

JAN 24 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,

No. 1133603.

13 Plaintiff,

14 PLAINIFF'S REPLY TO  
15 DEFENDANT'S OPPOSITION TO  
EVIDENCE OF MARTIN BASHIR  
DOCUMENTARY, "LIVING  
WITH MICHAEL JACKSON"

16 MICHAEL JOE JACKSON,

17 Defendant.

18 DATE: January 28, 2005  
19 TIME: 9:30 a.m.  
DEPT: TBA (Melville)

20 A. Introduction

21 Defendant opposes Plaintiff's motion to admit a duly authenticated copy of ABC  
22 "20/20" rebroadcast of Martin Bashir's BBC documentary "Living with Michael Jackson"  
23 because it contains "hearsay" and because it is "sensational," "highly inflammatory,"  
24 "irrelevant" and "prejudicial."

25 B. Response

26 Evidence of the documentary is not offered for the truth of the matters asserted by  
27 the persons whose voices are heard. It is offered precisely because it was "sensational,"  
28 "highly inflammatory" and "prejudicial" to Michael Jackson's reputation and future when it

1 broke like a thunderclap in February, 2003, and because it was that event that prompted the  
2 frenetic activity detailed as overt acts in Count One of the indictment. Evidence of that  
3 precipitating event is critical to the jury's understanding of the panic and sense of betrayal  
4 Michael Jackson must have felt when he learned what Bashir had wrought and was about to  
5 share with the world.

6 "Living with Michael Jackson" is an importantly relevant "operative fact." It is  
7 relevant and admissible for precisely the reason the adverse newspaper publicity that attended  
8 Professor Zumwalt's unceremonious removal as chair of Fresno State's English department  
9 was relevant to his effort to gain reinstatement or a hearing and procedural due process before  
10 the State Personnel Board. (See *Zumwalt v. Trustees of Cal. State Colleges* (1973) 33  
11 Cal.App.3d 665, 680, n. 13.)

12 For the reasons and upon the authorities discussed at length in Plaintiff's motion for  
13 admission of the "20/20" rebroadcast of "Living with Michael Jackson, the People respectfully  
14 request that the court grant our motion.

15 Accompanying this motion is a DVD disk of ABC's "20/20" broadcast of "Living  
16 with Michael Jackson."

17 DATED: January 24, 2005

18 THOMAS W. SNEDDON, JR.  
19 District Attorney

20 By:   
21 Gerald McC. Franklin, Senior Deputy

22 Attorneys for Plaintiff  
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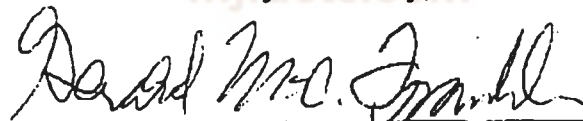
STATE OF CALIFORNIA )  
COUNTY OF SANTA BARBARA ) SS

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 January 24, 2005, I served the within PLAINTIFF'S REPLY TO DEFENDANT'S OPPOSITION TO EVIDENCE OF MARTIN BASHIR DOCUMENTARY, "LIVING WITH MICHAEL JACKSON" on Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER and BRIAN OXMAN, by delivering a true copy to Attorney Sanger's officer and causing a true copy to be transmitted to Mr. Mesereau at the facsimile number given us by counsel, and then causing that copy to be mailed to Mr. Mesereau at the address shown on the Service List.

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

Executed at Santa Barbara, California on this 24th day of January, 2005.

  
Gerald McC. Franklin

1 **SERVICE LIST**

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