

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

JAN 18 2005

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

1 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY  
County of Santa Barbara  
2 By: RONALD J. ZONEN (State Bar No. 85094)  
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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF SANTA BARBARA**  
10 **SANTA MARIA DIVISION**

12 THE PEOPLE OF THE STATE OF CALIFORNIA,

13 Plaintiff,

15 v.

17 MICHAEL JOE JACKSON,

18 Defendant.

No. 1133603

PLAINTIFF'S MOTION IN  
LIMINE RE: EVIDENCE  
CODE § 402 ISSUES

~~PROPOSED REDACTED~~

DATE: January 28, 2005  
TIME: 9:30 a.m.  
DEPT: TBA (Melville)

~~UNDER SEAL~~

21 INTRODUCTION

22 It has long been recognized that the People, just as much as the defendant, are  
23 entitled to due process in a criminal proceeding. (*Stein v. New York* (1952) 346 U.S. 156, 197;  
24 *Department of Corrections v. Superior Court (Ayala)* (1988) 199 Cal.App.3d 1087, 1092.)  
25 Regarding the People's right to due process, Justice Cardozo wrote: "But justice, though due to  
26 the accused, is due to the accuser also. The concept of fairness must not be strained till it is  
27 narrowed to a filament. We are to keep the balance true." (*Snyder v. Massachusetts* (1934)  
28 291 U.S. 97, 122.)

1 The People are justifiably wary about defendant's intentions at trial. During pre-  
2 trial arguments the defense defamed the prosecution and the victims in this case with little  
3 regard for the truth or the rules of evidence.

4 That needs to change at trial.

5 By this motion the People ask for nothing more than a level playing field. During  
6 jury trial the defense should not engage in irrelevant ad hominem attacks on the prosecution. If  
7 they wish to attack the credibility of the People's witnesses with character evidence or other  
8 extraneous or collateral evidence, they should do so only with leave of the court.

9  
10 I

11 THE PLAINTIFF IN THIS CASE IS "THE PEOPLE OF  
12 THE STATE OF CALIFORNIA" AND SHOULD BE  
13 REFERRED TO AS SUCH

14 The defense goes out of its way in referring to the People of the State of California  
15 as "the government." It is improper, and it should cease at trial. Penal Code Section 684  
16 provides: "A criminal action is prosecuted in the name of the people of the State of California,  
17 as a party, against the person charged with the offense." In addition, Government Code  
18 section 100 also states:

19  
20 (a) The sovereignty of the state resides in the people thereof, and all writs and  
21 processes shall issue in their name.

22 (b) The style of all process shall be "The People of the State of California," and  
23 all prosecutions shall be conducted in their name and by their authority.

24 The constitutionality of the law expressed in these two statutes has been upheld.  
25 (See *People v. Black* (2003) 114 Cal.App.4th 830.) The People respectfully request the court  
26 admonish the defense to refer to the plaintiff by its proper name at trial.

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II  
THE PEOPLE OBJECT TO ANY ATTEMPTS ON  
BEHALF OF DEFENDANT TO INTRODUCE  
CHARACTER EVIDENCE WITHOUT AN IN  
LIMINE HEARING TO DETERMINE THE  
ADMISSIBILITY OF SUCH EVIDENCE

Pursuant to the rules of relevancy, Evidence Code section 352 and Evidence Code section 1101, subdivision (a), the People object to any attempts by defendant to introduce inadmissible character evidence in the form of an opinion, evidence of reputation, or evidence of specific instances of conduct to prove a witnesses conduct on a specified occasion. Under Evidence Code Section 1101, subdivision (a), character evidence is inadmissible unless the moving party can overcome the rule by showing the evidence is admissible for some purpose other than to show disposition or conduct on a given occasion.

Should defendant have independent grounds for the admission of such character evidence as provided under Evidence Code section 1101, subdivision (b), defendant should litigate the admissibility of such evidence with a properly noticed motion for hearing outside the presence of the jury.

The defense has indicated a desire to introduce an abundance of character evidence at trial. For example, during pre- trial proceedings and contained defense discovery the defense has alluded to such allegations as:

[REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED] mifacts.com mifacts.com mifacts.com  
4 [REDACTED]  
5  
6 The defense may or may not be able to establish the evidentiary foundations for  
7 these examples of ostensibly impertinent evidence. At this point, they haven't tried to do so.  
8 If the defense wishes to introduce character evidence of prior acts at trial, they need to  
9 establish its admissibility *before the jury is informed of it*. For that reason, the People request  
10 the court instruct the defense to bring a proper in limine motion demonstrating the  
11 admissibility for such evidence before it is published before the jury.

12 Likewise, should defendant intend to introduce evidence of good character on  
13 behalf of defendant, such as his charitable works, his success as an entertainer or his reputation  
14 for being the "most peaceful man in the world" the People request the court order a noticed  
15 motion and in limine hearing to determine the relevance and admissibility of such evidence.  
16

17 III

18 THE PEOPLE OBJECT TO ANY ATTEMPTS ON BEHALF  
19 OF DEFENDANT TO INTRODUCE PRIOR BAD ACTS  
20 EVIDENCE TO IMPEACH THE CREDIBILITY OF  
21 WITNESSES WITHOUT AN IN LIMINE HEARING TO  
22 DETERMINE THE ADMISSIBILITY OF SUCH EVIDENCE

23 Threats from the defense to assassinate the characters of the victims in this case  
24 have become a litany. During pretrial proceedings, counsel for the defense has peppered their  
25 arguments with demagoguery, hearsay and facts outside the record concerning the lack of  
26 credibility of the People's witnesses. Notwithstanding the apparent absence of supporting  
27 evidence, the defense has argued [REDACTED]  
28 [REDACTED]

As in most cases, credibility will be a critical issue at trial. If the defense wants to

1 attack the credibility of the People's witnesses at trial, that is their right. However, they should  
2 not be allowed to conduct such an attack with incompetent evidence including hearsay,  
3 character evidence that has no bearing on credibility, collateral impeachment and evidence of  
4 irrelevant conduct unrelated to the facts at bar.

5 The defense has made very clear their desire to introduce the facts of [REDACTED]  
6 [REDACTED] In addition, the  
7 People have received discovery from the defense suggesting their intention to introduce a  
8 variety of evidence regarding misconduct involving the People's witnesses. For instance, the  
9 defense apparently seeks to introduce allegations [REDACTED]

10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED] It is defendant's  
14 burden to convince the court of the grounds for the admissibility of this type of evidence *before*  
15 *the jury is exposed to it.*

#### 17 IV

#### 18 THE DEFENSE'S AD HOMINEM ATTACKS ON 19 THE PROSECUTION SHOULD CEASE AT TRIAL

20 The defense has engaged in gratuitous vilification of the District Attorney and the  
21 prosecution team at every opportunity. Given the defense's propensity to date, it takes little  
22 imagination to envision such ad hominem attacks being used as a gambit at trial. Any such  
23 improper tactic should be nipped in the bud.

24 "Ad hominem arguments, of course, constitute one of the most common errors in  
25 logic: Trying to win an argument by calling your opponent names ('Jane, you ignorant et cetera  
26 . . . .') only shows the paucity of your own reasoning." (*Huntington Beach City Council v.*  
27 *Superior Court* (2002) 94 Cal.App.4th 1417, 1430. Ad hominem arguments against the  
28 prosecution are, "like all ad hominem arguments, quite irrelevant." (*People ex rel. Lockyer v.*

1 *Brar* (2004) 115 Cal. App. 4th 1315, 1319.)

2 Michael Jackson has been brought to trial after a grand jury indicted him. The  
3 prosecution's personal motives are completely immaterial to any issue before this trier of fact.  
4 Likewise, ad hominem arguments concerning the number of "police raids" and the costs of this  
5 investigation are also completely irrelevant. For that reason, the People request the court to  
6 admonish the defense not to raise these issues in the jury's presence.

7 The People have been relatively patient with the theatrical rancor of the defense  
8 concerning the prosecutor's alleged motive for prosecuting the defendant. Our patience has  
9 worn thin. Should the defense attempt to open that door at trial they will invite the jury to see  
10 everything that is behind it. Obviously, if Mr. Sneddon's subjective motives are called into  
11 question, then *all* the information available to him about defendant will be offered in rebuttal.  
12 In other words, if the defense wants to argue that Tom Sneddon is persecuting an innocent man  
13 in order to "take down a major celebrity," then the jury should be allowed to form their own  
14 opinion about Mr. Sneddon's motives based upon everything he knows knows about this  
15 defendant. [REDACTED]

16 [REDACTED]  
17 [REDACTED]  
18 CONCLUSION

19 Just like the defendant, "the people of the State of California have the right to due  
20 process of law . . . ." (Cal. Const., art. I, § 29, enacted as part of Prop. 115.) The Court has set  
21 aside an entire month for hearing in limine motions. The People have been diligent in using  
22 this time to provide the Court and defendant with noticed motions including points and  
23 authorities on the admissibility of character evidence, credibility evidence, expert testimony  
24 and other evidentiary concerns. These efforts on behalf of the People have been designed to  
25 prevent the publishing of inadmissible evidence in front of the jury and to allow the defense a  
26 fair opportunity to be heard before any ruling is made. The People are entitled to no less. It is  
27 for the Court, not the defense, to determine the admissibility of collateral credibility evidence  
28 and character evidence. Such a determination should be made after the Court and plaintiff

1 have been given proper notice and the defense has established competent grounds at a hearing  
2 requesting the admissibility of such evidence.

3 The complexities of this litigation require a well-defined playing field. The jury  
4 should not be informed of inadmissible evidence during the defense's opening statement, case  
5 presentation or argument. The People respectfully request the Court notify the defense that any  
6 failure to bring timely motions outside the presence of the jury will preclude admissibility of  
7 such character evidence and collateral credibility evidence offered against the People's  
8 witnesses.

9 DATED: January 17, 2005

10 Respectfully submitted,

11 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY

12  
13 By: 

14  GORDON AUCHINCLOSS  
15 Senior Deputy District Attorney

16 Attorneys for Plaintiff  
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PROOF OF SERVICE

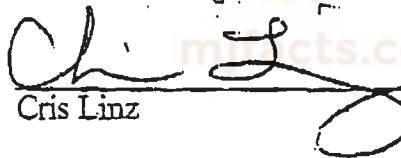
STATE OF CALIFORNIA      }  
COUNTY OF SANTA BARBARA      } SS

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 10, 2005, I served the within PLAINTIFF'S MOTION IN LIMINE RE: EVIDENCE CODE SECTION 402 ISSUES; on Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER, BRIAN OXMAN 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 17<sup>th</sup> day of January, 2005.

18  
  
Cris Linz



SERVICE LIST

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