Christine Espejo to testify in this matter.  
24 She is the cousin of the victim's mother in this case, Janet. Her expected testimony would be  
25 that she and the victim's mother "played doctor" while both were children ten years old or  
26 younger. Additionally, Ms. Espejo has said that she is angry with her cousin about certain  
27 statements purportedly made by Janet as reported by the news. Ms. Espejo has had no  
28

1 conversations with Janet about the statements and has no direct knowledge whether the  
2 statements were actually made by Janet.

3 **I.**  
4 **EVIDENCE OF JANET'S CONDUCT AT AGE 10**  
5 **SHOULD BE EXCLUDED UNDER E.C. 352**

6 The issue of whether or not Janet Arvizo, at the age of 10, played "doctor" with her  
7 younger cousin is completely irrelevant to the issue of this defendant's guilt. The proposed  
8 testimony of witness Espejo fails to clear evidentiary hurdles such as relevance and hearsay.

9 With respect to statements purportedly made by Janet to the media, it is hearsay.  
10 This witness proposes to comment on the statements of another witness made outside this court  
11 proceeding when she has no personal knowledge whether the statements were actually made.  
12 Secondly, the conduct of this witness and her cousin Janet has no relevance to credibility  
13 whatsoever. While prior instances of specific conduct are generally admissible to attack a  
14 witness' credibility, the conduct must be relevant to that issue. Here, there were two young  
15 girls who played "doctor" together; one was 10 years old and the other 4 or 5. Nothing about  
16 that event has any value to any issue before this court.

17 Pursuant to Evidence Code section 352, the testimony of this witness should be  
18 excluded.

19 DATED: May 17, 2005

20 Respectfully submitted,

21 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY

22 By: 

23 Mag Nicola  
24 Senior Deputy District Attorney

25 Attorneys for Plaintiff

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 May 17, 2005, I served the within **PLAINTIFF'S REPLY TO DEFENDANT'S OPPOSITION RE: EVIDENCE CODE § 402 ISSUES** on Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER, and BRIAN OXMAN by personally delivering a true copy thereof to Mr. Sanger.

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

Executed at Santa Barbara, California on this 17th day of May, 2005.

  
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Mag Nicola

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