

1 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY
County of Santa Barbara
2 By: RONALD J. ZONEN (State Bar No. 85094)
Senior Deputy District Attorney
3 J. GORDON AUCHINCLOSS (State Bar No. 150251)
Senior Deputy District Attorney
4 GERALD McC. FRANKLIN (State Bar No. 40171)
Senior Deputy District Attorney
5 1112 Santa Barbara Street
Santa Barbara, CA 93101
6 Telephone: (805) 568-2300
7 FAX: (805) 568-2398

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA
APR 21 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 THE PEOPLE OF THE STATE OF CALIFORNIA,
13 Plaintiff,
14
15 v.
16 MICHAEL JOE JACKSON,
17 Defendant.

No. 1133603
PLAINTIFF'S MOTION FOR
RECONSIDERATION OF THE
COURT'S RULING REGARDING
THE ADMISSIBILITY OF
EVIDENCE OF TWO OF
DEFENDANT'S "ADULT
BOOKS"
DATE: TBA
TIME: 8:30 a.m.
DEPT: TBA (Melville)

18
19
20 TO: THE CLERK OF THE SUPERIOR COURT AND TO DEFENDANT AND HIS
21 COUNSEL:

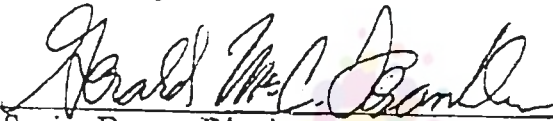
22 PLEASE TAKE NOTICE that as soon as the matter may be heard, Plaintiff will
23 move the court for its order allowing Plaintiff to put before the jury two "adult books" the
24 Court previously ruled would not be admitted, subject to its reconsideration of the issue
25 following its ruling on Plaintiff's motion to present evidence of Defendant's prior sexual
26 conduct pursuant to Evidence Code section 1108.

27 The motion will be based on this notice and the accompanying Memorandum of
28 Points and Authorities.

1 DATED: April 21, 2005

2 Respectfully submitted,

3 THOMAS W. SNEDDON, JR.
4 District Attorney

5 By: 
6 Senior Deputy District Attorney

7 Attorneys for Plaintiff

1 MEMORANDUM OF POINTS AND AUTHORITIES

2
3 The Court previously ruled inadmissible the introduction of photography books
4 seized from defendant's residence during the 1993 search of Neverland. The Court stated that
5 the ruling would be subject to reconsideration once the 1108 motion was resolved. That
6 motion has been resolved and the People now request that the Court admit the following
7 publications into evidence:

- 8 -- "The Boy, A Photographic Essay" 1964, Book Horizons, Inc.
9 -- "Boys Will Be Boys" 1966, Book Adventures, Inc.

10 Both publications contain numerous photographs of nude adolescent boys. They are
11 consistent with the types of publications often found in the homes of child molesters whose
12 principal victims are boys. The two publications demonstrate a prurient interest in adolescent
13 boys; boys about the age of the victim Gavin and the prior victims Jordon, Brett, Wade and
14 Macauley. The books are relevant for purposes of showing that at the time the victims shared a
15 bed with the defendant his purpose and intent was sexual. The defendant possessed both books
16 during the time Jordon, Brett, Wade and Macauley were sharing his bed.

17 Our Supreme Court has commented favorably on the relevance of just such evidence in
18 the trial of an accused child molester. In *People v. Memro* (1995) 11 Cal.4th 786, the court in a
19 capital homicide prosecution in which the defendant was charged with a felony murder based
20 upon a killing during the commission of a lewd act with a child approved the admission of
21 sexually explicit materials on the issue of the defendant's intent.

22 We have examined the magazines and photographs in question. They
23 contain sexually explicit stories, photographs and drawings of males
24 ranging in age from pre-pubescent to young adult. Some of the photographs
25 are of similar character. Others depict youths in a manner that is not
26 sexually suggestive. . . . although not all sexually explicit in the abstract,
27 the photographs, presented in the context of the defendant's possession of
28 them, yield evidence from which the jury could infer that he had a sexual
attraction to young boys and intended to act on that attraction.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(*People v. Memro* , *supra* , 11 Cal.4th 786, at p. 864.)

In our respectful submission, both publications should be admitted into evidence.

DATED: April 21, 2005

Respectfully submitted,

THOMAS W. SNEDDON, JR.
District Attorney

By: 
Gerald McC. Franklin, Senior Deputy

Attorneys for Plaintiff

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 April 21, 2005, I served the within PLAINTIFF'S MOTION FOR RECONSIDERATION OF THE COURT'S RULING REGARDING THE ADMISSIBILITY OF TWO OF DEFENDANT'S "ADULT BOOKS" on Defendant, by THOMAS A. MESEREAU, JR., ROBERT SANGER and BRIAN OXMAN, by transmitting a true copy thereof to Mr. Mesereau at his confidential Santa Maria Fax number, and by personally delivering a true copy Mr. Sanger's office at the address shown on the attached Service List.

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

Executed at Santa Barbara, California on this 21st day of April, 2005.

Gerald McC. Franklin
Gerald McC. Franklin

SERVICE LIST

THOMAS A. MESEREAU, JR.
Collins, Mesereau, Reddock & Yu, LLP
1875 Century Park East, No. 700
Los Angeles, CA 90067
FAX: [CONFIDENTIAL]

Attorney for Defendant Michael Jackson

ROBERT SANGER, ESQ.
Sanger & Swysen, Lawyers
233 E. Carrillo Street, Suite C
Santa Barbara, CA 93001
FAX: (805) 963-7311

Co-counsel for Defendant

BRIAN OXMAN, ESQ.
Oxman & Jaroscak, Lawyers
14126 E. Rosecrans Blvd.,
Santa Fe Springs, CA 90670

Co-counsel for Defendant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28