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5 Attorney for Defendant

6 SUPERIOR COURT OF CALIFORNIA, COUNTY OF \_\_\_\_\_

7  
8 THE PEOPLE OF THE STATE OF ) Case No.  
9 CALIFORNIA, )  
10 )  
11 Plaintiff, ) MOTION TO EXCLUDE  
12 ) EVIDENCE OF DEFENDANT'S  
13 vs. ) CHARACTER FOR VIOLENCE  
14 )  
15 )  
16 Defendant. ) Date:  
17 ) Time:  
18 ) Dept:  
19 \_\_\_\_\_)

20 **I**

21 **ISSUE**

22 The defense moves for a protective order that:

23 1. The prosecution not ask any questions of any  
24 witnesses concerning defendant's character trait for  
25 violence.

2. Any questions asked by the prosecution concerning  
violence be limited to the alleged act[s] that constitute  
part of the information.

1           3. The prosecution instruct the prosecution witnesses  
2 not to volunteer information concerning defendant's  
3 character trait for violence.  
4

5  
6                               **II**

7                               **LAW**

8                               **CHARACTER EVIDENCE**

9           Character evidence is inadmissible to prove that the  
10 defendant acted in conformity with that character.  
11 (Evidence Code section 1101(a).) Evidence Code section  
12 1102 prohibits evidence of specific acts of a defendant to  
13 prove character as circumstantial evidence of his  
14 propensity to commit the charged crime. (Evidence Code  
15 section 1102; **People vs. Walkey** (1986) 177 Cal.App.3d 268,  
16 279.) As noted in **Walkey**, "The prosecution may not cross-  
17 examine the defendant as to specific matters in an attempt  
18 to prove bad character until and unless the defendant first  
19 puts in evidence of his good character." (**Id.**, at p. 279.)  
20 Evidence Code section 1103 forbids the introduction of a  
21 defendant's character for violence unless the defendant  
22 first presents evidence of the victim's character for  
23  
24  
25

1 violence. (**People vs. Blanco** (1992) 10 Cal.App.4th 1167,  
2 1172.)

3  
4 **CONCLUSION**

5  
6 The defense will not introduce character evidence on  
7 defendant's lack of violence and therefore the prosecution  
8 cannot inject evidence of his/her character trait for  
9 violence. None of the crimes charged have force or  
10 violence as an element. Further, there is no issue of  
11 consent since this is a child molest case and therefore  
12 there is no issue of consent being coerced by violence.  
13 The defense will not raise any issue of defense based upon  
14 self defense or consent (since consent is not a defense),  
15 and therefore, a character trait for violence is not  
16 relevant and not in issue.  
17  
18

19 Dated:

20 Respectfully submitted,  
21  
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23 \_\_\_\_\_  
24

25 Attorney for Defendant