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10 MJJ Productions, Inc. and MJJ Ventures, Inc.

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF LOS ANGELES

14 WADE ROBSON, an individual,
15 Plaintiff,

16 vs.
17

18 MJJ PRODUCTIONS, INC., a California
corporation; MJJ VENTURES, INC., a
19 California corporation; and DOES 4-50,
inclusive,
20

21 Defendants.
22

Case No. BC 508502
[Related to Case No. BP 117321, In re the
Estate of Michael J. Jackson (deceased)]

Assigned to the Hon. Mark A. Young,
Department M (Santa Monica Courthouse)

**DEFENDANTS MJJ PRODUCTIONS
AND MJJ VENTURES' EVIDENTIARY
OBJECTIONS TO THE DECLARATION
OF ALEX E. CUNNY AND EXHIBITS
THERE TO**

*[Reply Brief and [Proposed] Order re
Evidentiary Objections Filed Concurrently
Herewith]*

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Dept: Dept. M

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DEFENDANTS' EVIDENTIARY OBJECTIONS TO THE
DECLARATION OF ALEX E. CUNNY, ESQ.

Objection No. 1

Exhibit 22 attached to the Cunny Declaration and identified in Paragraph 26 of the Cunny Declaration as a “copy of the statement that Mary Collier-Albert provided to the Los Angeles Police Department”. (Cunny Decl. at ¶ 26 (page 7, lines 23-24), Ex. 22.)

Grounds for Objection No. 1:

Hearsay (Evid. Code § 1200): The document is being offered for the truth of matters stated therein. The document is double hearsay in that it purports to be a government official’s summary or transcription of statements allegedly made by another person in the course of a (meritless) criminal investigation. Witness statements taken in criminal investigation are, quite literally, *the* most classic example of inadmissible hearsay. *See Crawford v. Washington*, 541 U.S. 36, 40, 43-44, 51-52 (2004) (discussing history of hearsay rule arising from right of confrontation of witnesses in criminal proceedings); *People v. Jaramillo*, 137 Cal.App. 232, 235 (1934).

Improper Authentication (Evid. Code §§ 1400-1401): The declarant offers no explanation for how he has personal knowledge that the document is what he states it is. The declarant attempts to authenticate this document through the deposition of Mary Collier-Albert, but the deponent did not work for the Los Angeles Police Department, did not create the document and cannot authenticate the document. The document appears to be incomplete and does not identify the author or date of creation.

Objection No. 2

Exhibit 23 attached to the Cunny Declaration and identified in Paragraph 27 of the Cunny Declaration as a “copy of the statement provided by the Quindoys to the Santa Barbara County Sheriff’s Department”. (Cunny Decl. at ¶ 27 (page 8, lines 6-7), Ex. 23.)

Grounds for Objection No. 2:

Hearsay (Evid. Code § 1200): The document is being offered for the truth of matters stated therein. The document is double hearsay in that it purports to be a government official’s summary

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1 or transcription of statements allegedly made by another person in the course of a (meritless)
2 criminal investigation. Witness statements taken in criminal investigation are, quite literally, *the*
3 most classic example of inadmissible hearsay. *See Crawford v. Washington*, 541 U.S. 36, 40, 43-
4 44, 51-52 (2004) (discussing history of hearsay rule arising from right of confrontation of
5 witnesses in criminal proceedings); *People v. Jaramillo*, 137 Cal.App. 232, 235 (1934).

6 Improper Authentication (Evid. Code §§ 1400-1401): The declarant offers no explanation
7 for how he has personal knowledge that the document is what he states it is.

8 **Objection No. 3**

9 Exhibit 24 attached to the Cunny Declaration and identified in Paragraph 28 of the Cunny
10 Declaration as a “copy of the declaration of Charli Michaels, dated February 15, 1994”. (Cunny
11 Decl. at ¶ 28 (page 8, lines 13-14), Ex. 24.)

12 **Grounds for Objection No. 3:**

13 Hearsay (Evid. Code §§ 1200, 1291, 1292): Under Sections 1291 and 1292, for evidence
14 of former testimony to be admissible, the declarant must be unavailable. There has been no such
15 showing of unavailability here. *See also L&B Real Estate v. Superior Court*, 67 Cal.App.4th 1342,
16 1348 (1998) (ten-year old deposition testimony inadmissible on summary judgment in part based
17 on lack of assurance that witness could still testify competently to the evidentiary facts to which
18 he or she previously testified). To the contrary, Ms. Michaels was deposed in this matter, and
19 Plaintiff is relying on her testimony.

20 **Objection No. 4**

21 Exhibit 25 attached to the Cunny Declaration and identified in Paragraph 29 of the Cunny
22 Declaration as a “copy of the statement provided by Donald Starks to the Los Angeles County
23 District Attorney’s Office, as dated on October 1, 1993”. (Cunny Decl. at ¶ 29 (page 8, lines 24-
24 26), Ex. 25.)

25 **Grounds for Objection No. 4:**

26 Hearsay (Evid. Code § 1200 *et seq.*): The document is being offered for the truth of
27 matters stated therein. The document is double hearsay in that it purports to be a government
28 official’s summary or transcription of statements allegedly made by another person in the course

1 of a (meritless) criminal investigation. Witness statements taken in criminal investigation are,
2 quite literally, *the* most classic example of inadmissible hearsay. *See Crawford v. Washington*, 541
3 U.S. 36, 40, 43-44, 51-52 (2004) (discussing history of hearsay rule arising from right of
4 confrontation of witnesses in criminal proceedings); *People v. Jaramillo*, 137 Cal.App. 232, 235
5 (1934).

6 Notably, although it has been transcribed, there is no indication that the statement was
7 taken under oath and under penalty of perjury. Even if it were, the requisite showings have not
8 been made to admit any such former testimony under Evidence Code Section 1292. *See L&B Real*
9 *Estate v. Superior Court*, 67 Cal.App.4th 1342, 1348 (1998).

10 Improper Authentication (Evid. Code §§ 1400-1401): The declarant offers no explanation
11 for how he has personal knowledge that the document is what he states it is. The declarant
12 attempts to authenticate this document through the deposition of Donald Starks, but the deponent
13 did not work for the Los Angeles County District Attorney’s Office, did not create the document
14 and cannot authenticate the document.

15 **Objection No. 5**

16 Exhibit 26 attached to the Cunny Declaration and identified in Paragraph 30 of the Cunny
17 Declaration as a “copy of the statement provided by Charli Michaels to the Santa Barbara County
18 Sheriff’s Department on April 15, 1994”. (Cunny Decl. at ¶ 30 (page 9, lines 7-9), Ex. 26.)

19 **Grounds for Objection No. 5:**

20 Hearsay (Evid. Code § 1200): The document is being offered for the truth of matters stated
21 therein. The document is double hearsay in that it purports to be a government official’s summary
22 or transcription of statements allegedly made by another person in the course of a (meritless)
23 criminal investigation. Witness statements taken in criminal investigation are, quite literally, *the*
24 most classic example of inadmissible hearsay. *See Crawford v. Washington*, 541 U.S. 36, 40, 43-
25 44, 51-52 (2004) (discussing history of hearsay rule arising from right of confrontation of
26 witnesses in criminal proceedings); *People v. Jaramillo*, 137 Cal.App. 232, 235 (1934).

27 Improper Authentication (Evid. Code §§ 1400-1401): The declarant offers no explanation
28 for how he has personal knowledge that the document is what he states it is. The declarant

1 attempts to authenticate this document through the deposition of Charli Michaels, but the deponent
2 did not work for the Santa Barbara County Sheriff’s Department, did not create the document and
3 cannot authenticate the document. The document appears to be incomplete and does not identify
4 the author or date of creation.

5 **Objection No. 6**

6 Exhibit 31 attached to the Cunny Declaration and identified in Paragraph 35 of the Cunny
7 Declaration as a “copy of the December 16, 1987 memorandum of Jolie Levine”. (Cunny Decl. at
8 ¶ 35 (page 10, lines 10-11), Ex. 32.)

9 **Grounds for Objection No. 6:**

10 Hearsay (Evid. Code § 1200 *et seq.*): The document is being offered for the truth of
11 matters stated therein.

12 Improper Authentication (Evid. Code §§ 1400-1401): The declarant offers no explanation
13 for how he has personal knowledge that the document is what he states it is.

14 Lack of Foundation (Evid. Code § 403): The declarant does not have foundation to testify
15 as to what these documents are or the parties to such documents.

16 Lack of Personal Knowledge (Evid. Code § 702): The declarant does not have personal as
17 to what these documents are or to identify the parties to the documents.

18 **Objection No. 7**

19 Exhibit 32 attached to the Cunny Declaration and identified in Paragraph 36 of the Cunny
20 Declaration as a “copy of an undated memorandum by Jolie Levine to Jane AA Doe”. (Cunny
21 Decl. at ¶ 36 (page 10, lines 13-14), Ex. 32.)

22 **Grounds for Objection No. 7:**

23 Hearsay (Evid. Code § 1200 *et seq.*): The document is being offered for the truth of
24 matters stated therein.

25 Improper Authentication (Evid. Code §§ 1400-1401): The declarant offers no explanation
26 for how he has personal knowledge that the document is what he states it is.

27 Lack of Foundation (Evid. Code § 403): The declarant does not have foundation to testify
28 as to what these documents are or the parties to such documents.

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Objection No. 10

Exhibit 40 attached to the Cunny Declaration and identified in Paragraph 44 of the Cunny Declaration as a “copy of the recorded statement of Jordan Chandler by the Los Angeles County District Attorney’s Office, on September 1, 1993”. (Cunny Decl. at ¶ 44 (page 12, lines 17-19), Ex. 40.)

Grounds for Objection No. 10:

Hearsay (Evid. Code § 1200 *et seq.*): The document is being offered for the truth of matters stated therein. The document is double hearsay in that it purports to be a government official’s summary or transcription of statements allegedly made by another person in the course of a (meritless) criminal investigation. Witness statements taken in criminal investigation are, quite literally, *the* most classic example of inadmissible hearsay. *See Crawford v. Washington*, 541 U.S. 36, 40, 43-44, 51-52 (2004) (discussing history of hearsay rule arising from right of confrontation of witnesses in criminal proceedings); *People v. Jaramillo*, 137 Cal.App. 232, 235 (1934).

Notably, although it has been transcribed, there is no indication that the statement was taken under oath and under penalty of perjury. Even if it were, the requisite showings have not been made to admit any such former testimony under Evidence Code Section 1292. *See L&B Real Estate v. Superior Court*, 67 Cal.App.4th 1342, 1348 (1998).

Improper Authentication (Evid. Code §§ 1400-1401): The declarant offers no explanation for how he has personal knowledge that the document is what he states it is. The document appears to be incomplete.

Objection No. 11

Exhibit 41 attached to the Cunny Declaration and the statement in Paragraph 45 of the Cunny Declaration identifying Exhibit 41 as a “copy of the photographs seized by the Los Angeles Police Department”. (Cunny Decl. at ¶ 45 (page 12, lines 25-26), Ex. 41.)

Grounds for Objection No.11:

Improper Authentication (Evid. Code §§ 1400-1401): The declarant offers no explanation for how he has personal knowledge that the document is what he states it is. The declarant

1 purports to rely on the testimony of Federico Sicard, but the testimony does not authenticate the
2 document, nor does he testify that he recognizes the document as a “copy of the photographs
3 seized by the Los Angeles Police Department” as the declarant describes the exhibit.

4 Lack of Foundation (Evid. Code § 403): The declarant does not have foundation to testify
5 as to whether the photographs were purportedly “seized,” and the cited deposition testimony does
6 not address most of the photos.

7 Lack of Personal Knowledge (Evid. Code § 702): The declarant does not have personal
8 knowledge regarding whether the photos were “seized,” and the cited deposition testimony does
9 not address most of the photos.

10 **Objection No. 12**

11 Exhibit 42 attached to the Cunny Declaration and identified in Paragraph 46 of the Cunny
12 Declaration as a “copy of settlement agreement between Michael Jackson and Jordan Chandler”.
13 (Cunny Decl. at ¶ 46 (page 13, lines 7-8), Ex. 42.)

14 **Grounds for Objection No. 12:**

15 Hearsay (Evid. Code § 1200 *et seq.*): The document is being offered for the truth of
16 matters stated therein.

17 Improper Authentication (Evid. Code §§ 1400-1401): The declarant offers no explanation
18 for how he has personal knowledge that the document is what he states it is. Moreover, the parties
19 to the agreement are not parties in this litigation.

20 Settlement Communication (Evid. Code §§ 1152): The document appears to be a
21 confidential settlement agreement and is designated as “Confidential Settlement.”

22 **Objection No. 13**

23 Exhibit 44 attached to the Cunny Declaration and identified in Paragraph 48 of the Cunny
24 Declaration as a “copy of a document entitled, ‘Plaintiff’s Motion for Admission of Evidence of
25 Defendant’s Prior Sexual Offenses,’ which is believed to have been filed in the Superior Court of
26 California, County of Santa Barbara on December 10, 2004”. (Cunny Decl. at ¶ 48 (page 13, lines
27 24-27), Ex. 44.)

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DATED: February 19, 2021

Respectfully Submitted,

KINSELLA WEITZMAN ISER KUMP LLP

By: 

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Howard Weitzman
Jonathan P. Steinsapir
Katherine T. Kleindienst
Attorneys for Defendants
MJJ Productions, Inc. and MJJ Ventures, Inc.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 808 Wilshire Boulevard, 3rd Floor, Santa Monica, CA 90401.

On February 19, 2021, I served true copies of the following document(s) described as **DEFENDANTS MJJ PRODUCTIONS AND MJJ VENTURES' EVIDENTIARY OBJECTIONS TO THE DECLARATION OF ALEX E. CUNNY AND EXHIBITS THERETO** on the interested parties in this action as follows:

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BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed above and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Kinsella Weitzman Iser Kump LLP's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address mlaw@kwikalaw.com to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

BY OVERNIGHT DELIVERY: I caused said document(s) to be enclosed in an envelope or package provided by the overnight service carrier and addressed to the persons at the addresses listed above or on the attached Service List. I caused the envelope or package to be placed for collection and overnight delivery at an office or a regularly utilized drop box of the overnight service carrier or delivered such document(s) to a courier or driver authorized by the overnight service carrier to receive documents.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on February 19, 2021, at Los Angeles, California.

/s/ Michelle Law

Michelle Law