

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

JAN 18 2005

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** Unsealed pursuant
to 6/16/05 court
order*

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

05 JAN 18 PM 2:52
RECEIVED

11 THE PEOPLE OF THE STATE OF CALIFORNIA,

12 Plaintiff,

13 v.

14 MICHAEL JOE JACKSON,

15 Defendant.

No. 1133603

PLAINTIFF'S MOTION IN
LIMINE FOR ADMISSION
OF EXPERT TESTIMONY
ON DEFENDANT'S
FINANCES

DATE: January 28, 2005
TIME: 9:30 AM
DEPT.: SM2 (Melville)

FILED UNDER SEAL

INTRODUCTION

21 The Evidence Code authorizes the use of expert opinion testimony where it is
22 "[r]elated to a subject that is sufficiently beyond common experience that the opinion of an
23 expert would assist the trier of fact . . ." (Evid. Code, § 801(a).)

24 According to Evidence Code section 720(a), "A person is qualified to testify as an
25 expert if he has special knowledge, skill, experience, training or education sufficient to qualify
26 him as an expert on the subject to which his testimony relates." Moreover, the qualification of
27

1 an expert witness is ordinarily a matter addressed to the sound discretion of the trial court.
2 (*People v. Axell* (1991) 235 Cal.App.3d 836, 859; *Evans v. Ohanesian* (1974) 39 Cal.App.3d
3 121, 127.) A reviewing court must give considerable latitude to the lower court in determining
4 qualifications of an expert, and the lower court's ruling will not be disturbed on appeal unless a
5 manifest abuse of discretion is shown. (*People v. Kelly* (1976) 17 Cal.3d 24, 39; *People v.*
6 *Page* (1991) 2 Cal.App.4th 161, 187.)

7 On the issue of motive, the People will introduce evidence at trial that defendant was
8 facing a serious financial crisis at the time of the charged offenses. To this end, the People
9 seek to introduce the testimony of forensic accountant, Duross Obrien who has conducted an
10 extensive analysis of defendant's financial records and a to-be-determined expert from the
11 entertainment industry.

12
13 **I.**
14 **EXPERT TESTIMONY FROM A FORENSIC ACCOUNTANT**
15 **SHOWING DEFENDANT'S FINANCIAL CRISIS IS APPROPRIATE AND**
16 **NECESSARY TO GIVE THE JURY INSIGHT INTO DEFENDANT'S MOTIVE TO**
17 **COMMIT THE CHARGED OFFENSE IN COUNT I OF THE INDICTMENT**

18 Duross O'Bryan's testimony will summarize the state of Mr. Jackson's financial
19 affairs before during and after the charged offenses based upon his review of documents
20 provided from defendant through defense discovery, defendant's bank records; court
21 documents and other sources relevant to this inquiry.

22 The airing of "Living with Michael Jackson," which prominently featured defendant
23 cuddling the victim in this case and talking about sleeping with little boys, was devastating to
24 defendant's already vulnerable public image. Because defendant's public image is his "stock
25 in trade," the financial impact of a public perceiving defendant to be engaging in illegal
26 conduct with children threatened to destroy what was left of defendant's withering financial
27 empire. As such, defendant had a powerful motive to isolate and control the victim and his
28 family for two purposes. First to prevent the press from interviewing the victim and his family
thereby exacerbating an already critical situation and second, to use this family in a public

1 relations ploy by obtaining video footage of them praising defendant and professing the
2 innocence and wholesomeness of his behavior. Defendant's success in both of these endeavors
3 was due in part to his very strong motivation to prevent his ailing financial empire from
4 crumbling into nothingness.

5
6 **II.**
7 **EXPERT TESTIMONY FROM A ENTERTAINMENT EXPERT SHOWING**
8 **DEFENDANT'S LOSS OF FUTURE EARNINGS BASED UPON "LIVING WITH**
9 **MICHAEL JACKSON" IS APPROPRIATE AND NECESSARY TO GIVE THE JURY**
10 **INSIGHT INTO DEFENDANT'S MOTIVE TO COMMIT THE CHARGED OFFENSE**
11 **IN COUNT I OF THE INDICTMENT**

12 To further explain the devastating impact of the television show, "Living with
13 Michael Jackson" on defendant's current and future finances, the People seek to introduce an
14 appropriate expert in the entertainment industry. The previously planned expert in this area is
15 unavailable and the People are currently identifying a replacement. This expert will be called
16 upon to chart the fortunes of defendant's career as a worldwide celebrity in pop music. In
17 addition to mapping the rise and fall of defendant's popularity in the music industry, this expert
18 will explain the tangible effect on defendant's marketability after the airing of "Living with
19 Michael Jackson" and its effect on his earning power. This expert will also provide the jury
20 with insight into the tremendous loss of tens of millions in future earnings defendant would
21 suffer if the public perceived him to be a child molester. Expert testimony from this witness
22 will will help show defendant was motivated to control and isolate the victim and his family
23 not only to preserve his current wealth but also to maintain the prospect for enormous future
24 earnings defendant could expect if his public image was protected.

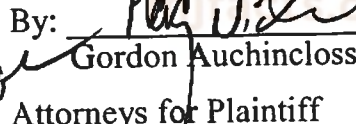
25 **CONCLUSION**

26 It is anticipated that the direct testimony of these expert witnesses will require less
27 than one hour each. The People respectfully request that this highly relevant and necessary
28 expert testimony be admitted to help the jury understand the how the broadcast of showing of

1 "Living with Michael Jackson" motivated defendant to commit the acts alleged in count one of
2 the indictment.

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4 DATED: January 18, 2005

5 THOMAS W. SNEDDON, JR.
6 District Attorney

7 By: 
8 Gordon Auchincloss, Senior Deputy
9 Attorneys for Plaintiff

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PROOF OF SERVICE

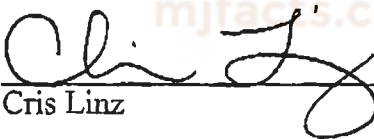
STATE OF CALIFORNIA
COUNTY OF SANTA BARBARA } SS

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; 1105 Santa Barbara Street, Santa Barbara, California 93101.

On January 18, 2005, I served the within PLAINTIFF'S MOTION IN LIMINE FOR ADMISSION OF EXPERT TESTIMONY ON DEFENDANT'S FINANCES; on Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER, BRIAN OXMAN and GIBSON, DUNN & CRUTCHER, LLP , by faxing a true copy to counsel at the facsimile number shown with the address of each on the attached Service List, and then by causing to be mailed a true copy to each counsel at that address.

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

Executed at Santa Barbara, California on this 18th day of January, 2005.


Cris Linz

SERVICE LIST

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