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

MAY 17 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

11  
12  
13 THE PEOPLE OF THE STATE OF CALIFORNIA, )  
Plaintiff.

14 vs.

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16  
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18  
19 MICHAEL JOE JACKSON,  
20 Defendant.

No. 1133603

PLAINTIFF'S REPLY TO  
DEFENDANT'S  
OPPOSITION OF MOTION  
TO EXCLUDE HEARSAY  
TESTIMONY OF DEFENSE  
WITNESS MICHAEL VINER  
PURSUANT TO EVIDENCE  
CODE § 352

DATE: TBA  
TIME: 8:30 AM  
DEPT.: SM2 (Melville)

21  
22  
23 INTRODUCTION

24 The defense opposition to the People's motion to exclude this hearsay evidence is  
25 premised on Evidence Code section 1235. In support of this position, they have included  
26 portions of the transcript of the relevant testimony as well as the offer of proof of Mr. Viner's  
27 testimony in the form of an investigative report dated April 26, 2005.  
28

1 Assuming Viner is a credible witness, his proposed testimony is couched in phrases  
 2 such as "Feldman had referred to the mother as a 'flake' and said he did not believe the boy."  
 3 Also, "that he did not believe them and they were into this case for one reason, 'money.'  
 4 Whether or not Feldman said those things at a meeting with Larry King's producer is in  
 5 dispute. However, the defense believes they laid sufficient foundation on cross exam to get  
 6 those inadmissible statements of Feldman's alleged opinion about the veracity of the mother  
 7 and son into evidence through the back door of E.C. 1235. We disagree.

8 The transcript shows that Mr. Feldman was asked whether he remembered saying  
 9 that "Janet is making up these allegations" and that he told Larry King "these allegations  
 10 against Mr. Jackson are false." Neither of those questions encompass the offer of proof  
 11 regarding the witness Viner.

12 Additionally, the defense argues that Mr. Feldman, during re-direct, opened the  
 13 door further by stating that anyone who says he made "that" statement is lying. However, the  
 14 transcript shows that what Mr. Feldman actually said was that he did not disclose, nor would  
 15 he ever disclose, the *contents* of a privileged communication between attorney and client. He  
 16 stated, "And if anybody says that, that person is lying." There is nothing inconsistent with that  
 17 statement and the improper opinion evidence the defense wishes to elicit through the witness  
 18 Viner.

19  
 20  
 21 DATED: May 17, 2005

22 Respectfully submitted,

23 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY

24 By: \_\_\_\_\_  
 25 \_\_\_\_\_

26 Mag M. Nicola  
 27 Senior Deputy District Attorney

28 Attorneys for Plaintiff

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**PROOF OF SERVICE**

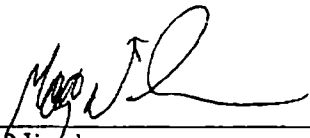
STATE OF CALIFORNIA  
COUNTY OF SANTA BARBARA } SS

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 17, 2005, I served the within **PLAINTIFF'S REPLY TO DEFENDANT'S OPPOSITION OF MOTION TO EXCLUDE HEARSAY TESTIMONY OF DEFENSE WITNESS MICHAEL VINER PURSUANT TO EVIDENCE CODE § 352** on Defendant, by THOMAS A. MESEREAU, JR., and ROBERT SANGER, by personally delivering a true copy thereof to Mr. Sanger.

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

Executed at Santa Barbara, California on this 17th day of May, 2005.

  
\_\_\_\_\_  
Mag M. Nicola

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**SERVICE LIST**

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 IN AND FOR THE COUNTY OF SANTA BARBARA  
3 SANTA MARIA BRANCH; COOK STREET DIVISION  
4 DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE  
5

6  
7 THE PEOPLE OF THE STATE OF )  
8 CALIFORNIA, )  
9 Plaintiff, )  
10 -vs- ) No. 1133603  
11 MICHAEL JOE JACKSON, )  
12 Defendant. )  
13  
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16

17 REPORTER'S TRANSCRIPT OF PROCEEDINGS

18  
19 FRIDAY, APRIL 1, 2005

20  
21 8:30 A.M.

22  
23 (PAGES 4411 THROUGH 4471)  
24  
25  
26

27 REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304  
28 BY: Official Court Reporter

4411

I N D E X

Note:

Mr. Sneddon is listed as "SN" on index.  
Mr. Zonen is listed as "Z" on index.  
Mr. Auchincloss is listed as "A" on index.  
Mr. Nicola is listed as "N" on index.  
Mr. Mesereau is listed as "M" on index.  
Ms. Yu is listed as "Y" on index.  
Mr. Sanger is listed as "SA" on index.  
Mr. Oxman is listed as "O" on index.

PLAINTIFF'S  
WITNESSES

DIRECT      CROSS      REDIRECT      RECROSS

GREEN, Jack				4479-SA
			4485-A (Further)	4486-SA (Further)
FELDMAN, Larry	4487-SN	4527-M	4596-SN	4608-M
			4609-SN (Further)	4611-M (Further)
SALAS, Jesus	4612-A			

1 the picture.

2 THE COURT: Objection sustained.

3 MR. MESEREAU: Let me just take a second,  
4 Your Honor, just to look at my notes.

5 THE COURT: Yes.

6 Q. BY MR. MESEREAU: Mr. Feldman, do you  
7 remember telling two individuals, Michael Viner and  
8 Larry King, that Janet is making up these  
9 allegations?

10- A. Absolutely not. Are you kidding?

11 Q. Do you remember meeting with those two  
12 individuals at The Grill in Beverly Hills?

13 A. No. Never met with them.

14 Q. Do you know who Michael Viner is?

15 A. I couldn't pick him out. I know who he is.  
16 I think the answer is I wouldn't know him if he was  
17 sitting in the jury box. But I know who he is by  
18 name. He's -- he's a publisher or something, or a  
19 writer, or -- I don't know. Viner Books, right?  
20 Something like that.

21 I certainly know who Larry King is.

22 Q. You did have a meeting with him and Larry  
23 King, right?

24 A. I have never had a meeting with Michael  
25 Viner in my life.

26 Q. So approximately nine months ago, you didn't  
27 meet with Mr. King and Mr. Viner, correct?

28 A. I absolutely have never had a meeting with

1 Michael Viner in my life.

2 Q. Okay. And did you ever tell Larry King that  
3 these allegations against Mr. Jackson are false?

4 A. Absolutely not.

5 MR. MESEREAU: I have no further questions.

6 THE WITNESS: I don't even know.

7 MR. MESEREAU: Okay.

8 THE WITNESS: The proverbial answer.

9

10 REDIRECT EXAMINATION

11 BY MR. SNEDDON:

12 Q. Mr. Feldman, let's go back to the -- and  
13 clarify something, if we can.

14 You were involved at one time in the  
15 dependency court involving a case where there was a  
16 baby who was alleged to have been abused; is that  
17 correct?

18 A. Correct.

19 Q. And was the abuse, the nature of the abuse  
20 in that case sexual or physical?

21 A. Physical.

22 Q. And how old was this baby?

23 A. 13 months or -- 12 months or 13 months. It  
24 was an infant.

25 Q. And this was in the dependency court,  
26 correct?

27 A. This was in the dependency court. These  
28 parents had just adopted this child, and the County



1 THE COURT: You may answer "yes" or "no."

2 THE WITNESS: I mean, I can't --

3 THE COURT: "Yes" or "no."

4 Q. BY MR. SNEDDON: You have to lean into the  
5 microphone.

6 A. Oh.

7 THE COURT: Do you want the question?

8 THE WITNESS: Well, yes, and no, Your Honor.  
9 I mean, I remember the substance.

10 Q. BY MR. SNEDDON: Okay. To your knowledge,  
11 after the case of Chandler versus Jackson was  
12 resolved, did your client, Jordan Chandler, ever  
13 appear before a grand jury?

14 MR. MESEREAU: Objection. Leading; beyond  
15 the scope.

16 THE COURT: Overruled.

17 You may answer.

18 THE WITNESS: To my knowledge, he never  
19 appeared before a grand jury.

20 Q. BY MR. SNEDDON: Now, you were asked by --  
21 just before Mr. Mesereau finished his examination,  
22 about a purported conversation between you and Mr.  
23 King and Mr. Viner, or Veener?

24 A. Viner.

25 Q. Viner?

26 A. Viner is what he said.

27 Q. Yes. And do you recall any such meeting?

28 A. I never met with Mr. Viner. I did once meet

1 with Mr. King. I do remember meeting with Mr. King,  
2 but I can tell you there wasn't a meeting with  
3 Viner.

4 Q. Were there other people present?

5 A. Well, we were in the delicatessen in Beverly  
6 Hills, so there were a lot of other people around.

7 Q. Where -- were you having breakfast, lunch,  
8 dinner? You were in a deli, I assume you were  
9 eating.

10 A. I was having breakfast with his -- with a  
11 producer from their show, who --

12 Q. Whose show?

13 A. Larry King's show, and he was sitting at a  
14 table, like over here, with --

15 Q. Indicating to your right?

16 A. Right. With six of his pals that he had  
17 breakfast with.

18 Q. And were you with somebody else?

19 A. Yes.

20 Q. Who were you with?

21 A. I was with his producer.

22 Q. Who is?

23 A. Whose name was, or is, Nancy Baker, I think  
24 her name was.

25 Q. Is that the only time you ever recall being  
26 in any kind of close proximity with Mr. Viner?

27 A. Well, I'm not even sure he was one of these  
28 guys. I didn't have any discussion with any of

1 those guys about anything, I can tell you. They  
2 were trying to get me to come on their show. That's  
3 all we ever possibly talked about, is -- I knew Mr.  
4 King. I've run into him since this, I mean, at  
5 different events.

6 Q. By "Mr. King," you're talking about Larry  
7 King?

8 A. Right.

9 Q. The guy's on --

10 A. We say helio to each other. We see each  
11 other. Talk to each other. Never having talked  
12 about this case, and they did want me to come on  
13 their program. I mean, I do remember them talking  
14 to me about that.

15 But I can tell you that I didn't tell them,  
16 and I didn't tell anybody else, anything about what  
17 anybody tells me, because it is absolutely  
18 privileged, and it would be absolutely improper.  
19 And if anybody says that, that person is lying.  
20 Can't make it clearer than that.

21 Q. Let me just ask you a couple other  
22 questions, or at least one other question about the  
23 Chandler versus Jackson lawsuit.

24 You indicated in response to one of Mr.  
25 Mesereau's questions that the defendant in that  
26 case, which would have been Mr. Jackson, were the  
27 ones who wanted the parents to share in the  
28 financial or monetary settlement of the case?