

1 LAW OFFICES OF IAN WALLACH, P.C.  
2 IAN M. WALLACH (SBN 237849)  
3 iwallach@wallachlegal.com  
4 5777 W. Century Blvd., Ste. 750  
5 Los Angeles, CA 90045  
6 Telephone: (213) 375-0000  
7 Facsimile: (213) 402-5516

8 KAEDIAN LLP  
9 KATHERINE C. MCBROOM (SBN 223559)  
10 kmcbrook@kaedianllp.com  
11 8383 Wilshire Blvd., Ste. 210  
12 Beverly Hills, CA 90211  
13 Telephone: (310) 893-3372  
14 Facsimile: (310) 893-3191

15 GRAY & ASSOCIATES, P.C.  
16 NANCY E. GRAY (SBN 150214)  
17 ngray@grayfirm.com  
18 11500 W. Olympic Blvd., Suite 400  
19 Los Angeles, CA 90064  
20 Telephone: (310) 452-1211  
21 Facsimile: (888) 729-2402

22 Attorneys for Defendant  
23 PEDRO MARTINEZ

24 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
25 **FOR THE COUNTY OF SAN BERNARDINO**

26 THE PEOPLE OF THE STATE OF  
27 CALIFORNIA,

28 v.

Plaintiff,

PEDRO MARTINEZ,

Defendant.

Case: FV119000218

**DEFENDANT PEDRO MARTINEZ'S  
POCKET BRIEF RE: RESPONSE TO  
ANTICIPATED OBJECTION TO  
ADMISSION OF NEWS SEGMENT**

1 I. INTRODUCTION

2 The People are well within their rights to lodge objections and maintain a record. The  
3 People and the defense have disagreed as to what constitutes “hearsay” for exclusion purposes.  
4 The defense intends to play a news video segment containing statements of People’s Witness  
5 Magdalena Serna (“Serna”), an appearance by Serna, and statements made by the lawyer  
6 retained by Serna, for the purpose of establishing Serna’s motive to fabricate the alleged  
7 “disclosure” by Ismael R. to which Serna is the only witness. In anticipation of the People’s  
8 objection, this brief is submitted along with the transcript of the news segment attached as  
9 “Exhibit A.”

10 II. RELEVANT FACTS

11 Serna is the only witness to the alleged first disclosure of Ismael R. that gave rise to all  
12 the allegations at issue in this matter.

13 Serna has testified that she came forward with the claims of Ismael R. and sought  
14 compensation, as she “sought out an attorney who was going to give us a stage.” Deposition  
15 of Magdalena Serna, 237: 10-16 (available for review upon request).

16 There are three components of the ABC News Video – all of which go directly to  
17 Serna’s motive of getting attention and financial compensation as a result of making/bringing  
18 forward the alleged claims of Ismael R.

19 The first portion of the segment contains a summary of the claim provided by the  
20 journalist. None of the statements contained in the summary are attributed to Ismael R. *Every*  
21 *one of the statements expressed by the journalist were made by Serna.*

22 The second component is Serna on television reiterating *her* trauma allegedly  
23 experienced from watching Ismael R. making his disclosure.

24 The third component is a statement by the lawyer, Paul Matiasic, as to why the County  
25 of Hesperia should be financially liable to Ismael R. and others (the attorney is the one found  
26 by Serna, in her own words, to give her a stage and obtain compensation).

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III. ARGUMENT

Evidence is relevant if it has any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action. (Evid. Code, § 210.) Under Evid. Code, § 351, all relevant evidence is admissible unless specifically excluded by statute.

News segments are not considered hearsay when being admitted to show motive. The California Supreme Court has found that news segments were properly admitted to show motive in a murder case after the victim went on the news, poorly disguised, to discuss gang activity, and was subsequently killed by the defendant. (*People v. Johnson* (2016) 62 Cal.4th 600, 608 [“As a result of the broadcasts, PEN1 leadership put a “green light” on Miller, marking him for execution.”]) As in *Johnson*, Defendant Martinez is offering the news segment to show motive – that of Serna to fabricate the alleged “disclosure” by Ismael R. She has stated under oath that she came forward because she wanted a stage and compensation. As shown by the video, Serna got the stage and was pursuing compensation.

Additionally, the news segment survives an analysis under Cal. Evid. Code §352. The information is clearly probative of Serna’s motive to fabricate. There is no prejudice that the People can show from its admission, as the report is consistent with the claims that the People have asserted in this action.

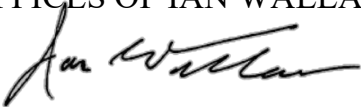
IV. CONCLUSION

For the reasons set forth above, the news segment should be admitted.

Respectfully Submitted,

DATED: October 23, 2023

LAW OFFICES OF IAN WALLACH, P.C.

By:   
\_\_\_\_\_  
IAN M. WALLACH  
Attorney for Defendant  
PEDRO MARTINEZ

A

**ABC NEWS TRANSCRIPT**

1  
2 Jory Rand (00:05):

3 This is as bad as it gets. A 6-year-old boy suffering the worst kind of sexual abuse imaginable  
4 allegedly at the hands of a custodian at his school. He says it happened in the school, said it  
5 happened during school hours, and said there were multiple victims. At least four kids so far,  
6 he was one of them and they believe there may be many more victims out there.

7 (00:26):

8 Now earlier this week, 45-year-old Pedro Martinez was arrested and charged with lewd acts on  
9 a child, sodomy, oral copulation and kidnapping. Martinez, a long time janitor at Maple  
10 Elementary in Hesperia whom the children called Mr. Pete is accused of somehow taking  
11 those boys into a classroom during the school's lunch period, sometimes one at a time,  
12 sometimes in a group. There, he raped at least one of them and other abuses took place. It's  
13 apparently been happening for months. And in addition to the sexual abuse, Martinez is  
14 accused of physically abusing the children as well, covering any bruises they might suffer by  
15 forcing the kids to hit each other so they wouldn't be lying when they told adults who had hit  
16 them.

17 (01:08):

18 The abuse would likely still be going on were it not for one brave child whose family had  
19 noticed a change in his behavior. They were here in Rowland Heights at a friend's house this  
20 weekend where it all came pouring out and Martinez was arrested 48 hours later.

21 Magdalena Serna (01:24):

22 From Friday evening to Saturday at 2:00 in the morning, it was a 7-hour span where he just let  
23 everything that was hurting him out and it was very horrific, very detailed. And during a lot of  
24 the conversation, you could just see the fear in his eyes when he spoke about Mr. Pete.

25 Paul Matiasic (01:42):

26 It was pervasive. It lasted for months and months and months. Uh, it occurred on the premises  
27 at the school, uh, and it also involved other boys. There's no way they should go missing  
28 during the lunch hour and be in the hands of a predator. So either A, the district allowed the

1 predator to have this type of access or B, they, they didn't properly supervise him and the kids  
2 to enable it to happen.

3 Jory Rand (02:09):

4 Martinez is now being held on \$1 million bail. The boy's family will be filing a lawsuit against  
5 the Hesperia Unified School District who today told us they are cooperating with the  
6 investigation and that they do conduct extensive background checks on any potential employee  
7 and that there was nothing in Martinez's background that would suggest he's capable of such  
8 conduct.

9 (02:29):

10 Now, we met the young man and his mother today. They both have a long road to recovery if  
11 they ever do fully get there. His lawyer says given the fact that Martinez was at this school for  
12 14 years and at another school in the district prior to that, they believe there are other victims  
13 out there, many of them perhaps and they're hoping that this young man's bravery will lead  
14 them to come forward. Anyone with information on this case is asked to call the San  
15 Bernardino County Sheriff's Department.