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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA

MAY 18 2005

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

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF SANTA BARBARA  
10 SANTA MARIA DIVISION

12 THE PEOPLE OF THE STATE OF CALIFORNIA,  
13 Plaintiff,

14 v.

15 MICHAEL JOE JACKSON,  
16

17 Defendant.

No. 1133603

PLAINTIFF'S MEMORANDUM  
REGARDING THE IMPROPRIETY  
OF LEADING QUESTIONS ON  
REDIRECT EXAMINATION

DATE: TBA  
TIME: TBA  
DEPT: SM-2 (Melville)

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20 A. Introduction:

21 After plaintiff's cross-examination of a defense witness, Attorney Mesereau  
22 consistently conducts redirect examination by means of leading questions. Objections to that  
23 practice have been overruled. This memorandum respectfully states plaintiff's position on the  
24 issue with what plaintiff regards as governing authority.

25 B. Leading Questions on Redirect Examination Are Generally Improper:

26 Evidence Code section 767 provides:

27 (a) Except under special circumstances where the interests of justice  
28 otherwise require:

1 (1) A leading question may not be asked of a witness on direct or redirect  
2 examination.

3 (2) A leading question may be asked of a witness on cross-examination or  
4 recross-examination.


5 (b) The court may, in the interests of justice permit a leading question to be  
6 asked of a child under 10 years of age or a dependent person with a  
7 substantial cognitive impairment in a case involving a prosecution under  
8 Section 273a, 273d, 288.5, 368, or any of the acts described in Section  
9 11165.1 or 11165.2 of the Penal Code

10 With due allowance for the special circumstances that arise from time to time in  
11 many criminal cases, including this one, Plaintiff respectfully suggests that, consistently with  
12 Evidence Code section 767, the Court discourage defense counsel's routine use of leading  
13 questions on redirect examination of defendant's own witnesses.

14 DATED: May 18, 2005

15 Respectfully submitted

16 THOMAS W. SNEDDON, JR.  
17 District Attorney

18 By:   
19 Gerald McC. Franklin, Senior Deputy District Attorney  
20 Attorneys for Plaintiff  
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PROOF OF SERVICE

STATE OF CALIFORNIA }  
COUNTY OF SANTA BARBARA } SS

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

On May \_\_\_\_, 2005, I served the within PLAINTIFF'S MEMORANDUM RE: LEADING QUESTIONS ON REDIRECT EXAMINATION on Defendant, by THOMAS A. MESEREAU, JR. and ROBERT SANGER, his counsel in this matter, by personally delivering a true copy thereof to defense counsel in open court. I declare under penalty of perjury that the foregoing is true and correct.

Executed at Santa Maria, California on this ~~18~~<sup>19</sup> day of May, 2005.

*[Handwritten Signature]*