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9

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA

MAY - 6 2005

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

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION

13 THE PEOPLE OF THE STATE OF CALIFORNIA, ) Case No. 1133603  
14 )  
15 Plaintiffs, ) OPPOSITION TO DISTRICT ATTORNEY'S  
16 vs. ) MOTION TO EXCLUDE HEARSAY  
17 ) TESTIMONY OF DEFENSE WITNESS  
MICHAEL JOSEPH JACKSON, ) MICHAEL VINER PURSUANT TO  
18 Defendant. ) EVIDENCE CODE SECTION 352  
19 )  
20 ) Honorable Rodney S. Melville  
21 ) Date: TBD  
22 ) Time: 8:30 am  
23 ) Dept: SM 8  
24 )  
25 )  
26 )  
27 )  
28 )

MEMORANDUM OF POINTS AND AUTHORITIES

I.

24 Michael Viner's testimony regarding statements made by Larry Feldman are not being  
25 offered as lay opinion testimony regarding the credibility of the Arvizos. Instead, Mr. Viner's  
26 testimony is being offered as prior inconsistent statements by Mr. Feldman. (Evidence Code  
27

28 OPPOSITION TO DISTRICT ATTORNEY'S MOTION TO EXCLUDE HEARSAY TESTIMONY OF DEFENSE  
WITNESS MICHAEL VINER PURSUANT TO EVIDENCE CODE SECTION 352

**ORIGINAL**

1 Section 1235.) On cross-examination, Mr. Feldman was asked if he ever stated that the Arvizos  
2 were fabricating their claims against Michael Jackson during a meeting with Larry King and  
3 Michael Viner. The District Attorney did not object to the question. Mr. Feldman answered that  
4 he absolutely did not make that statement and that he never met with Michael Viner. (RT  
5 4596:6-4596:4.) On re-direct, Mr. Feldman stated that anyone who claimed he made that  
6 statement is lying. (RT 4601:20-4602:20.)

7 If the District Attorney believed testimony regarding Mr. Feldman's statements to Mr.  
8 King and Mr. Viner was objectionable he should have objected at the time. Instead, he invited  
9 Mr. Feldman to deny ever making the statement and allowed him to label anyone who testifies  
10 otherwise as a liar. The Court should not allow the self-serving testimony to stand when there is  
11 a witness who will testify that Mr. Feldman did in fact make the statement.

12 II.

13 CONCLUSION

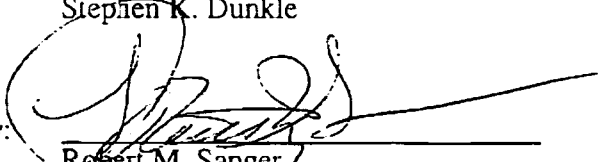
14 For the reasons stated above, Mr. Viner should be allowed to testify regarding Mr.  
15 Feldman's statement.

16 Dated: May 6, 2005

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23 By:

24   
25 Robert M. Sanger  
26 Attorneys for Defendant  
27 MICHAEL JOSEPH JACKSON

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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 May 6, 2005, I served the foregoing document OPPOSITION TO DISTRICT ATTORNEY'S MOTION TO EXCLUDE HEARSAY TESTIMONY OF DEFENSE WITNESS MICHAEL VINER PURSUANT TO EVIDENCE CODE SECTION 352 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  
568-2398

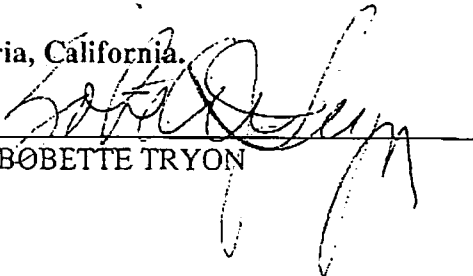
       **BY U.S. MAIL** - I am readily familiar with the firm's practice for collection of mail and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited daily with the United States Postal Service in a sealed envelope with postage thereon fully prepaid 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.

  X   **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 May 6, 2005 at Santa Maria, California.

  
BOBETTE TRYON