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FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

MAY 17 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 vs.

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18
19 MICHAEL JOE JACKSON,
20 Defendant.

No. 1133603

PLAINTIFF'S REPLY TO
DEFENDANT'S
OPPOSITION OF MOTION
TO EXCLUDE HEARSAY
TESTIMONY OF DEFENSE
WITNESS MICHAEL VINER
PURSUANT TO EVIDENCE
CODE § 352

DATE: TBA
TIME: 8:30 AM
DEPT.: SM2 (Melville)

21
22
23 INTRODUCTION

24 The defense opposition to the People's motion to exclude this hearsay evidence is
25 premised on Evidence Code section 1235. In support of this position, they have included
26 portions of the transcript of the relevant testimony as well as the offer of proof of Mr. Viner's
27 testimony in the form of an investigative report dated April 26, 2005.
28

1 Assuming Viner is a credible witness, his proposed testimony is couched in phrases
2 such as "Feldman had referred to the mother as a 'flake' and said he did not believe the boy."
3 Also, "that he did not believe them and they were into this case for one reason, 'money.'"
4 Whether or not Feldman said those things at a meeting with Larry King's producer is in
5 dispute. However, the defense believes they laid sufficient foundation on cross exam to get
6 those inadmissible statements of Feldman's alleged opinion about the veracity of the mother
7 and son into evidence through the back door of E.C. 1235. We disagree.

8 The transcript shows that Mr. Feldman was asked whether he remembered saying
9 that "Janet is making up these allegations" and that he told Larry King "these allegations
10 against Mr. Jackson are false." Neither of those questions encompass the offer of proof
11 regarding the witness Viner.

12 Additionally, the defense argues that Mr. Feldman, during re-direct, opened the
13 door further by stating that anyone who says he made "that" statement is lying. However, the
14 transcript shows that what Mr. Feldman actually said was that he did not disclose, nor would
15 he ever disclose, the *contents* of a privileged communication between attorney and client. He
16 stated, "And if anybody says that, that person is lying." There is nothing inconsistent with that
17 statement and the improper opinion evidence the defense wishes to elicit through the witness
18 Viner.

19
20
21 DATED: May 17, 2005

22 Respectfully submitted,

23 THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY

24
25 By: _____
26

Mag M. Nicola
Senior Deputy District Attorney

27 Attorneys for Plaintiff
28



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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; 1112 Santa Barbara Street, Santa Barbara, California 93101.

On May 17, 2005, I served the within **PLAINTIFF'S REPLY TO DEFENDANT'S OPPOSITION OF MOTION TO EXCLUDE HEARSAY TESTIMONY OF DEFENSE WITNESS MICHAEL VINER PURSUANT TO EVIDENCE CODE § 352** on Defendant. by THOMAS A. MESEREAU, JR., and ROBERT SANGER, by personally delivering a true copy thereof to Mr. Sanger.

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

Executed at Santa Barbara, California on this 17th day of May, 2005.

Mag M. Nicola

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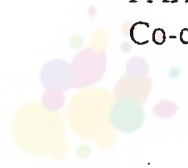
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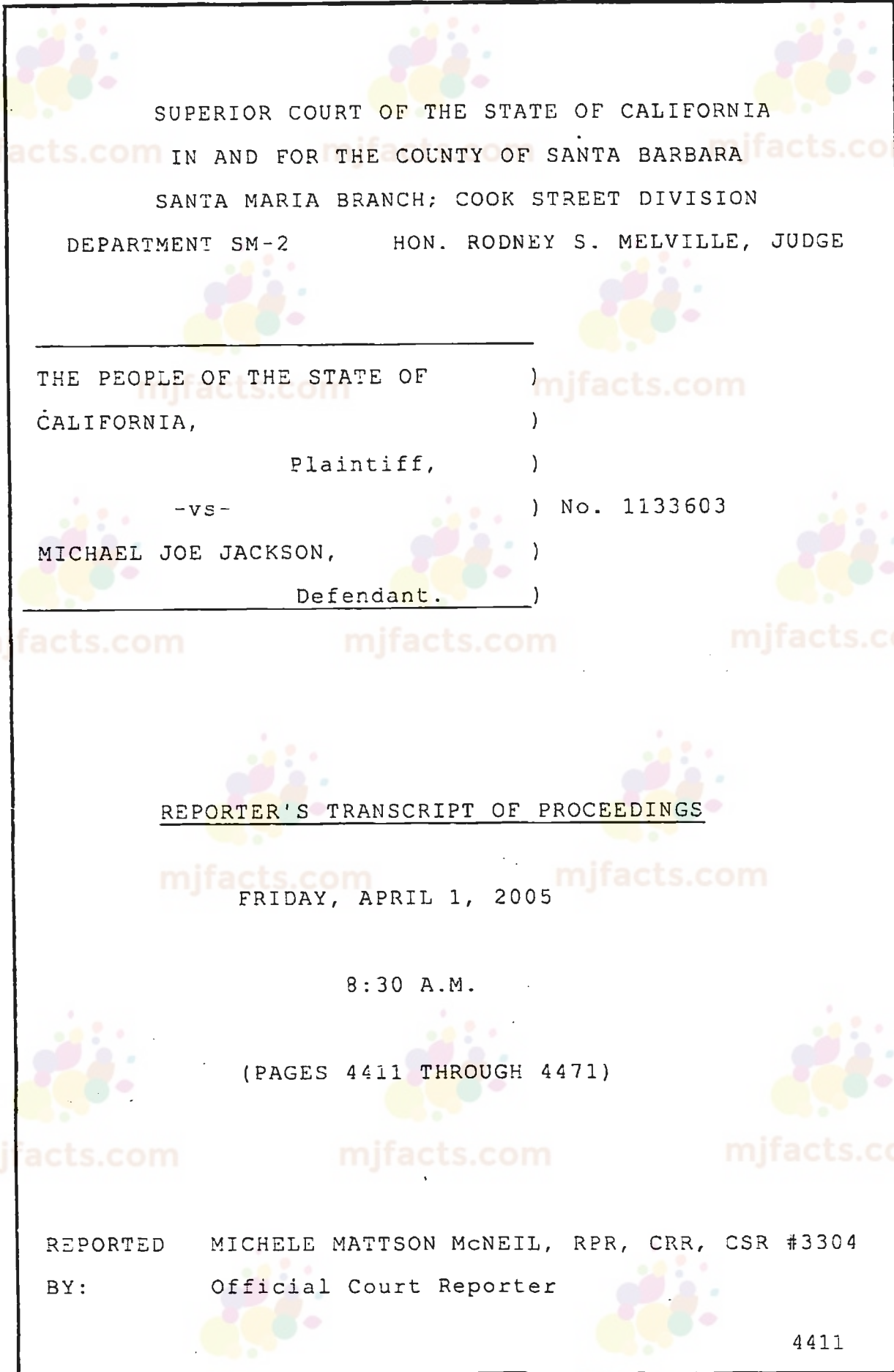


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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA BARBARA

SANTA MARIA BRANCH; COOK STREET DIVISION

DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)
Plaintiff,)
-vs-)
MICHAEL JOE JACKSON,)
Defendant.)

)
)
)
) No. 1133603
)
)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

FRIDAY, APRIL 1, 2005

8:30 A.M.

(PAGES 4411 THROUGH 4471)

REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
BY: Official Court Reporter

4411

I N D E X

Note:

Mr. Sneddon is listed as "SN" on index.
Mr. Zonen is listed as "Z" on index.
Mr. Auchincloss is listed as "A" on index.
Mr. Nicola is listed as "N" on index.
Mr. Mesereau is listed as "M" on index.
Ms. Yu is listed as "Y" on index.
Mr. Sanger is listed as "SA" on index.
Mr. Oxman is listed as "O" on index.

PLAINTIFF'S
WITNESSES

DIRECT CROSS REDIRECT RECROSS

GREEN, Jack

4479-SA

4485-A
(Further)

4486-SA
(Further)

FELDMAN, Larry

4487-SN

4527-M

4596-SN

4608-M

4609-SN
(Further)

4611-M
(Further)

SALAS, Jesus

4612-A

1 the picture.

2 THE COURT: Objection sustained.

3 MR. MESEREAU: Let me just take a second,
4 Your Honor, just to look at my notes.

5 THE COURT: Yes.

6 Q. BY MR. MESEREAU: Mr. Feldman, do you
7 remember telling two individuals, Michael Viner and
8 Larry King, that Janet is making up these
9 allegations?

10- A. Absolutely not. Are you kidding?

11 Q. Do you remember meeting with those two
12 individuals at The Grill in Beverly Hills?

13 A. No. Never met with them.

14 Q. Do you know who Michael Viner is?

15 A. I couldn't pick him out. I know who he is.
16 I think the answer is I wouldn't know him if he was
17 sitting in the jury box. But I know who he is by
18 name. He's -- he's a publisher or something, or a
19 writer, or -- I don't know. Viner Books, right?
20 Something like that.

21 I certainly know who Larry King is.

22 Q. You did have a meeting with him and Larry
23 King, right?

24 A. I have never had a meeting with Michael
25 Viner in my life.

26 Q. So approximately nine months ago, you didn't
27 meet with Mr. King and Mr. Viner, correct?

28 A. I absolutely have never had a meeting with

1 Michael Viner in my life.

2 Q. Okay. And did you ever tell Larry King that
3 these allegations against Mr. Jackson are false?

4 A. Absolutely not.

5 MR. MESEREAU: I have no further questions.

6 THE WITNESS: I don't even know.

7 MR. MESEREAU: Okay.

8 THE WITNESS: The proverbial answer.

9

10 REDIRECT EXAMINATION

11 BY MR. SNEDDON:

12 Q. Mr. Feldman, let's go back to the -- and
13 clarify something, if we can.

14 You were involved at one time in the
15 dependency court involving a case where there was a
16 baby who was alleged to have been abused; is that
17 correct?

18 A. Correct.

19 Q. And was the abuse, the nature of the abuse
20 in that case sexual or physical?

21 A. Physical.

22 Q. And how old was this baby?

23 A. 13 months or -- 12 months or 13 months. It
24 was an infant.

25 Q. And this was in the dependency court,
26 correct?

27 A. This was in the dependency court. These
28 parents had just adopted this child, and the County

1 THE COURT: You may answer "yes" or "no."

2 THE WITNESS: I mean, I can't --

3 THE COURT: "Yes" or "no."

4 Q. BY MR. SNEDDON: You have to lean into the
5 microphone.

6 A. Oh.

7 THE COURT: Do you want the question?

8 THE WITNESS: Well, yes, and no, Your Honor.
9 I mean, I remember the substance.

10 Q. BY MR. SNEDDON: Okay. To your knowledge,
11 after the case of Chandler versus Jackson was
12 resolved, did your client, Jordan Chandler, ever
13 appear before a grand jury?

14 MR. MESEREAU: Objection. Leading; beyond
15 the scope.

16 THE COURT: Overruled.

17 You may answer.

18 THE WITNESS: To my knowledge, he never
19 appeared before a grand jury.

20 Q. BY MR. SNEDDON: Now, you were asked by --
21 just before Mr. Mesereau finished his examination,
22 about a purported conversation between you and Mr.
23 King and Mr. Viner, or Veener?

24 A. Viner.

25 Q. Viner?

26 A. Viner is what he said.

27 Q. Yes. And do you recall any such meeting?

28 A. I never met with Mr. Viner. I did once meet

1 with Mr. King. I do remember meeting with Mr. King,
2 but I can tell you there wasn't a meeting with
3 Viner.

4 Q. Were there other people present?

5 A. Well, we were in the delicatessen in Beverly
6 Hills, so there were a lot of other people around.

7 Q. Where -- were you having breakfast, lunch,
8 dinner? You were in a deli, I assume you were
9 eating.

10 A. I was having breakfast with his -- with a
11 producer from their show, who --

12 Q. Whose show?

13 A. Larry King's show, and he was sitting at a
14 table, like over here, with --

15 Q. Indicating to your right?

16 A. Right. With six of his pals that he had
17 breakfast with.

18 Q. And were you with somebody else?

19 A. Yes.

20 Q. Who were you with?

21 A. I was with his producer.

22 Q. Who is?

23 A. Whose name was, or is, Nancy Baker, I think
24 her name was.

25 Q. Is that the only time you ever recall being
26 in any kind of close proximity with Mr. Viner?

27 A. Well, I'm not even sure he was one of these
28 guys. I didn't have any discussion with any of

1 those guys about anything, I can tell you. They
2 were trying to get me to come on their show. That's
3 all we ever possibly talked about, is -- I knew Mr.
4 King. I've run into him since this, I mean, at
5 different events.

6 Q. By "Mr. King," you're talking about Larry
7 King?

8 A. Right.

9 Q. The guy's on --

10 A. We say helio to each other. We see each
11 other. Talk to each other. Never having talked
12 about this case, and they did want me to come on
13 their program. I mean, I do remember them talking
14 to me about that.

15 But I can tell you that I didn't tell them,
16 and I didn't tell anybody else, anything about what
17 anybody tells me, because it is absolutely
18 privileged, and it would be absolutely improper.
19 And if anybody says that, that person is lying.
20 Can't make it clearer than that.

21 Q. Let me just ask you a couple other
22 questions, or at least one other question about the
23 Chandler versus Jackson lawsuit.

24 You indicated in response to one of Mr.
25 Mesereau's questions that the defendant in that
26 case, which would have been Mr. Jackson, were the
27 ones who wanted the parents to share in the
28 financial or monetary settlement of the case?