

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

SEP 15 2004

GARY M. BLAIR, Clerk
By: [Signature]

1 **COLLINS, MESEREAU, REDDOCK & YU**
2 Thomas A. Mesereau, Jr., State Bar Number 091182
3 Susan C. Yu, State Bar Number 195640
4 1875 Century Park East, 7th Floor
5 Los Angeles, CA 90067
6 Tel.: (310) 284-3120, Fax: (310) 284-3133

7 **KATTEN MUCHIN ZAVIS ROSENMAN**
8 Steve Cochran, State Bar Number 105541
9 Stacey McKee Knight, State Bar Number 181027
10 2029 Century Park East, Suite 2600
11 Los Angeles, California 90067-3012
12 Tel.: (310) 788-4455, Fax: (310) 712-8455

13 **SANGER & SWYSEN**
14 Robert M. Sanger, State Bar Number 058214
15 233 East Carrillo Street, Suite C
16 Santa Barbara, CA 93101
17 Tel.: (805) 962-4887, Fax: (805) 963-7311

18 **OXMAN & JAROSCAK**
19 Brian Oxman, State Bar Number 072172
20 14126 East Rosecrans
21 Santa Fe Springs, CA 90670
22 Tel.: (562) 921-5058, Fax: (562) 921-2298

23 Attorneys for Defendant
24 **MICHAEL JOSEPH JACKSON**

Redacted Version

25 SUPERIOR COURT OF THE STATE OF CALIFORNIA
26 FOR THE COUNTY OF SANTA BARBARA, COOK DIVISION

27 THE PEOPLE OF THE STATE OF)
28 CALIFORNIA,)

Case No. 1133603

Plaintiffs,)

MR. JACKSON'S RESPONSE TO)
PLAINTIFF'S MEMORANDUM RE: A)
LIMIT TO CROSS-EXAMINATION OF JANE)
DOE)

vs.)

~~UNDER SEAL~~

MICHAEL JOSEPH JACKSON,)

Honorable Rodney Melville

Defendant.)

Date: September 16, 2004

Time: 8:30 am.

Dept: SM 8

MR. JACKSON'S RESPONSE TO PLAINTIFF'S MEMORANDUM RE: A LIMIT TO CROSS-EXAMINATION
OF JANE DOE

1 INTRODUCTION

2 The District Attorney's memorandum regarding "an appropriate limit to cross-
3 examination" fails to seek specific relief and instead is a rambling apology for the behavior of the
4 District Attorney and the police officers at issue before the Court in the 1538.5 (Part 1) hearing.¹
5 As discussed below, [REDACTED] knew that Bradley Miller worked for Mark Geragos, and it is
6 implausible that she did not communicate that information to law enforcement or the District
7 Attorney. The government's knowledge of Mr. Miller's association with Mr. Jackson's attorney
8 prior to the search of his office is a critical issue in this case and Mr. Jackson's counsel must be
9 allowed to examine [REDACTED] regarding that issue.

10 I.

11 WHAT [REDACTED] SAID TO LAW ENFORCEMENT REGARDING WHETHER
12 OR NOT BRADLEY MILLER WAS WORKING FOR A LAWYER IS A CRITICAL
13 ISSUE AND MR. JACKSON IS ENTITLED TO CROSS-EXAMINATION REGARDING
14 THIS ISSUE

15 As argued in Mr. Jackson's 1538.5 (Part 1) moving papers, the search of defense
16 investigator Bradley Miller's office constituted an invasion of the defense camp and the fruits of
17 that search must be suppressed. At issue in the hearing on this issue is what the government
18 knew, or reasonably should have known, about Mr. Miller's relationship with Mr. Geragos and
19 when they knew it.

20 [REDACTED] communications with law enforcement regarding Mr. Miller is a critical
21 issue in the hearings before this Court. She met with Mr. Miller and later provided an account of
22 those meetings to the government. The prosecution concedes that [REDACTED] was expressly
23 informed that Mr. Miller worked for Mr. Geragos. (Plaintiff's Memorandum, page 2:13-14.) As
24 discussed below, [REDACTED] not only met with law enforcement, she also met with Tom

25
26 ¹ Once again, the prosecution's remarks such as "with a glance to the press corps in the
27 audience" (Plaintiff's Memorandum, 3:22) are unfounded, sarcastic and do not assist the Court in
28 resolving the issue before the Court.

1 Sneddon personally and had a conversation with him that was not recorded.

2 The District Attorney claims that "[d]efense attorneys should not be allowed to
3 aggressively cross-examine a witness on entirely collateral matters under any circumstance."
4 (Plaintiff's Memorandum, 3:13-15.) Pursuant to Evidence Code Section 780, however, it is
5 entirely proper for defense counsel to cross-examine [REDACTED] regarding "any matter that has
6 any tendency in reason to prove or disprove truthfulness of [her] testimony at the hearing." The
7 statute specifically lists factors the Court may consider including "character for honesty or
8 veracity or their opposites," "the existence or nonexistence of a bias, interest or other motive," "a
9 statement made by [her] that is inconsistent with any part of [her] testimony at the hearing," and
10 "[her] admission of untruthfulness." (Evidence Code Section 780 (e), (f), (h), (k).) The listed
11 factors are not "entirely collateral" matters and are relevant to cross-examination. Furthermore,
12 under *People v. Wheeler* (1992) 4 Cal.4th 284, misdemeanor conduct that has a logical bearing
13 on the veracity of a witness is valid as impeachment material.

14 II.

15 **THE WEIGHT OF THE EVIDENCE WITH OR WITHOUT THE TESTIMONY OF**
16 **[REDACTED] IS THAT TOM SNEDDON KNEW OR REASONABLY SHOULD**
17 **HAVE KNOWN THAT BRADLEY MILLER WAS WORKED FOR MARK GERAGOS**

18 The evidence before the Court is that the District Attorney knew or should have known
19 that Bradley Miller worked for Mark Geragos. Investigator Tonello stated that he expected that a
20 private investigator such as Brad Miller would be working for an attorney. The correspondence
21 between Mark Geragos and William Dickerman, which was delivered to the sheriff, clearly
22 indicated that Bradley Miller was employed by Mark Geragos. Furthermore, Tom Sneddon
23 admitted that he told Mr. Jackson's defense counsel that he knew that Mr. Miller worked for Mr.
24 Geragos during a telephone conference.

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27 III

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III.

**CONTRARY TO THE DISTRICT ATTORNEY'S ASSERTION, ALL
CONVERSATIONS WITH ██████████ WERE NOT RECORDED**

Despite the claim that all interviews between ██████████ and law enforcement were recorded (Plaintiff's Memorandum, 3:6-7), the prosecution fails to mention in its memorandum that Tom Sneddon conducted a private interview of ██████████ at the Federal Building in Los Angeles where he specifically showed her a photo of Bradley Miller. It is implausible that he didn't question ██████████ about who Mr. Miller was, and who he worked for, during that interview. Furthermore, the recorded interviews with ██████████ make it clear that not all conversations between law enforcement and ██████████ were recorded. Mr. Jackson is allowed to inquire vigorously regarding that interview and all other contacts between ██████████ and law enforcement.

IV.

**██████████ KNEW THAT BRADLEY MILLER WORKED FOR MARK
GERAGOS**

There is no doubt that ██████████ knew that Bradley Miller worked for Mark Geragos. The District Attorney asserts that "[i]t is anticipated that Jane Doe will say she did not know who employed Brad Miller, nor did she care." (Plaintiff's Memorandum, 1:24-25.) However, the District Attorney concedes that an audiotape of an interview conducted by Mr. Miller with the ██████████ family contains a statement by Mr. Miller to ██████████ that "he is a private investigator and works for the law firm of Geragos and Geragos, specifically Mark Geragos, attorney for Michael Jackson." (Plaintiff's Memorandum, page 2:13-14.) It is not reasonable to now claim that she didn't actually know Mr. Miller worked for Mr. Geragos.

Contrary to the government's claim that Mr. Miller disclosed his relationship with Mr. Geragos during the first 30 seconds of the interview, and then never again, there is actually a second mention of his employment with Mr. Geragos later in the interview. Far from the government's claim that Mr. Miller's introduction was brief and unmemorable, the recorded

1 interview gives the impression that Bradley Miller has previously explained that he works for
2 Mr. Geragos to [REDACTED]

3 V.

4 CONCLUSION

5 For the reasons stated above, the Court must allow Mr. Jackson's counsel to vigorously
6 examine [REDACTED]

7 Dated: September 14, 2004

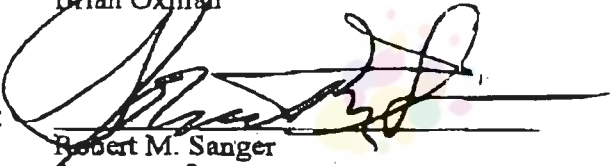
8 Respectfully submitted,

9 COLLINS, MESEREAU, REDDOCK & YU
10 Thomas A. Mesereau, Jr.
Susan C. Yu

11 KATTEN MUCHIN ZAVIS ROSENMAN
12 Steve Cochran
Stacey McKee Knight

13 SANGER & SWYSEN
14 Robert M. Sanger

15 OXMAN & JAROSCAK
16 Brian Oxman

17 By: 

18 Robert M. Sanger
19 Attorneys for
20 MICHAEL JOSEPH JACKSON