

MAY - 6 2005

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BY *Carrie L. Wagner*  
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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 v. ) PLAINTIFF'S TRIAL BRIEF RE:  
15 ) ADMISSIBLE EVIDENCE OF  
16 MICHAEL JOE JACKSON, ) DEFENDANT'S RELEVANT  
17 Defendant. ) CHARACTER TRAIT: CROSS-  
18 ) EXAMINATION OF CHARACTER  
19 ) WITNESSES AND REBUTTAL  
20 ) EVIDENCE ON THE ISSUE OF  
21 ) DEFENDANT'S CHARACTER  
22 ) DATE: TBA  
23 ) TIME: 8:30 a.m.  
24 ) DEPT: TBA (Melville)

25 A. Discussion

26 Defendant may offer character evidence in the form of witness testimony  
27 concerning his good *character* by the witness's knowledge of the defendant's  
28 -- *reputation* for the good character trait (here, doesn't molest boys) in the  
community where he lives or works (Evid. Code § 1324);  
-- *opinion* of the witness (Evid. Code, § 800) concerning defendant's good character  
for the trait in question, based on personal knowledge (Evid. Code, § 702); see *People v.*  
*McAlpine* (1991) 53 Cal.3d 1289, 1309-1310 [opinion of witnesses that defendant not a person  
given to lewd conduct with children, based on their observation of his conduct with their

1 daughters, properly the subject of opinion evidence and relevant to charge of molesting young  
2 girls]. And see *People v. Callahan*, *supra*, 74 Cal.App.4th 356, 374-375 [error to exclude  
3 testimony of defendant's 18-year-old niece that defendant never touched her in an  
4 inappropriate manner when he baby-sat her as a child, because evidence was relevant to his  
5 propensity to molest young girls, other evidence of which had been offered by the prosecution  
6 pursuant to Evidence Code section 1108].

7  
8 It is . . . relevant to keep in mind that a defendant's introduction of good  
9 character evidence is by no means a risk-free proposition. "Two grave risks  
10 face the criminal defendant who chooses to . . . offer [] evidence of her  
11 good character. The first and most serious risk . . . arises when the  
12 prosecutor cross-examines the defendant's character witnesses. . . .  
13 [W]hen cross-examining either a reputation or opinion witness, the  
14 prosecutor can inquire about *specific acts* in the defendant's past to assess  
15 the value of the reputation or opinion testimony . . . . [Although in] theory,  
16 the trier of fact cannot use the prosecutor's questions about specific acts as  
17 evidence that the acts occurred . . . [and] upon request, the defendant is  
18 entitled to a limiting jury instruction[.] . . . [it is well recognized] that jurors  
probably cannot follow a judge's instruction not to use the question and  
responses about specific acts as evidence that the acts did occur . . . . The  
second risk is [that] . . . the prosecutor can call rebuttal witnesses to testify  
that the defendant's character is bad.

19 (*People v. McAlpin*, *supra*, 53 Cal.3d 1289, 1315 (conc. & dis. opn. of Broussard, J.).)

20 "The probative value of personal opinion or reputation evidence of a defendant's  
21 good character traits to prove that he did *not* commit a charged crime or to support his  
22 credibility as a witness is slight at best." (*People v. Pic'l* (1981) 114 Cal.App.3d 824, 892,  
23 reversed on other grounds in *People v. Kimble* (1988) 44 Cal.3d 480, 498.)

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1 B. Cross-examination of the "reputation" witness

2 The "reputation for good character" witness can be asked on cross-examination  
3 whether, that witness had *heard* of some specific act inconsistent with a good reputation for the  
4 trait in question. (See *People v. Marsh* (1962) 58 Cal.2d 732, 745; *People v. Wagner* (1975) 13  
5 Cal.3d 612, 619; *People v. Hurd* (1970) 5 Cal.App.3d 865, 879-880;

6 The People may use the testimony of other persons regarding defendant's *reputation*  
7 to rebut that evidence.

8 C. Cross-examination of the "opinion" witness:

9 The "I-have-an-opinion,-based-on-personal-observation,-that-defendant-has-a-good-  
10 character-for-behaving-himself-with-young-boys" *opinion* character witness can be asked  
11 whether that witness is *aware* of certain conduct inconsistent with the character trait in  
12 question (if so, what effect does that have on the witness's opinion; if not, and if what was  
13 suggest was true, is the witness's opinion now different). "Have you heard" questions on  
14 cross-examination of the "opinion" witness are also proper (*People v. Hurd, supra*, 5  
15 Cal.App.3d 865 at p. 880; *People v. Hempstead* (1983) 148 Cal.App.3d 949, 953-954.)

16 Topics for impeachment of character witnesses include the following:

- 17 -- All details of Jordie Chandler allegations as depicted in his interview w/ LAPD  
18 and LADA and in the affidavit of the s/w;
- 19 -- All 1108 witnesses, including Jonathan Spence and Jimmy Safechuck. Events as  
20 outlined in the statement of Marc Quindoy as given to law enforcement witnessing  
21 acts of molestation. Statement of Norma Stokos, and Miko Brando about not  
22 leaving their kids alone with Michael Jackson;
- 23 -- Statement of Latoya Jackson, defendant's sister, said on national television that  
24 she saw a payment of \$1m check to Jimmy Safechuck's family for purposes of  
25 buying silence;
- 26 -- Evidence that Defendant has taken numerous children into his room and bed  
27 while heavily addicted to Demerol and other controlled substances.
- 28 -- Evidence that Defendant has given alcohol to children;

1 -- Evidence that defendant has been reckless in his care and treatment of his own  
2 children by dangling one over the balcony of his hotel and buy exposing the others  
3 to danger in a public crowd:

4 -- That defendant keeps and maintains a large quantity of sexually explicit material  
5 and shows it to children for purposes of his own sexual gratification:  
6

7 DATED: May 6, 2005

8 Respectfully submitted,

9 THOMAS W. SNEDDON, JR.  
10 District Attorney

11 By: 

12 Ronald J. Zonen, Senior Deputy

13 Attorneys for Plaintiff  
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1 **PROOF OF SERVICE**

2  
3 STATE OF CALIFORNIA )  
4 COUNTY OF SANTA BARBARA ) SS

5  
6 I am a citizen of the United States and a resident of the County aforesaid; I am over  
7 the age of eighteen years and I am not a party to the within-entitled action. My business  
8 address is: District Attorney's Office; Courthouse: 1112 Santa Barbara Street, Santa Barbara,  
9 California 93101.

10 On May 4, 2005, I served the within PLAINTIFF'S TRIAL BRIEF RE:  
11 ADMISSIBLE EVIDENCE OF DEFENDANT'S RELEVANT CHARACTER TRAIT;  
12 CROSS-EXAMINATION OF CHARACTER WITNESSES ON THE ISSUE OF  
13 DEFENDANT'S CHARGER on Defendant. by THOMAS A. MESEREAU, JR. and  
14 ROBERT SANGER, by personally delivering a true copy of it to them in open court.

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

16 Executed at Santa Maria, California on this 4th day of May, 2005.

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19 Ron Zonen

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