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SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

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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,)
13 Plaintiff,)

14 v.

15 MICHAEL JOE JACKSON,

16 Defendant.)

No. 1133603

PEOPLE'S TRIAL BRIEF
ON ADMISSION OF
CO-CONSPIRATORS' STATEMENTS

DATE: February 22, 2005

TIME: 8:30 a.m.

DEPT.: SM 2 (Melville)

FILED UNDER SEAL

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20 This trial brief is submitted pursuant to the provisions of Evidence Code section 403.
21 The proffered evidence and legal authority set forth in this brief is offered in accordance with
22 subsection (b) to satisfy the preliminary fact finding requirements and to establish the
23 sufficiency of the evidence to justify the exercise of the court's discretion on the order of proof
24 as outlined in section 403(b) and (c) of that section.

25 Count 1 of the Indictment alleges the defendant Michael Jackson conspired with five
26 named co-conspirators to commit the crimes of Extortion, Child Abduction and False
27 Imprisonment. The Grand Jury found Jackson and the named co-conspirators committed 28
28 separate overt acts in furtherance of the conspiracy.

1 Conspiracies are rarely hatched in public, and direct evidence of their formation is
2 seldom available. An intent to agree to commit a crime, like other elements of the inchoate
3 crime of conspiracy, “may . . . “be inferred from the conduct, relationship, interests, and
4 activities of the alleged conspirators before and during the alleged conspiracy. [Citations.]”
5 (*People v. Rodrigues* (1994) 8 Cal.4th 1060, 1135, quoting *People v. Cooks* (1983) 141
6 Cal.App.3d 224, 211.” (*People v. Herrera* (2000) 83 Cal.App.4th 46, 64.)

7 The requirement of an overt act is an element of the crime of conspiracy in the sense
8 that the act of one conspirator is the act of all. Each is responsible for everything done by his
9 confederates, which follows incidentally in the execution of the common design as one of its
10 probable and natural consequences. Thus, it is not necessary that a party to a conspiracy be
11 present and personally participate with his con-conspirators in all or in any of the overt acts.
12 *People v. Morante* (1999) 20 Cal.4th 403, 416. The overt act, although necessary to establish a
13 punishable conspiracy, need not itself be criminal. *People v. Russo* (2001) 25 Cal.4th 1124,
14 1135.

15 Although there seems to be a split of opinion as to whether prime facie proof (*People v.*
16 *Jourdain* (1980) 111 Cal.App.3d 396,405; *People v. Saling* (1972) 7 Cal.3d 844) or
17 preponderance of the evidence (*People v. Herrera* (2000), supra, at p.64) is required to
18 establish the preliminary factual finding for a conspiracy, once established, the testimony
19 concerning a co-conspirator’s statements in furtherance of conspiracy, though made in
20 defendant’s absence, are admissible as an exception to the Hearsay Rule. It is well recognized
21 that the order of proof is within the sound discretion of the trial court.

22 In this case, the agreement itself can be inferred from the participation of the named
23 conspirators (defendant among them) in their coordinated efforts to keep the Arvizo family
24 away from public attention even before the February 6, 2003 broadcast of Martin Bashir’s
25 “Living with Michael Jackson” across the United States. It may be inferred from their efforts
26 to coerce the participation of the Arvizo family members in a pro-Jackson “rebuttal video” to
27 counter the public relations disaster created by the Bashir documentary broadcast.

28 The goals of the conspiracy were simple: – isolate and control the Arvizo family from

1 the media; – obtain a pro-Jackson rebuttal interview to be incorporated into the planned
2 Jackson rebuttal network program to be aired on February 20th.

3 The evidence demonstrates prompt, coordinated action by those most intimately
4 associated with defendant in his business and professional life to mitigate the public relations
5 catastrophe that had befallen him.

6 Specifically, the evidence of that conspiracy can be found in several different sources:

7 1. Association. Long-standing and well-documented business and social
8 relationship between Jackson and the named co-conspirators.

9 2. Motive. It is Jackson and Jackson's career and financial future that is rocked by
10 the Martin Bashir documentary "Living with Michael Jackson.

11 3. Conduct and statements of Michael Jackson – Arvizos' trip to Miami. It was
12 Michael Jackson who extended the invitation, using false and non-existent threats to entice the
13 family to the Turnberry Resort where he and his co-conspirators waited to begin the control
14 and isolation of the family. It is in Miami that Jackson introduces Janet Arvizo to Dieter
15 Wiesner and Ronald Konitzer and tells her to do what they say.

16 4. The return flight. The Arvizos were taken by Jackson to the seclusion and
17 isolation of his Neverland Valley Ranch; not returned to their Soto Street apartment.

18 5. The presence of Dieter Wiesner and Ronald Konitzer at the Ranch and the arrival
19 of Frank Cascio and Vinnie Amen in Los Angeles. Defendant Jackson, the co-conspirators,
20 and the Arvizos are at the ranch. They are relentless in their attempts to obtain the Arvizos'
21 participation in the pro-Jackson rebuttal video.

22 6. The Salas escape. Jackson requested and obtained the Arvizos' telephone
23 number from Evie Tavasci. It is reasonable to believe it was he who furnished the number to
24 Frank Tyson, who used it to call Janet. It is unreasonable to believe he would have furnished
25 the number without knowing they were gone, the reason, and why they needed to be brought
26 under control. They would clearly need his permission to get them back on the ranch.

27 7. Tyson-Janet conversation. Tyson makes specific references to having alerted
28 Jackson to their absence, Jackson's concern for their safety, and Jackson's desire for them to

1 return. What possible concern could Jackson have for any of this in the absence of no real
2 threat to their safety? His true motive was to seek to re-establish control and isolation of the
3 family and get Gavin back.

4 The Tyson conversation also illustrates that they were aware of Janet's
5 unhappiness with the "Germans" and their threatening behavior. Since Tyson was not
6 physically present at the Ranch, this information had to come through those parties present.
7 Jackson was one of them.

8 8. The rebuttal film. It was done by his personal videographer. It was originally to
9 be done on his ranch. It was done in part for inclusion in a planned network T.V. rebuttal. The
10 statements made are directly beneficial to Michael Jackson. He benefited personally and
11 financially.

12 9. Telephone monitoring at the Ranch. Jackson showed the boys how it was done
13 from his room. In fact, Jackson and Star listened to calls. If Jackson had no knowledge of the
14 "danger" the family's release presented, why monitor Janet's calls and activities.

15 10. Gavin-has-to-stay motive. Jackson is in charge of the ranch and acknowledged
16 as a detail-oriented person and has the most obvious motives to seeing Gavin remain on the
17 ranch.

18 11. The Brazil trip. Gavin's testimony established Jackson knew about the trip. The
19 conversation also involved Tyson, who along with Jackson's business partner, orchestrated
20 through Vinnie the details necessary to make the trip a reality. Jackson furthered the chances
21 of their going on the trip by saying he would join them there.

22 12. Urine sample / Doctor's appointment. Vinnie destroyed the urine sample that
23 both Jackson and Gavin thought would show Gavin had been drinking. Jackson had tried to
24 persuade Gavin not to complete the sample or keep the appointment. Vinnie's destruction of
25 the sample had to have been directed by Jackson. No one else knew or had a motive to do so.
26 This reflects not only Jackson's desire to avoid further scandal, but his working relationship
27 with Vinnie.

28 13. The telephone records analysis. This analysis established two things: Jackson

1 did not have a cell phone and that he often borrowed Chris Carter's or Marie Nicole's cell
2 phones to make calls. The fact that both of their phones are used to call individuals not
3 associated with Carter or Nicole shows it to be Jackson's use. Secondly, the calls themselves
4 show an active and pervasive pattern of calls by Jackson from these phones to the other parties
5 of the conspiracy at critical junctures of the players actively committing numerous overt acts in
6 furtherance of this conspiracy. It is unreasonable to believe the timing, pattern and frequency
7 of these calls was somehow coincidental.

8 **II. PROFFERED EVIDENCE**

9 Motive. There is compelling evidence that the Martin Bashir documentary, "Living
10 with Michael Jackson" was a public relations disaster. The outcry galvanized Michael
11 Jackson, his co-conspirators and other advisors into a "damage control" mentality to mitigate
12 the disastrous effects the program promised to have on what remained of the defendant's
13 personal reputation, his financial fortune and his musical career—not to mention the business
14 ventures of some of those associates, the viability of which depended upon the viability of
15 Jackson's own reputation and career.

16 An important step in that plan was the hiring of Ann Gabriel. Ann Gabriel, who in early
17 2003 owned a public relations business called "Gabriel Media," was experienced in "crisis
18 management" for clients who have public relations problems, either with their own public
19 persona or with respect to products they manufacture. She was contacted by Jackson's Las
20 Vegas attorney, David LeGrande, in late January to do "crisis management" for Michael
21 Jackson and hired on February 9, 2003.

22 The enormity of the furor created by the broadcast of the Bashir documentary will be
23 amply summarized by Ms. Gabriel in her testimony. On a scale of 1 to 10, the level of concern
24 on the part of Michael Jackson and his associates about the damage done to Jackson's public
25 image by the broadcast was "about a 25."

26 Christian Robinson, a writer who makes documentaries and commercials and who was
27 also hired by the defendant and co-conspirators to plan a "rebuttal film" including an interview
28 with Jackson's former wife, Debbie Rowe, echoed Ms. Gabriel's evaluation. He described

1 “Living with Michael Jackson” as a “nightmare for Jackson.” Others called it a public
2 relations catastrophe.

3 Rudy Provencia, personal assistant to Marc Schaffel during this crisis, says Schaffel
4 repeatedly referred to the situation as a “train wreck.”

5 **Team Jackson**

6 Though mere association with the perpetrator of a crime is not sufficient to prove
7 criminal conspiracy, the entire conduct of the parties, their relationship, acts and conduct,
8 during and after a crime, may be considered to determine the nature of the conspiracy. *People*
9 *v. Lewis* (1963) 222 Cal.App.2d 136, 144; *People v. Hardeman* (1966) 244 Cal.App.2d 1, 41;
10 *People v. Lynam* (1968) 261 Cal.App.2d 490, 502.

11 Ann Gabriel was enlisted by Jackson’s attorney, David LeGrande, to participate in
12 controlling the crisis and reversing the long-term effects. As Gabriel pointed out, she was one
13 member of the Jackson “team” involved in this endeavor and described other members of the
14 team as being Dieter Weizner, Ronald Konitzer and Marc Schaffel. Gabriel further described
15 the roles of Bell Yard, a United Kingdom equivalent of her U.S. role, Schaffel as leader of the
16 public relations team, and Weizner and Konitzer as involved in the public relations decisions
17 associated with mitigating the public relations disaster and financial crisis created by the
18 Bashir tape.

19 Documents seized from Marc Schaffel’s residence establish a business relationship
20 between Marc Schaffel and Jackson in the Neverland Valley Entertainment, Inc. venture, and
21 between Schaffel, Dieter Weizner and Ronald Konitzer and Jackson on the production of a
22 rebuttal video to be sold to a T.V. network.

23 There is no disputing that Jackson’s relationship with Frank Cascio, aka Tyson, went
24 back to the early 1990’s. Also, according to documents seized from MJJ Productions’ business
25 office at the time of these events and for some time previous, Tyson was employed by Jackson
26 at a sizeable monthly salary.

27 On the other hand, Vincent Amen’s initial association with the co-conspirators was his
28 longtime friendship with Frank Cascio. He came to California with Cascio in early February.

1 He was immediately placed on the Neverland Valley Ranch payroll and located at a desk next
2 to Schaffel at Schaffel's residential office.

3 **To Isolate and Control**

4 The evidence at trial will show that weeks before the February 4 airing of the Bashir
5 documentary, Marc Schaffel obtained an advance copy of the documentary transcript. He in
6 turn shared the disastrous news with Ronald Konitzer. Records will show that at this point
7 Jackson was staying at the Turnberry Resort near Miami, Florida. Additional documents in the
8 form of e-mails and press releases issued by Jackson, or on his behalf, show an early decision
9 to involve the Arvizos in the Jackson team's planned counter-offensive and the goal of their
10 participating in a pro-Jackson video to be sold and aired on network TV and around the world.

11 It is most unreasonable to suggest that it is merely coincidental that the very individuals
12 described by Ann Gabriel as being at the top of Jackson's team were summoned to join
13 Jackson at the Turnberry Resort. Airline records and hotel billings show Wiesner and Konitzer
14 arriving in late January and Frank Tyson is summoned and arrives in early February. Another
15 document seized from Jackson's MJJ Productions business office reflects the group's intent to
16 "ride" the publicity storm out in Florida. This memo cites the high cost of such a strategy and
17 explains everyone's eventual gathering at Jackson's Neverland Valley Ranch.

18 It is also no coincidence that these same individuals—Frank Cascio, Ronald Konitzer
19 and Dieter Wiesner—were all actively involved in efforts to "encourage" the Arvizo family's
20 participation in a rebuttal video.

21 **Arvizos to Miami**

22 Michael Jackson's voice was the first to be heard in his effort to counter the adverse
23 public reaction to the Bashir documentary, which Bashir will tell you was scheduled for re-
24 broadcast in the United States on ABC's network show "20/20" on Thursday evening,
25 February 6.

26 Records made by Jackson's business manager, Evie Tavasci, and found at MJJ
27 Productions' office, confirm that the search to locate and contact the Arvizos began even
28 before Jackson's first calls on February 4, 2003. Turnberry Resort hotel records show hotel

1 calls to Tavasci, the Arvizo information noted on her daily log and then more calls to Janet
2 Arvizo's parents' home in El Monte, California, on February 4, the day after the United
3 Kingdom's Bashir broadcast. They also show another call to Jay Jackson's apartment in West
4 Los Angeles at 9:58 EST on February 5.

5 Turnberry records show the conversation lasted 27 minutes. During this conversation it
6 was Jackson who told Janet and Gavin that Gavin was in danger; that there were people who
7 wanted to kill him.

8 It was Jackson who wanted Gavin to join him in Florida. It was Jackson who told Janet
9 and Gavin he wanted Gavin to participate in a press conference. It was Jackson who said a
10 strong public statement supporting him would make the killers go away. It was Jackson using
11 the non-existent threats of danger to Gavin to convince the family to come to Florida.

12 Despite Jackson's protests, Janet Arvizo refused to allow Gavin to go to Florida alone.
13 She insisted the whole family would have to go. Although upset and frustrated, Jackson
14 agreed and the Arvizos were to leave the same day on a commercial flight.

15 Airline records from Jackson's personal travel agency, Air Apparent, and charged to
16 Jackson's MJJ Productions account, show commercial airline reservations for the family. The
17 tickets were never used. Instead, the limo driver who picked them up took them to comedian
18 Chris Tucker's place and they all flew with Tucker on a chartered jet to Miami. This flight is
19 confirmed by XtraJet records.

20 Assertions that a press conference was intended is a matter of conjecture. What is not a
21 matter of conjecture is that both Karen Faye, Jackson's personal makeup artist, and Hamid
22 Moslehi, his personal videographer, were ordered to Miami. Airline records show both left on
23 February 4. Both were also immediately informed their services were not needed and told to
24 return home. Faye's return flight occurred even before the Arvizos' chartered flight left Los
25 Angeles. Clearly, the Arvizos' participation in any press conference was by now just a pretext
26 to isolate and control them at the Turnberry Resort.

27 Once the Arvizos were in Florida, efforts were renewed to convince the family they
28 were in mortal danger and only a public display of affection and support for Michael Jackson

1 would satisfy the killers. In order to emphasize the danger, once in Florida the story became
2 that the threats were no longer against just Gavin, but now the whole family was in danger.

3 Once again, it is defendant Michael Jackson's voice that is heard giving directions:

- 4 • The defendant introduced Ronald Konitzer and Dieter Wiesner to Janet Arvizo.
- 5 • The defendant instructed Janet Arvizo to "do everything Ronald and Dieter tell
6 you to do."
- 7 • The defendant concluded by saying, "They're the ones that are going to make
8 the killers go away."
- 9 • It was Jackson who angrily refused to allow anyone to watch the "20/20" re-
10 broadcast of the Bashir documentary.

11 It is co-conspirators Ronald Konitzer and Dieter Wiesner who now echoed Jackson's
12 statements to Janet that her son, Gavin, was targeted for death and Jackson's words expanding
13 the death threats to the entire family.

14 Dieter and Ronald's requested cooperation amounted to Ronald securing her signature
15 on a blank piece of paper. "... this will stop the killers," he said. The next day Dieter
16 approached Janet again requesting her signature stating, "What Ronald had done did not work.
17 This time Dieter told her to write nice things about Michael Jackson, because it "... would
18 appease the killers. Janet refused.

19 Without her knowledge or consent, those signatures were made a part of legal
20 documents filed by Theodore Goddard, Jackson's legal representative in England, supporting
21 Jackson's complaint to the British Standards Commission over the airing of "Living with
22 Michael Jackson" in the United Kingdom.

23 Also without her consent, the Jackson camp issued press releases quoting Janet as
24 attacking Bashir and praising Jackson. She had never been asked to make such statements
25 much less authorize their release. Ian Drew, another media associate, will recount for you his
26 conversations first with Dieter Wiesner in Miami and then by telephone with Marc Schaffel in
27 California. It is still only February 6 and each is speaking to Drew about his role in filming a
28 rebuttal program to be sold to some network. Other documents show the Arvizos were to be

1 part of the video to be sold for millions.

2 It is Jackson who in Miami initiates efforts to renew his earlier acquaintanceship with
3 Gavin. As defendant and Gavin renewed their earlier acquaintanceship, defendant insinuated
4 himself into a highly personal and inappropriate—even “conspiratorial”—relationship with
5 Gavin. He maintained and enlarged upon that relationship over the next few weeks. The
6 relationship included presents, such as one of Jackson’s jackets. It was furthered by making
7 alcohol available to Gavin and his brother and building a “trust” bound by swearing Gavin to
8 secrecy by giving Gavin his watch, which Jackson asserted was valued at \$75,000, and having
9 Gavin call him “Daddy.”

10 **February 7 to February 12**

11 **Confinement at Neverland Valley Ranch – Late Night Escape**

12 It is Michael Jackson’s personal chartered jet that returns the family to California—but
13 not to their home.

14 It is Michael Jackson’s personal limo that takes the family to the seclusion of his gated
15 and guarded Neverland Valley Ranch—not their Soto Street apartment in California.

16 The family remains at the Neverland Ranch until their late night “escape” with Jesus
17 Salas. During this timeframe, numerous events and activities occur, further evidencing the
18 conspirators’ intentions and goals.

19 The crisis rages unabated. This is the specific timeframe during which Ann Gabriel, the
20 crisis management specialist, was added to the team. Documents found during the Schaffel
21 search, link Dieter Weizner and Ronald Konitzer to the proposed rebuttal video production and
22 its sale. Documents further show how the monies would be distributed between Jackson,
23 Schaffel, Konitzer and Wiesner. Christian Robinson acknowledges the tremendous monetary
24 value of such a video and describes his work with Schaffel, and an unidentified attorney on a
25 video script.

26 Airline records show that simultaneously the co-conspirators are also gathering at the
27 ranch and Los Angeles area crisis management center at Marc Schaffel’s Calabasas residence.
28 Dieter Wiesner lands at LAX from Miami on February 7th, within minutes of Frank Tyson and

1 Vinnie Amen's flight from New Jersey. Neverland Valley Ranch logs show Dieter arriving at
2 the ranch and staying. Ronald Konitzer follows within days and also is logged into the ranch.

3 Testimony of the family members will establish that between the return from Miami and
4 the first escape from the ranch late at night on February 12th, Dieter and Ronald pressed Janet
5 to participate in a rebuttal film. They showed her a script "that in summary, that Michael's this
6 absolutely wonderful guy." She was not allowed to ask questions and told to memorize the
7 script. Again, the approach to enlist their cooperation included concerns about the family's
8 safety and the threats from the public created by the Bashir film.

9 • They repeated the admonitions that Jackson had first used to entice the family to
10 Miami: "that there were unknown killers out there."

11 • They repeatedly emphasized that only the production of the video praising
12 Michael Jackson would appease these killers.

13 • They told Janet Arvizo that the killers had gone to her children's school.

14 • They cautioned her about the danger to the children and only they could protect
15 her with the security afforded by the isolated nature of the ranch and therefore they were not
16 free to go.

17 The family was presented with scripted questions and canned answers. That a script
18 was prepared was corroborated by longtime Schaffel friends, Rudy Provencia and Christian
19 Robinson. According to both, Schaffel and an unknown attorney prepared a script of questions
20 to be asked of the Arvizo family members during the filming of the "rebuttal video." Janet
21 refused. Tensions mounted. Then Dieter Wiesner demanded Janet return the watch that
22 Jackson had given Gavin. Again, the mother refused.

23 The situation degenerated until finally shortly after midnight on the 12th of February,
24 Janet Arvizo approached one of the employees, Jesus Salas. She asked Salas to take her and
25 the children home. He agreed. They grabbed what little belongings they had, and Jesus Salas
26 drove them directly from the ranch to Mrs. Arvizo's parents' home in El Monte.

27 Janet Arvizo wanted to leave Neverland. Ranch employees will confirm it was obvious
28 that she did not want to be there. When Janet becomes singularly uncooperative, things

1 became acrimonious. In the face of Janet's refusal to cooperate, Dieter and Ronald became
2 "mean." She learns from her children that Dieter and Ronald are monitoring her calls.
3 Although Jackson, Dieter and Ronald denied the monitoring, Dieter angrily confronted Janet
4 about a call she made to Jay, knowledge of which could only come from monitoring of her
5 calls. Interestingly enough, it is Jackson himself who shows Gavin and Star how he monitored
6 calls. Evidence will establish that the only two phones capable of monitoring other phone
7 extensions at the ranch complex were in Jackson's private quarters and his office.

8 These actions were calculated to demonstrate to the stubborn Janet Arvizo her isolation,
9 her hopelessness and the futility of non-cooperation. These events were related, coordinated
10 and calculated to convince Janet and the family that their cooperation in the production of the
11 video was tied to the family's safety, and indeed to their release.

12 Contemporaneous with Ronald and Dieter's efforts to convince the stubborn Janet to do
13 the video, e-mail and documents seized from Marc Schaffel's residence reflect the
14 conspirators' preparation for the upcoming pro-Jackson rebuttal, which was to include the
15 Gavin and the Arvizo family segment.

16 Schaffel's office manager during this period will establish the constant flow of
17 communications between Schaffel and Jackson dealing with the crisis in general and the
18 planned rebuttal video in particular.

19 At the ranch Jackson's then bodyguard, Christopher Carter, witnesses Jackson, Konitzer
20 and Wiesner in numerous meetings and conversations in Jackson's private office and other
21 locations around the ranch.

22 It would be beyond unreasonable to conclude that it is "more probable than not" that
23 these activities, conversations, preparations and documents do not establish the existence of a
24 concerted, coordinated and planned conspiracy as set forth in the Indictment.

25 **February 12 to February 17**

26 **Salas Escape**

27 The Arvizo family's late night departure from Neverland Ranch on February 12th,
28 caused immediate concern among the Jackson "team." That Jackson, Dieter and Ronald were

1 unaware of the Arvizos late-night departure is apparent from Marc Schaffel's call to Ann
2 Gabriel on the morning of February 13th, that they considered the situation critical. It is also
3 clear that since Schaffel was not at the ranch, someone at the ranch alerted him to their
4 departure. Based upon the prior events, the relationship of the members of the Jackson team,
5 and the potential impact on their current plans, it was most reasonable to conclude that those
6 conspirators at the ranch made the decision to call Schaffel.

7 Marc Schaffel told Ann Gabriel "... there was a problem at the ranch." He told her
8 Janet had taken the kids and left in the middle of the night or early in the morning. He was
9 extremely upset and agitated. He told her that he was "... afraid they had gone to sell her
10 story to a U.K. tabloid."

11 Indeed, Schaffel's remarks expressing his fears that Janet had or would go to a U.K.
12 tabloid are an ever clearer recognition of the danger the family's freedom posed and the
13 urgency of reestablishing control to prevent just such a contact.

14 A few days later in another conversation, Schaffel tells Gabriel "the situation was now
15 contained." One cannot in the context of the conspirators' goals and objectives overlook the
16 evidentiary importance of the words Schaffel chose during his Ann Gabriel conversation.
17 "They found them. They brought them back." Not "I," not a name, but "they." "The situation
18 was contained." Was this not exactly the original goal of the conspirators? Isolation! Control!
19 Departure was a problem. The family-at-large was a crisis! The agitation was real. Now
20 containment was reestablished.

21 That a conspiracy was afoot to regain control and isolation of the Arvizo family will
22 also be evidenced by telephone records between the conspirators, particularly Frank Tyson.
23 Analysis of telephone records show no less than 30 calls between Tyson and Janet Arvizo
24 between February 14 and February 17. Similar analysis shows a constant flurry of calls
25 between Neverland Valley Ranch and Tyson and Schaffel; between Schaffel and Brad Miller;
26 between Tyson and Amen.

27 The first direct contact with the family was three calls made by Tyson in New Jersey to
28 Janet's parents at 1:45 p.m. on the 14th. Between these calls and the family's return on

1 February 17th, there were an excessive number of telephone calls between Janet Arvizo and
2 Frank Tyson.

3 On Friday, February 14th, Frank Tyson again called Janet Arvizo. The recording of the
4 conversation was seized from Michael Jackson's private investigator Brad Miller's office.

5 Tyson's conversation with Janet shows his knowledge of Janet's "unhappiness with the
6 Germans" and acknowledges the overbearing and threatening atmosphere created by their
7 contacts with her. Inasmuch as Tyson was not present at the ranch, it is reasonable to infer that
8 the source of this information was again one or more of the co-conspirators who were at the
9 ranch—Jackson, Ronald and Dieter.

10 The Tyson call was also noteworthy, not only for his repeated pleas for her to return, but
11 also his request for the family to participate in a video and to say "beautiful things about
12 Michael." In the context of the family's flight, mentioning the video only gives further
13 evidence of the importance the co-conspirators placed upon the Arvizos participation in the
14 video and their conscious and coordinated efforts to use every effort to obtain it.

15 Despite Tyson's repeated pleas and persuasive attempts, it was only by the use of
16 deception that he was able to convince Janet and the children to return to the ranch. He gave
17 Janet his personal assurances that Dieter and Ronald would be gone when they returned.

18 Now place the conversation and the words selected in the context of Frank Tyson's
19 numerous calls to Janet and Gavin to encourage their return. The fact of Tyson's phone
20 contacts are as illuminating as his words to Janet. Tyson called Janet at her parents' house. Of
21 the conspirators, only Michael Jackson knew Janet's parents' telephone numbers. Jackson had
22 called Gavin at his grandparents' house on numerous occasions during Gavin's bout with
23 cancer. It was Jackson who from the Turnberry Inn requested Evie find the number.

24 It is unreasonable to believe that Jackson would have furnished the phone number
25 without knowing the reason that the family was missing, the reasons for their departure, and
26 the need to obtain their immediate return to the control and isolation provided by the ranch's
27 interior security and remote location. The reasonableness of this inference is supported by
28 Tyson's comments to Janet, specifically referencing Jackson's knowledge of their departure,

1 Jackson's concern for their safety and Jackson's desire for them to return to the safety of his
2 Neverland Ranch.

3 When Miller showed up at Major Jackson's apartment on Sunday evening, the 16th of
4 February, he handed Janet his cell phone. On the other end was Frank Tyson. Tyson began by
5 asking her and the kids to cooperate with Miller and again urged her to say nice things about
6 Michael Jackson. Although still not convinced to do the video, she agreed to do a taped audio
7 interview with Miller.

8 Despite Frank Tyson's February 14th tape-recorded assurances to Janet to the contrary,
9 when the Arvizos returned to Neverland Valley Ranch Janet saw that Ronald and Dieter were
10 still there. Her reaction was immediate. She sought out Salas, who explained he could not
11 help her. Seeing security guard Chris Carter, she asked his help. She stated there was an
12 emergency and they needed to go home. She was told by Ronald and Dieter that she could
13 leave, but the children couldn't go. Janet Arvizo left her children at Neverland and Chris
14 Carter, Jackson's bodyguard, drove her back to Jay Jackson's residence. They left at 9:45 p.m.
15 Carter describes her as crying and extremely upset.

16 Not unexpectedly, their decision to keep her children without her permission created
17 fear and concern. To reinforce their control over her and the situation, Ronald Konitzer
18 admonished her not to try and contact anyone, that her calls—"every phone call"—was being
19 monitored, and, if she told anyone, the children's lives would be in danger.

20 The "Gavin is not to leave Neverland" posted at the security guard outpost lends
21 credence to Janet's assertion that the children were not free to leave the Neverland Valley
22 Ranch. Security Officer Barron will testify to the uniqueness of this written directive and
23 places its appearance at or near the time of these events. Although acknowledging he did not
24 know who issued the order, he will support the testimony from Jesus Salas and Chris Carter
25 that nothing happens around Neverland Ranch without Jackson's knowledge or assent.

26 That the defendant, Michael Jackson, is actively involved in counter-offenses to save his
27 career is evidenced by more than just co-conspirator Frank Tyson's statements speaking for
28 Jackson during his call to Janet and the abundance of telephone calls between Neverland

1 Valley Ranch and the co-conspirators. It was Michael Jackson himself who called his former
2 wife Debbie Rowe and asked her to do an interview for the "Footage You Were Never Meant
3 To See" broadcast. Ian Drew and Rudy Provencia will testify to working for Schaffel during
4 the crisis and being present during numerous calls between Jackson and Schaffel discussing the
5 crisis and their plans.

6 **Rebuttal Tape**

7 On February 17, Janet was contacted by DCFS for an interview to assess allegations of
8 her fitness as a mother and potential molest allegations against Jackson. They insisted the
9 meeting include the children. The meeting was set for Thursday morning, February 20th.

10 Janet repeatedly called the ranch to make contact with someone about the need for her
11 children to attend Thursday's interview. Frank eventually called her and said she could get the
12 children if "... I did the video ... that he would bring the children if I would do the video
13 exactly how Dieter had scripted it." Janet was also told that "... if after they evaluate the
14 video, if I did everything, me and the children did everything that was on the script" we
15 wouldn't have to go to Brazil. Until the evaluation was done by Dieter, Janet and the children
16 would have to return to the ranch. Janet agreed to do the video.

17 There are at least four pieces of evidence that will support the inference that Jackson
18 was intimately aware and involved in this film project. First, it was Hamid Moslehi, his
19 personal videographer, who was chosen to do the production. Secondly, his ranch was selected
20 as the location of choice. Third, is the "Gavin is not to leave Neverland" posting. All of these
21 activities involve decisions about persons, locations and directives over which he had control
22 and knowledge. Indeed, it is more than reasonable to conclude that the controlling Jackson had
23 directed or approved Hamid's use of the ranch film location and granted exemption from the
24 "Gavin not to leave Neverland" posting when it served his needs and purposes.

25 The fourth piece of evidence is the numerous telephone calls generated by the filming
26 prospect and the next day's DCFS interview. The timing, numbers and parties to the telephone
27 conversations during these events demonstrate these were not isolated, uncoordinated or
28 impromptu decisions. Indeed, the phone analysis shows a constant, continuous and

1 coordinated effort by the conspirators to stay abreast of events, control the crises and achieve
2 their goals. Neither the family's return after Tyson's call nor the Hamid video or the DCFS
3 interview should be viewed in isolation. There is ample evidence from these calls to conclude
4 that the purposes and participation of the callers were to achieve the conspiracy's goals.

5 Is it reasonable to believe that the appearance of Jackson's security guard, Asaf Vilchik,
6 and Vinnie Amen at the DCFS interview on the next day was by happenstance?

7 Asaf just showed up and was introduced as Michael's security. He told Janet to tape
8 record the conversation and placed a recorder on Jay's desk. He showed her how to use it and
9 as she was walking out of the bedroom told her he placed another in the room. Both Asef, the
10 "security" person, and Azja Pryor were asked to leave by the social workers before the
11 family's interview began. Janet then turned her tape recorder off.

12 What possible innocent explanation can there be for the surreptitious and illegal taping
13 of the initial parts of the DCFS interviews and attempts to secret a tape recorder in the
14 apartment. Is it more reasonable, more probable and indeed likely than not to conclude that
15 these acts are just further evidence of conspirators' attempts to intimidate and control the
16 Arvizo family statements and ensure that only "beautiful" things are said about Michael
17 Jackson?

18 Future events proved Janet's beliefs to be illusory. The post-rebuttal video actions and
19 statements by the conspirators reveal contrary intentions. Having extorted the family's
20 participation in the rebuttal video, they set in motion the monitoring of the DCFS interview to
21 ensure and verify the family's continued cooperation. Despite assurance to the contrary, they
22 commenced the attainment of their long-term goal to shift the family's isolation and
23 confinement from the ranch to the more final and distant isolation, Brazil.

24 Dieter's notice to Janet that they were planning a "vacation for the family until "... they
25 decided that the positive PR from Michael had worked and that they had damage controlled
26 everything" was not by accident.

27 The genesis for the long-term isolation plan is documented in the financial records and
28 e-mails exchanged between Schaffel, Weizner and Konitzer shortly after the Miami trip.

1 Almost immediately after the rebuttal video is completed, the execution of the plans begins.
2 Schaffel is clearly the financier, but the money is obtained from the proceeds of the Michael
3 Jackson Network T.V. appearance. As such, is it unreasonable to believe that Michael Jackson
4 was unaware of funds distribution and the purposes for which they were being used. Vinnie
5 Amen and Frank Tyson were active participants and responsible for a good deal of the plan's
6 execution.

7 The Arvizo family's vacation was not without its logistical issues. Indeed, immediately
8 after the social workers interview, Janet is informed by Vinnie that the video was inadequate.
9 He chided her for not being enthusiastic enough. "Now you're going to have to go to Brazil,"
10 he said. So on that very day Janet and Vinnie set out to obtain birth certificate applications in
11 order to get the passports and visas.

12 Money was needed for birth certificates and passports. Brazilian visas were required
13 and not possible without proof of round-trip airline tickets. The children were checked out of
14 school, not by the mother, but by Vinnie Amen. Money was needed to pay for the books that
15 were not returned at the time that the children were checked out. The family was moved out of
16 its apartment and belongings stored at an unknown location. No member of the family was
17 involved in the packing, much less present at the move. First and last month's rent were paid
18 to the landlady by Vinnie Amen. Are these the actions indicative of a family free to make
19 choices or one without control or recourse?

20 During these events the family was quartered at the Calabazas Inn. They were confined
21 to their rooms, except for trips necessary for Amen or Tyson to obtain the documents necessary
22 to accomplish the trip. Their confinement was ensured by a bodyguard and constant
23 surveillance.

24 Deception was the hallmark of their actions. Vinnie and Frank said return to the ranch
25 was dangerous, because the killers had arrived at the ranch. Vinnie and Frank told her they
26 were in close contact with Marc Schaffel and Brad Miller.

27 Their signatures were forged on passports. Belongings stored at unknown locations.
28 Jackson's correspondence and notes to Gavin stolen. The schools were told the family was

1 going to Arizona. The United States Government Passport Application said the family was
2 going to France or Italy. The visas were for Brazil. Just where was it that they were going?
3 Isn't the clear and reasonable import drawn by the Grand Jury from these activities that the
4 plan was to hide the family and to make it more difficult for anyone—family, friends, or the
5 media to locate them. These activities set forth as overt acts in the Indictment more than
6 establish the intended final chapter of the conspirators' goals to isolate, control and ensure no
7 public freedom or media access for the family. The defendant Jackson's awareness and active
8 participation in this objective is reasonably given from Gavin Arvizo's statements that Michael
9 Jackson openly talked with Frank Tyson in Gavin's presence about the trip and that Jackson
10 would join them in Brazil.

11 How was Janet Arvizo's attitude towards the trip? "Horrible. I didn't want to leave my
12 parents and I didn't want to leave Jay."

13 On the night of the 9th, Gavin informed Jackson that the next day he had to take a urine
14 sample to the Kaiser Hospital as a part of his routine checkup. Jackson was immediately
15 alarmed that the urine sample would show that Gavin had been drinking alcohol. He tried to
16 convince Gavin not to go to the appointment, telling him that doctors don't know anything.

17 Gavin for his part was also now fearful. He knew his mother would insist they go. He
18 called to tell her he had been drinking and that it would show up in the urine sample. Mrs.
19 Arvizo was immediately furious and sent Davellin to fetch the boys from Jackson's bedroom,
20 but neither Jackson nor the boys inside responded. No one but Jackson, Gavin and the Arvizo
21 family knew about the potential damning disclosure that the urine sample of this 12-year-old
22 cancer survivor would show alcohol. Scientific proof that Jackson had been providing the boy
23 with alcohol.

24 The next day Vinnie Amen was assigned by Jackson to drive Janet and Gavin to Kaiser
25 Hospital in Los Angeles. Neverland Valley Ranch logs show their departure. Both Gavin and
26 Janet Arvizo will testify that when they left they had a large 2-quart urine specimen plastic
27 bottle full of urine. They will also testify that when they stopped at a Denny's Restaurant to
28

1 use the restroom facilities that upon their return the bottle, according to Vinnie, "spilled" and
2 only a very small amount of the urine remained. Proof gone. Concern ended.

3 After their visit to Kaiser Hospital, Janet had had enough. She had Vinnie take her to a
4 hairdresser near Jay Jackson's work. She called Jay and asked him to come over to the shop
5 immediately. She told Vinnie that she did not want to return to the ranch. Gavin, on the other
6 hand, was anxious to return to Neverland and to Jackson. After several telephone calls
7 between Vinnie and Frank, it was determined that Janet could go with Jay Jackson, but that
8 Gavin needed to go back to the ranch. Janet reminded Vinnie that the children needed to be
9 present in court the next morning because her domestic relations case with her ex-husband was
10 on calendar.

11 The following morning Vinnie Amen showed up in court, but without the kids. Janet
12 was now determined more than ever to get the kids off of the ranch. She discussed the matter
13 with Jay and they decided that they were going to make up a story about her parents being
14 seriously ill and that before the family could possibly consider going to Brazil, it was necessary
15 for them to say their goodbyes to the grandparents.

16 In a series of calls negotiated between Janet and Frank that the kids could spend the
17 night at the grandparents but agreed to return and go to Brazil. Bags were packed but before
18 they left Tyson directed that Gavin's bag containing his underwear and personal belongings
19 would have to stay. It did. Eventually when the bag was returned, his underpants and some
20 other personal belongings were missing.

21 Once at the grandparents' house Janet made it very clear that they were not going to
22 return to the ranch. But this was not the end of the co-conspirators' endeavors to entice the
23 family back to the ranch. Private investigators were sent to trail the kids to school.
24 Surreptitious videotaping from cars was done. They slipped notes under the door to "call
25 Vinnie," and other harassing telephone calls continued for days.


26 CONCLUSION

27 Whether one uses the *Saling* "prima facie" evidence standard to establish a conspiracy
28 or the preponderance of evidence standard articulated in *Herrera*, here the proffered proof is

1 well beyond that needed to satisfy the preliminary fact standard of Evidence Code section
2 403(b) to allow the court to exercise its discretion as to the order of proof as set forth in
3 Evidence Code section 403(c)(1)(2) as to the admissibility of co-conspirators' statements.

4 DATED: February 16, 2005.

5 Respectfully submitted,

6 
7 THOMAS W. SNEDDON, JR.
8 DISTRICT ATTORNEY

9 Attorney for Plaintiff
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2 **PROOF OF SERVICE**

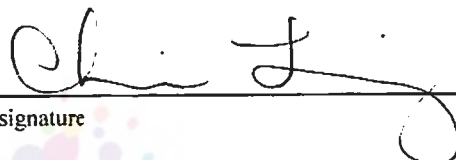
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4 STATE OF CALIFORNIA }
5 COUNTY OF SANTA BARBARA } SS

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7 I am a citizen of the United States and a resident of the County aforesaid; I am over the
8 age of eighteen years and I am not a party to the within-entitled action. My business address
9 is: District Attorney's Office; Courthouse; 1112 Santa Barbara Street, Santa Barbara, California
10 93101.

11 On February 16, 2005, I served the within PEOPLE'S TRIAL BRIEF ON ADMISSION
12 OF CO-CONSPIRATORS' STATEMENTS; on Defendant, by THOMAS A. MESEREAU,
13 JR., ROBERT SANGER, BRIAN OXMAN, by personally delivering a true copy to Mr.
14 Sanger's office and by faxing a true copy to Mr. Mesereau at his confidential fax number in
15 Santa Maria, and to Media's counsel at the fax number shown with their address on the
16 attached Service List, and then by causing to be mailed a true copy to each counsel at that
17 address.

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

19 Executed at Santa Barbara, California on this 16th day of February, 2005.

20
21 
22 signature

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