

MAY 26 2004

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

1 THOMAS W. SNEDDON, JR.
2 DISTRICT ATTORNEY
3 BY: J. Gordon Auchincloss, State Bar #150251
4 Deputy District Attorney
5 1105 Santa Barbara Street
6 Santa Barbara, CA 93101
7 Telephone: (805) 568-2300

8 Attorneys for Plaintiff

*Proposed Redacted
version of original
Request*

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 IN AND FOR THE COUNTY OF SANTA BARBARA
11 SANTA MARIA DIVISION

12 THE PEOPLE OF THE STATE OF CALIFORNIA,
13 Plaintiff,
14 vs.
15 MICHAEL JOE JACKSON,
16 Defendant.

No. 1133603
PLAINTIFF'S REQUEST FOR
ORDER TO SHOW CAUSE
RE: CONTEMPT OF
COURT'S PROTECTIVE
ORDER BY PERSONS
SUBJECT TO THAT ORDER;
DECLARATION OF
THOMAS W. SNEDDON, JR.

17 INTRODUCTION

FILED UNDER SEAL

18 On January 23, 2004 the court issued a protective order in the above-captioned
19 case. Prior to the issuance of this order, ~~Russell Halpern Esq., the attorney for David~~
20 ~~Arviso, the victim's father, had become a public figure in this case by making more than~~
21 ~~ten appearances on a variety of local and nationally televised news shows including The~~
22 ~~Today Show, The Abrams Report and The O'Reilly Factor. The subject of Mr. Halpern's~~
23 ~~appearances and the interest the media has shown in broadcasting his remarks have been~~
24 ~~focused upon one thing—attacking the victim's credibility by vilifying the victim's mother~~
25 ~~with assertions that she is manipulating her children to make false allegations against the~~
26 ~~defendant. Mr. Halpern's nationally televised condemnation not only asserted that the~~
27
28

Unsealed pursuant to 6/16/05 Judge's order

1 ~~victim's mother is unfit, manipulative and a liar, but also included his numerous attempts~~
2 ~~to vouch for the character and credibility of the defendant. (See Exhibit A, attached~~
3 ~~DVD Video News Clips with Transcripts of Halpern Interviews before 1/23/04.)~~

4 ~~_____ A review of video clips of Mr. Halpern's statements makes plain his newfound~~
5 ~~celebrity is dependent solely upon the fact that he represents the father of Michael~~
6 ~~Jackson's accuser. It is also obvious that without this circumstance, the media would~~
7 ~~have no interest in Mr. Halpern or what he has to say about this case. The court must now~~
8 ~~evaluate more recent remarks made to the press by Mr. Halpern and his client in light of~~
9 ~~Mr. Halpern's past demagoguery about the credibility of the victim and the victim's~~
10 ~~mother~~

11
12 **I**

13 **RUSSELL HALPERN AND HIS CLIENT, DAVID ARVISO ARE IN DIRECT**
14 **VIOLATION OF THE COURT'S PROTECTIVE ORDER**

15 On January 27 2004 the District Attorney notified Russell Halpern by letter and
16 facsimile that he and his client, David Arviso, are potential witnesses in this case and that
17 they are therefore subject to the court's protective order. (See Exhibit B, attached
18 Letter and FAX to Russell Halpern from Thomas W. Sneddon, Jr.) A short time after this
19 letter was delivered the District Attorney spoke with Mr. Halpern by telephone and
20 specifically reiterated the contents of the letter. Mr. Sneddon cautioned Mr. Halpern
21 about future contacts with the media and the gravity of any deviation from the court's
22 order. (See Attached Declaration of Thomas W. Sneddon, Jr.)

23 In defiance of the court's order, Mr. Halpern then appeared on three national news-
24 programs and made comments to the media dealing with evidence directly related to this
25 case:

26
27 / / / /

1 February 7, 2004

2 FOX NEWS (FNC)

3 ~~Big Story Weekend Edition~~

(See Exhibit C, attached - DVD and Transcript)

4 ~~On February 7, 2004, Russell Halpern appeared on the nationally televised Fox~~
5 ~~News Big Story Weekend Edition program and made remarks concerning his lack of~~
6 ~~personal knowledge regarding the facts of this case. During this interview, Mr. Halpern~~
7 ~~expressed his hostility toward the court's order by ascribing "disingenuous" motives to~~
8 ~~Santa Barbara District Attorney Tom Sneddon in asking for the order. Finally, Mr.~~
9 ~~Halpern purposely attacked the credibility of a material witness in this case - the victim's~~
10 ~~mother - by asserting that she suffered from serious mental disorders and claiming she has~~
11 ~~been treated in a mental hospital.~~

12 It is worth noting that Mr. Halpern had previously been publicly berated for
13 making similar remarks on the January 14, 2004 edition of the syndicated radio talk show,
14 *The John and Ken Show*. (See attached Exhibit D - audio cassette tape and transcript.)
15 During this show Mr. Halpern, who was a call-in guest, admitted that he did not really
16 "know" whether or not his allegations that the victim's mother was in a mental hospital
17 were true. If Mr. Halpern suffered any illusions about the effect such remarks had upon
18 the credibility of witnesses in this case, he was unequivocally disabused of those notions
19 by these two outspoken radio show hosts.

20 Mr. Halpern's statements made on February 7, 2004 are in direct violation of the
21 court's order that witnesses not "comment upon the weight, value, or effect of any
22 evidence as tending to establish guilt or innocence."

23 February 9, 2004

24 *The Early Show*

25 CBS News

26 (See Exhibit E, attached - Downloaded Internet Pages from CBS News)

27 ~~On February 9, 2004, Russell Halpern appeared on nationally televised The Early~~
28 ~~Show. The People are not yet in possession of video or audio for this appearance.~~

1 however, the following quote from Mr. Halpern's interview is published on the official
2 website for CBS News and the Associated Press Newswire:

3 "From what I understand, Mr. Jackson was a very hospitable
4 and very good host and never displayed any conduct that
5 would cause anybody any concern."

6 This statement, vouching for Mr. Jackson's character and innocence is in direct
7 violation of the court's order that witnesses not "comment upon the weight, value, or
8 effect of any evidence as tending to establish guilt or innocence."

9 February 13, 2004

10 ~~Larry King Live~~

11 ~~Cable News Network~~

12 (See Exhibit F, attached - DVD and Transcript)

13 ~~On February 13, 2004, Russell Halpern and his client, David Arviso, appeared on~~
14 ~~nationally televised Larry King Live. During this interview, Mr. Halpern and Mr. Arviso~~
15 ~~talked about Mr. Arviso's pending visitation and child custody litigation with the victim's~~
16 ~~mother. Both Mr. Halpern and Mr. Arviso also discussed prior criminal convictions~~
17 ~~suffered by Mr. Arviso for spousal abuse involving the victim's mother and child abuse~~
18 ~~involving one of the victim's siblings. Both Mr. Halpern and Mr. Arviso asserted that the~~
19 ~~accusations made by the victim's mother that led to these convictions were false. In~~
20 ~~addition, Mr. Arviso vouched for the defendant when he expressed that defendant has~~
21 ~~always been a "real good friend." Mr. Arviso then expressed his personal doubts about~~
22 ~~whether the victim in this case has ever even made an accusation of sexual misconduct~~
23 ~~against the defendant.~~

24 These remarks deal with the credibility of material witnesses in the present case
25 and are in direct violation of the court's explicit order not to divulge "extrajudicial
26 statements of witnesses" or to "comment upon the weight, value, or effect of any
27 evidence as tending to establish guilt or innocence."
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CONCLUSION

~~Prior to January 23, 2004, Mr. Halpern's affinity for television cameras could only be described as opportunistic pandering to the media. Now, Mr. Halpern's public performances, both alone and with his client at his side, have become contemptible. Even while acknowledging the court's directive, he has continued to attack the credibility of material witnesses and comment on extrajudicial statements made by them. The People respectfully request that the court issue an order to Russell Halpern and his client, David Arviso, directing them to show cause why each of them should not be held in contempt. Should the court agree with the People's request, individual orders to show cause for Russell Halpern and David Arviso with a hearing date scheduled for the next calendared appearance date of April 2, 2004 are attached.~~

DATED: March __, 2004

Respectfully submitted,

THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY

BY: _____
GORDON AUCHINCLOSS
Senior Deputy District Attorney

1
2 DECLARATION OF THOMAS W. SNEDDON, JR. 3

4 I, Thomas W. Sneddon, Jr. do hereby declare:

5 I am the District Attorney of the County of Santa Barbara. I am the lead attorney
6 in the prosecution of *The People of the State of California v. Michael Joe Jackson*, Santa
7 Barbara Superior Court Case No. 1133603.

8
9 1) I believe that ~~Russell Halpern~~ will be a witness in this case. ~~Mr. Halpern has~~
10 ~~made numerous remarks to the press indicating he has personal knowledge concerning the~~
11 ~~facts and evidence in this case. In addition, Mr. Halpern has stated that he saw~~
12 ~~documentary evidence his client brought to him that indicates the victim's mother in this~~
13 ~~case had prepared "scripts" for her children during a prior civil litigation involving J.C.~~
14 ~~Penney's. These remarks appear in Exhibit A attached to this request and have been~~
15 ~~underlined for emphasis.~~

16
17 2) I believe that ~~David Arviso~~ will be a witness in this case. ~~Mr. Arviso is the~~
18 ~~father of the victim in this case and he is a percipient witness to events leading up to the~~
19 ~~allegations charged in the Complaint.~~

20
21 3) On January 27, 2004 I notified ~~Henry Russell Halpern~~ of the Court's Protective
22 Order by mailing and faxing to him the letter and attachments ~~a copy of which is attached~~
23 ~~to this Request and marked as Exhibit B. This exhibit also reflects that the letter and~~
24 ~~attachments were received by Mr. Halpern's office on January 27, 2004 at 11:34AM.~~

25
26 4) On January 29 or 30, 2004 I spoke to ~~Russell Halpern~~ on the phone and
27 confirmed to him the contents and accuracy of the letter and attachments I had sent to
28

1 him. In that conversation I confirmed to him ~~that both he and his client, David Arvise are~~
2 ~~witnesses in this case and I cautioned Mr. Halpern to take the directives of the court very~~
3 ~~seriously.~~

4
5 ~~S) DVD Exhibits A, B and D were obtained by my office from Multivision Inc., a~~
6 ~~national news clipping company. Exhibit C was downloaded from the official internet~~
7 ~~site for CBS News on March 10, 2004. Exhibit E was downloaded from the official~~
8 ~~internet site for the John and Ken Show on March 12, 2004. I am informed and believe~~
9 that each of these exhibits are accurate representations of publicly published materials.

10
11 I declare under penalty of perjury that the foregoing is true and correct except for
12 those statements made on information and belief and as to those statements, I believe
13 them to be true.

14 Executed this day of March, 2004, at Santa Barbara, California.

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18 _____
19 Thomas W. Sneddon, Jr.
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LIST OF ATTACHED EXHIBITS

Exhibit A: ~~DVD Video News Clips with Transcripts — H. Russell Halpern News Interviews before January 23, 2004.~~

Exhibit B: ~~Letter and FAX to Russell Halpern from Thomas W. Sneddon, Jr.~~

Exhibit C: ~~DVD Video Clip and Transcript — FOX NEWS (FNC) Big Story Weekend Edition for February 7, 2004.~~

Exhibit D: ~~Audio cassette tape and transcript — The John and Ken Radio Show for January 14, 2003.~~

Exhibit E: ~~Downloaded Internet Pages from CBS News for February 9, 2004.~~

Exhibit F: ~~DVD Video Clip and Transcript — Larry King Live, Cable News Network for February 13, 2004.~~

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11 Exhibit D: ~~Audio cassette tape and transcript — The John and Ken Radio Show for~~
12 ~~January 14, 2003.~~

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14 Exhibit E: ~~Downloaded Internet Pages from CBS News for February 9, 2004.~~

15
16 Exhibit F: ~~DVD Video Clip and Transcript — Larry King Live; Cable News~~
17 ~~Network for February 13, 2004.~~