

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 ARGUMENT

3 I.

4 THE COURT SHOULD FOLLOW ITS PREVIOUS RULING, AND EVIDENCE CODE
5 SECTION 352, AND EXCLUDE THE TESTIMONY OF ALEXANDER MONTAGU
6 MANCHESTER

7 No one claims that Alex Manchester was molested by anyone. Alex denies it and his
8 father, an airplane salesman¹, does not claim to have observed any such molestation.² However,
9 the prosecution seeks to introduce the father's testimony to show "evidence of a method of
10 establishing what might ripen into a seductive relationship." (Motion, page 5.) This is just the
11 type of innuendo the Court previously excluded.

12 On March 28, 2005, this Court ruled that the prosecution is precluded from introducing
13 1101(b) "grooming" testimony where there was no sexual conduct observed by anyone. The
14 Court ruled:

15 [T]he grooming testimony is limited to those cases where there's actual physical
16 sexual conduct that's been observed by somebody. That really is where I've drawn
17 the line.
(RT 3784:22-25.)

18 This motion seems to be an attempt to have the Court reconsider that ruling. There is no
19 change of circumstances supporting a reconsideration. If anything, after the preposterous and
20 overtly deceptive testimony of Janet Arvizo, there is more reason to exclude the 1108 and
21 1101(b) evidence previously permitted.

22 The prosecution also seeks to introduce evidence that employees of Mr. Jackson
23 threatened Mr. Manchester to show that seven years ago "defendant had been put on notice that
24

25 ¹ The fact that Mr. Manchester sells airplanes for a living has no more to do with this case
26 than who his father's father's father was.

27 ² There is something disturbing about how badly Mr. Manchester wants to testify about
28 an incident in which his own son denies that any wrongful acts occurred.

1 his employees were engaged in threatening and physically coercive conduct on his behalf."
2 (Motion, page 5.) This "evidence" is irrelevant to the present case. Mr. Jackson is charged with
3 masterminding a criminal conspiracy. Even assuming that this story is true, one does not become
4 a member of a conspiracy by being put on notice of the conduct of one's employees. The fact
5 that he was allegedly told that his employees threatened a visitor at his home seven years ago is
6 simply not relevant to the current charges.

7 Even if any of this were probative to some minimal degree, the prejudicial effect of such
8 testimony far outweighs any such probative value. Allowing this testimony would require the
9 defense to present evidence that the child denies any molest, that this father is simply one more in
10 a string of people anxious to be a part of this case and that his story regarding the employees is
11 false. This will consume time, potentially confuse jurors and prejudicially distract from the lack
12 of credible testimony regarding the actual allegations in this case.

13 **II.**

14 **CONCLUSION**

15 Mr. Manchester's testimony is not probative, would consume undue time, and amounts to
16 prejudicial innuendo. Consistent with the Court's previous ruling, this evidence should be
17 excluded.

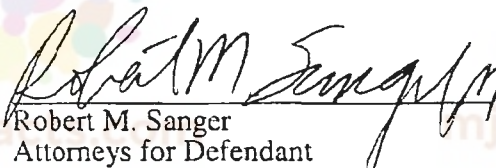
18 Dated: April 22, 2005

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PROOF OF SERVICE

I, the undersigned declare:

I am over the age of 18 years and not a party to the within action. I am employed in the County of Santa Barbara. My business address is 233 East Carrillo Street, Suite C, Santa Barbara, California, 93101.

On April 22, 2005, I served the foregoing document MR JACKSON OPPOSITION TO THE DISTRICT ATTORNEYS MOTION TO PRESENT THE TESTIMONY OF ALEXANDER MONTAGU MANCHESTER on the interested parties in this action by depositing a true copy thereof as follows:

Tom Sneddon
District Attorney
312 East Cook Street
Santa Maria, CA 93454

 BY U.S. MAIL - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid and deposited during the ordinary course of business. Service made pursuant to this paragraph, upon motion of a party, shall be presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit.

 BY FACSIMILE - I caused the above-referenced document(s) to be transmitted via facsimile to the interested parties [SEE ABOVE]

 X BY HAND - I caused the document to be hand delivered to the interested parties at the address above.

 X STATE - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed April 22, 2005 at Santa Maria, California


BOBETTE TRYON