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FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

MAY 12 2005

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

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION

17 THE PEOPLE OF THE STATE OF CALIFORNIA,

18 Plaintiffs,

19 vs.

20 MICHAEL JOSEPH JACKSON,

21 Defendant.

) Case No. 1133603

) RESPONSE TO MOTION TO EXCLUDE
) TESTIMONY OF PURPORTED PRIOR SEX
) ACTS WITH MINOR WITNESS

) DATE: TBA
) TIME: TBA
) DEPT: SM-8

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25 RESPONSE TO MOTION TO EXCLUDE TESTIMONY OF PURPORTED PRIOR SEX
26 ACTS WITH MINOR WITNESS

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 ARGUMENT

3 I.

4 THE DEFENSE DOES NOT ANTICIPATE EXAMINING ANGEL VIVANCO
5 REGARDING THE DETAILS OF HIS PERSONAL RELATIONSHIP WITH
6 DAVELLIN ARVIZO

7 The prosecution can rest assured that the purpose of calling Angel Vivanco as a witness is
8 not to question him regarding the details of his physical relationship with Davellin Arvizo. As
9 argued below, Mr. Vivanco is a percipient witness to the activities of the Arvizo family and, in
10 particular, to statements and conduct of Davellin.¹ Assuming the prosecution refrains from
11 cross-examining Mr. Vivanco regarding the specific details of his physical relationship with Ms.
12 Arvizo, defense counsel does not intend to make an issue of those aspects of their relationship.

13 II.

14 ANGEL VIVANCO IS A PERCIPIENT WITNESS TO THE ACTIVITIES OF THE
15 ARVIZO FAMILY

16 Angel Vivanco's testimony is relevant to critical issues in this case.

17 First, Mr. Vivanco was present at Neverland during the time period in which the Arvizos
18 claim to have been falsely imprisoned and he interacted with them before, during and after that
19 time. He interacted with the family, and, in particular, with Davellin Arvizo. His testimony
20 contradicts the testimony of Davellin that she stayed in the guest unit with her mother and did not
21 come out. Mr. Vivanco's testimony is consistent with other witnesses who also observed
22 Davellin to be out and about at Neverland.

23 Second, after the family had left Neverland, Davellin Arvizo continued to call Mr.

24
25 ¹ The defense agreed with the prosecution over a week ago that it would not ask about
26 the prior acts referenced in the prosecution's moving papers. Thereafter, Mr. Sneddon
27 communicated to the Court that he was not clear as to the relevancy of Mr. Vivanco's testimony
28 but that he would re-read the report of Mr. Vivanco's interview. The defense respectfully files
this brief to address the issue of relevance.

1 Vivanco on a nightly basis. She informed Mr. Vivanco that Janet Arvizo and Jay Jackson were
2 planning "something big" that involved Mr. Jackson. This supports the defense theory that the
3 Arvizos made these allegations as part of a scheme to obtain money from Mr. Jackson.

4 Third, Mr. Vivanco observed Star and Gavin Arvizo drinking alcohol and possessing
5 sexually explicit materials prior to February and March of 2003, and outside the presence of Mr.
6 Jackson. This contradicts the testimony of Gavin and Star.

7 Fourth, Mr. Vivanco observed Janet Arvizo's interactions with Dieter Weisner and will
8 give testimony that contradicts Janet's testimony that she was intimidated by scary "Germans,"
9 including Mr. Weisner. It also contradicts Janet Arvizo's claim that Dieter Weisner met with
10 Janet ten times a day so that she could memorize the script .

11 Fifth, Mr. Vivanco's testimony is in direct contradiction to the claim that any of the
12 Arvizos were acting as if they were held against their will.

13 III.

14 CONCLUSION

15 Defense counsel does not intend to question Mr. Vivanco regarding the details of his
16 physical relationship with Davellin Arvizo. However, he is a percipient witness to the activities
17 of the Arvizo family and should be allowed to testify.

18 Dated: May 12, 2005

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