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

MAY 25 2005

GARY M. BLAIR, Executive Officer  
*Carrick 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 THE PEOPLE OF THE STATE OF CALIFORNIA, ) No. 1133603  
13 Plaintiff, )  
14 )  
15 v. )  
16 )  
17 MICHAEL JOE JACKSON, )  
18 Defendant. )  
19 )  
20 )  
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27 )  
28 )  
DATE: TBA  
TIME: TBA  
DEPT: SM-2 (Melville)

21 TO: THE CLERK OF THE COURT, TO DEFENDANT, AND TO DEFENDANT'S  
22 COUNSEL:

23 PLEASE TAKE NOTICE that as soon as the matter may be heard, Plaintiff will move  
24 the court for its order allowing Plaintiff to put before the jury, as rebuttal evidence, (1) the  
25 testimony of LAPD Detective Rosibel Ferrufino or Los Angeles County Deputy District Attorney  
26 Lauren Weis that on September 1, 1993, in Ms. Weis's office and at the direction of Detective  
27 Ferrufino, Jordan Chandler described the coloration of and markings on defendant's body below  
28 his waistline and above his knees, including his penis, and drew a picture of defendant's erect

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penis, and (2) that drawing, and (3) photographs taken at a later date of defendant's body and his distinctively-marked penis.


This motion is made on the ground that the proposed evidence is relevant to rebut evidence introduced by Defendant the purport of which is that Michael Jackson, by reason of his "shy" and "modest" nature, would not have exposed his unclothed self to young boys.

The motion will be based on this notice, the accompanying Declaration of Thomas W. Sneddon, Jr., and the attached Memorandum of Points and Authorities.

DATED: May 25, 2005

Respectfully submitted

THOMAS W. SNEDDON, JR.  
District Attorney

By:   
\_\_\_\_\_  
Gerald McC. Franklin, Senior Deputy District Attorney

Attorneys for Plaintiff

1 DECLARATION OF THOMAS W. SNEDDON, JR.

2  
3 I, Thomas W. Sneddon, Jr., say:

4 1. I am a lawyer admitted to practice in all the courts of this state. I am, and since  
5 1983 have been, the elected District Attorney of the County of Santa Barbara. I am the lead  
6 counsel for the prosecution in the trial of *The People of the State of California v. Michael Joe*  
7 *Jackson*, Santa Barbara Superior Court Case No. 1133603.

8 2. In 1993, the Los Angeles Police Department commenced an investigation of  
9 allegations by Jordan Chandler, a minor child, and his family that young Jordan had been  
10 sexually molested by Defendant in Los Angeles and in Santa Barbara Counties. Los Angeles  
11 Police Detective Rosibel Ferrufino was one of the investigators in that investigation. The Santa  
12 Barbara Sheriff's Department commenced its own investigation of the allegation, in cooperation  
13 with the Los Angeles Police Department. Sheriff's Detective Deborah Linden was one of the  
14 investigators.

15 3. In the course of LAPD's investigation of the allegations, Jordan Chandler was  
16 interviewed by Los Angeles Deputy District Attorney Lauren Weis on September 1, 1993, during  
17 which interview Detective Ferrufino and a court reporter were present. Jordan was asked to  
18 relate information concerning his reported relationship with Michael Jackson. In the course of  
19 the interview Jordan Chandler made detailed statements concerning the physical appearance of  
20 Michael Jackson, in particular the coloration of and marks on the skin of his lower torso, buttocks  
21 and genitals, including a particular blemish on his penis. Jordan was asked to draw a picture of  
22 Mr. Jackson's erect penis and to locate on that drawing any distinctive marks he recalled. Jordan  
23 did so. The drawing was signed and dated by Jordan Chandler and was attached as Exhibit 1 to  
24 Detective Ferrufino's report in LAPD Case No. 930822245.

25 4. On December 13, 1993, as part of the of the Santa Barbara Sheriff's investigation  
26 into young Chandler's allegations. a search warrant was obtained authorizing the search of  
27 Michael Jackson's person and for the taking of photographs of his genitals. That warrant was  
28

1 executed at Neverland Ranch in Santa Barbara on December 20, 1993. The resulting  
2 photographs have been retained by the Sheriff's Department, under tight security.

3 5. I have reviewed the statements made by Jordan Chandler in his interview on  
4 December 1, 1993. I have examined the drawing made by Jordan Chandler at Detective  
5 Ferrufino's request and the photographs taken of Defendant's genitalia. The photographs reveal  
6 a mark on the right side of Defendant's penis at about the same relative location as the dark  
7 blemish located by Jordan Chandler on his drawing of Defendant's erect penis. I believe the  
8 discoloration Chandler identified in his drawing was not something he could or would have  
9 guessed about, or could have seen accidentally. I believe Chandler's graphic representation of  
10 the discolored area on Defendant's penis is substantially corroborated by the photographs taken  
11 by Santa Barbara Sheriff's detectives at a later time.

12 6. I believe evidence of Jordan Chandler's knowledge, as evidenced by his verbal  
13 description and drawing, when considered together with the photograph of Defendant's penis,  
14 substantially rebuts the opinion evidence offered by witnesses for Defendant to the effect that he  
15 is of a "shy" and "modest" nature and so would not have exposed his naked body in the presence  
16 of young boys.

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

20 Executed May <sup>26</sup>25, 2005, at Santa Maria, California.

21   
22 Thomas W. Sneddon, Jr.

MEMORANDUM OF POINTS AND AUTHORITIES

EVIDENCE OF JORDAN CHANDLER'S STATEMENTS AND DRAWING ARE ADMISSIBLE, NON-HEARSAY EVIDENCE OF HIS KNOWLEDGE OF PRIVATE PORTIONS OF DEFENDANT'S ANATOMY. THAT KNOWLEDGE COULD ONLY HAVE BEEN GAINED BY CHANDLER AS A CONSEQUENCE OF HIS CLOSE PROXIMITY TO DEFENDANT IN RELATIVE PRIVACY. THE EVIDENCE IS RELEVANT TO REBUT SUGGESTIONS THAT DEFENDANT IS "SHY" AND "MODEST" ABOUT EXPOSING HIS UNDRESSED PERSON TO OTHER PERSONS

Evidence of an individual's *knowledge* is not hearsay. (See Simons, California Evidence Manual (2004 ed.) p. 69, § 2:8 and cases cited; 1 Witkin, Cal. Evidence (4th ed. 2000), Hearsay, p. 723, § 41 and cases cited.) See *People v. Jackson* (1989) 49 Cal.3d 1170: At Jackson's trial, Detective Lee testified that in the course of an interrogation of Jackson, "we asked if he remembered who we were, and he replied "Yeah, you are the two policemen that said I killed that cop with a shotgun." In fact, the officers had said no such thing to him. The Supreme Court noted: "That portion of the interview to which defendant takes issue was not offered for the truth of the matter stated - i.e., that defendant had shot the officer or that defendant had shot the officer with a shotgun. The People's evidence, already presented, was overwhelming in that regard. Rather, it was offered as circumstantial evidence of the fact that defendant had a memory of the shooting. When offered for such purpose the statements were simply not hearsay [citations]." (*Id.*, 49 Cal.3d at pp. 1186-1187. )

Jordan Chandler disclosed his detail knowledge of the singular appearance of Defendant's buttocks, genital area and his penis in his statement to Deputy District Attorney Weis and LAPD investigators on December 1, 1993. Evidence of his statements and his drawing will be offered, not for the truth of the matters asserted - the truth of his description is established by the nearly contemporaneous and unimpeachable photographs - but, simply, as evidence of his knowledge of the matters he described. Jordan Chandler's knowledge on December 1, 1993 is relevant because it could only have been acquired in the course of a close and intimate relationship with Defendant.

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1 Evidence of Jordan's claimed knowledge would be irrelevant without the confirming  
2 evidence of the photographs. The photographs by themselves would prove nothing. Considered  
3 together, the evidence persuasively refutes the suggestion that Defendant never acted immodestly  
4 or inappropriately with young boys in private.

5 For the foregoing reasons, evidence of Jordan Chandler's statement to the  
6 investigators and the photographs of Defendant's person should be admitted and presented to the  
7 jury.

8 DATED: May 25, 2005

9 Respectfully submitted

10 THOMAS W. SNEDDON, JR.  
11 District Attorney

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13 By: \_\_\_\_\_  
14 Gerald McC. Franklin, Senior Deputy District Attorney

15 Attorneys for Plaintiff  
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**SERVICE LIST**

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