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17 Attorneys for Defendant
18 MICHAEL JOSEPH JACKSON

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

21 THE PEOPLE OF THE STATE OF)
22 CALIFORNIA,)
23 Plaintiffs,)
24 vs.)
25 MICHAEL JOSEPH JACKSON.)
26 Defendant.)

27 Case No. 1133603
28 EX PARTE APPLICATION FOR AN
EVIDENTIARY HEARING ON THE DOE
FAMILY'S PRIOR LITIGATION;
DECLARATION OF SUSAN YU
UNDER SEAL
Honorable Rodney S. Melville
Date: TBA
Time: TBA
Dept.: 8

29 TO THE CLERK OF THE ABOVE-ENTITLED COURT:
30 Mr. Jackson respectfully requests that the Court hold an evidentiary hearing regarding the issue
31 of whether evidence of the Doe family's prior litigation, and, in particular, their prior litigation involving
32 J.C. Penney, will be admissible at trial. Defense counsel have recently been informed that a paralegal for
33 the lawyers who represented the Doe family in their litigation against J.C. Penney is prepared to testify

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

FEB 23 2005

GARY M. BLAIR, Executive Officer
By *Carrie L. Wagner*
CARRIE L. WAGNER, Deputy Clerk

1 that Jane Doe admitted to her that she lied regarding the allegations in that case and that she coached her
2 children to lie in that case. (Declaration of Susan Yu.)

3 As argued in Mr. Jackson's OPPOSITION TO DISTRICT ATTORNEY'S MOTION TO LIMIT
4 INTRODUCTION OF EVIDENCE OF PRIOR LITIGATION INVOLVING THE DOE FAMILY,
5 evidence of the Arvizo family's lawsuit against J.C. Penney is relevant because it demonstrates: (1) Janet
6 Arvizo has used her children to commit frauds on other occasions; (2) Janet Arvizo has a history of
7 making false allegations that become more outrageous as time passes; (3) the Arvizo family has a history
8 of making false allegations that are not corroborated by other witnesses; (4) the Arvizo family's lawsuit
9 against J.C. Penney sheds light on the other frauds that have been perpetrated by the family; and (5)
10 Janet Arvizo has committed the crime of perjury on several occasions, which is relevant to her
11 credibility in the present case. The newly discovered witness, who will testify that Janet Arvizo
12 admitted to her that she fabricated her allegations against J.C. Penney, and coached her sons, Gavin and
13 Star Arvizo, to do the same, is confirmation of the proffered evidence presented to the Court in the
14 opposition.

15 The exclusion of such relevant evidence threatens to deprive Mr. Jackson of his federal and state
16 constitutional rights to a fair trial, due process of law, the right to confront and cross-examine witnesses
17 against him, and equal protection pursuant to the Fifth, Sixth, and Fourteenth Amendments to the United
18 States Constitution and Article 1, Sections 7, 15 and 24 of the California Constitution.

19 Dated: February 23, 2005

Respectfully submitted,

20 COLLINS, MESEREAU, REDDOCK & YU

Thomas A. Mesereau, Jr.

Susan C. Yu

21 SANGER & SWYSEN

Robert M. Sanger

22 OXMAN & JAROSCAK

Brian Oxman

23
24
25
26 By:


Robert M. Sanger

Attorneys for Defendant

MICHAEL JOSEPH JACKSON

1 DECLARATION OF SUSAN C. YU

2 I, Susan C. Yu, declare as follows:

3 1. I am an attorney at law duly licensed to practice law in the courts of the
4 State of California, a partner in the law firm of Collins, Mesereau, Reddock & Yu, and co-
5 counsel for Mr. Michael Jackson ("Mr. Jackson") in this criminal proceeding. I have
6 personal knowledge of the facts set forth herein and, if called and sworn as a witness, I
7 could and would competently testify thereto under oath.

8 2. I submit this declaration in support of Mr. Jackson's *Ex Parte* Application for
9 an Order Granting Evidentiary Hearing In Opposition to Prosecution's Motion to Preclude
10 the Doe Family's J.C. Penney Litigation.

11 3. On February 21, 2005, I received a call from Mr. Harlan Braun, an attorney in
12 Los Angeles. Mr. Braun advised me that he represented Ms. Mary Holzer, a paralegal who
13 has been and is still working for the law firm of Rothstein & Feldman in Pasadena.
14 Rothstein & Feldman represented Janet Arvizo, Gavin Arvizo, Star Arvizo and David
15 Arvizo in the J. C. Penney civil litigation, which the Prosecution seeks to preclude in this
16 case.

17 4. Mr. Braun advised me that Ms. Holzer wants to come forward with
18 exculpatory information which she has known for a long time, but that she has been
19 prevented from doing so because Janet Arvizo has threatened to harm her daughter and
20 because she is afraid that her boss at Rothstein & Feldman might fire her if she talked.
21 More specifically, Mr. Braun told me the following about Ms. Holzer, what Ms. Holzer
22 knows and is willing to testify about:

23 (a) Ms. Holzer worked on the J. C. Penney civil lawsuit on behalf of Janet
24 Arvizo, Gavin Arvizo, Star Arvizo and David Arvizo at Rothstein &
25 Feldman;

26 (b) During the J. C. Penney litigation, Janet Arvizo admitted to Ms. Holzer
27

1 that the entire lawsuit was a fraud; that her kid's arm was broken by her
2 husband, not the security guard; that Gavin Arvizo was a good actor and
3 rehearsed his testimony well.

4 (c) After her admission, Janet Arvizo told Ms. Holzer that she knew Mexican
5 Mafia who could hurt Ms. Holzer's daughter if Ms. Holzer ever talked
6 about her admission.

7 (d) When Martin Bashir's film, "Living with Michael Jackson" aired in the
8 United States, Ms. Holzer was horrified that Janet Arvizo was making up
9 yet another story.

10 (e) Ms. Holzer has been under extreme stress in not coming forward with the
11 Arvizos' frivolous lawsuit she and the Rothstein firm have known for
12 some time now.

13 5. Mr. Braun told me that Ms. Holzer is conscience stricken and has agreed to
14 submit a declaration, but changed her mind because Ms. Holzer's boss overruled her
15 declaration.

16 6. Mr. Braun advised that Ms. Holzer agreed to have her interview taken at Mr.
17 Braun's office with the prosecution and defense in this case present. Again, Ms. Holzer
18 changed her mind because her boss at Rothstein & Feldman overruled this agreement.

19 7. Today, Mr. Braun advised me that Ms. Holzer hired another attorney,
20 replacing him. Mr. Braun believes that Ms. Holzer's boss is undermining her efforts to
21 come forward with exculpatory information.

22 8. Ms. Holzer has already come forward with the exculpatory information by
23 contacting Mr. Braun. Her testimony at the evidentiary hearing is crucial to this case
24 because it might exonerate Mr. Jackson. Ms. Holzer's testimony will show that Janet
25 Arvizo has committed a crime in the J. C. Penney case by litigating a frivolous sexual
26 assault claim and obtained a monetary settlement through deception. Janet Arvizo's
27 admission of defrauding the court in the J. C. Penney case is highly relevant to prove her
28

1 motive, opportunity, intent, and plan to defraud the prosecution and the court in this case
2 and institute false claims against Mr. Jackson

3 9. The attorney-client privilege regarding this matter has been waived, and
4 nothing precludes Ms. Holzer's testimony. Irrespective of the waiver, Ms. Holzer's
5 testimony is admissible under the crime/fraud exception of the Evidence Code Section
6 956.

7 10. Ms. Holzer's testimony will demonstrate that the J.C. Penney lawsuit is
8 critical to Mr. Jackson's defense and his right to a fair trial guaranteed by the United States
9 and State Constitutions. Accordingly, the Prosecution's Motion to Preclude J.C. Penney
10 lawsuit must be denied. Anything to the contrary will result in a total miscarriage of
11 justice.

12 I declare under penalty of perjury under the laws of the State of California that the
13 foregoing is true and correct and that this declaration was executed on this 22nd day of
14 February 2005, at Los Angeles, California.

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16 _____
17 SUSAN C. YU
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