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18 Attorneys for Defendant  
19 **MICHAEL JOSEPH JACKSON**

20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
21 **FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION**

22 THE PEOPLE OF THE STATE OF CALIFORNIA,

23 Plaintiffs,

24 vs.

25 MICHAEL JOSEPH JACKSON,

26 Defendant.

27 Case No. 1133603

28 MR. JACKSON'S REPLY IN SUPPORT OF  
MOTION IN LIMINE TO PRECLUDE  
REFERENCE TO MATERIALS AS  
██████████ AND ACCOMPANYING  
DOCUMENTS

Honorable Rodney S. Melville

Date: January 28, 2005

Time: 8:30 a.m.

Dept: SM 2

FILED UNDER SEAL

REPLY IN SUPP OF MOTION IN LIMINE TO PRECLUDE REFERENCE TO MATLS AS ██████████

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA

JAN 27 2005

GARY M. BLAIR, Executive Officer  
*Gary M. Blair*  
CARRIE L. WATSON, Deputy Clerk

1 A. Introduction

2 Mr. Michael Jackson submits this Reply in support of his Motion in Limine to Preclude Reference  
3 to Materials as [REDACTED] or [REDACTED]. Plaintiff states that "[REDACTED] matter" is defined by Penal Code  
4 section 311(a), and that personal possession of [REDACTED] material in an individual's home is not a crime.  
5 (Plaintiff's Memo, p. 2, lines 4-10). Yet, plaintiff wants to infer to the jury that these materials constitute  
6 [REDACTED] and [REDACTED] and has repeatedly in an effort to create a false impression to the world referred  
7 to "[REDACTED]," "[REDACTED]" and photograph books by [REDACTED] as [REDACTED] and  
8 [REDACTED]. The books and other materials involved in this case are neither [REDACTED], [REDACTED],  
9 [REDACTED], [REDACTED], or any other pejorative phrase plaintiff has attempted to attach to them.

10 B. The Court Should Instruct All Parties to Refer to the Materials as "Books," "Magazines,"  
11 "Photographs," "Computer Images," and if appropriate "[REDACTED]."

12 Plaintiff claims that some of the material seized comes within the definition of "[REDACTED] matter."  
13 (Plaintiff's Memo, p. 2, lines 14-15). However, not only can plaintiff not prove this grandiose assertion,  
14 but also no charge exists in this case regarding such a claim. While the Court could listen with great  
15 interest at a section 402 preliminary fact hearing as plaintiff attempts to prove this bold notion, the plain  
16 fact is these kinds of claims are neither relevant nor appropriate for this case. More important, the time to  
17 do that was at this hearing, and plaintiff has not made any showing to the Court that would justify any such  
18 conclusion.

19 Plaintiff states:

20 "Defendant does not suggest what other words might be used to refer to his collection  
21 without incurring objection. We do not mean to be critical: the range of terms that accurately  
22 describe the material and, at the same time, are not to pejorative is, given the focus of that  
23 collection, quite limited. If '[REDACTED]' and '[REDACTED]' – the labels that immediately spring to mind –  
24 seem rather more subjective than descriptive, '[REDACTED] material' and '[REDACTED]' surely will  
25 suffice." (Plaintiff's Memo, p. 2, lines 21-26).

26 However, it is the "legal conclusion" that plaintiff has attempted to place on completely innocent  
27 materials that constitutes the offense here. Most of the books and photographs are neither [REDACTED] nor  
28 [REDACTED]. Legal conclusions have no place in this trial.

1 It appears that plaintiff is seeking some accommodation to Mr. Jackson's argument because it  
2 recognizes it cannot attempt to label these material with legal conclusions in front of the jury. Mr. Jackson  
3 requests the Court instruct all parties to refer to the materials as 'books,' 'magazines,' 'photographs,' and  
4 "computer images." Where appropriate and relevant, the farthest the court should permit any party to travel  
5 without creating a legal conclusion is that they refer to an appropriate item as "[REDACTED]"

6 Any other label sets forth an inference that has not and cannot be established in this case. The time  
7 for plaintiff to bring forth justification for its legal conclusions was at this hearing, and plaintiff has not  
8 done so. "[REDACTED]" is the only appropriate phrase the Court should allow during the trial.

9 **E. Conclusion.**

10 For the foregoing reasons, Mr. Jackson requests his Motion in Limine to Exclude Reference to  
11 "[REDACTED]" and "[REDACTED]" be granted.

12 DATED: January 26, 2005

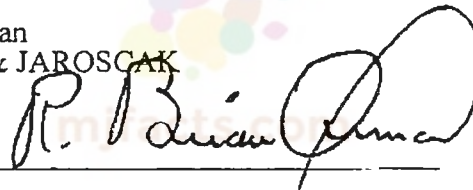
13 Respectfully submitted,

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21 By: \_\_\_\_\_



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