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CLERK OF THE SUPERIOR COURT  
COUNTY OF STANISLAUS

BY Cindy Park DEPUTY

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Attorneys for Amber Frey, a potential witness

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MODESTO

Filed By Fax

10 THE PEOPLE OF THE STATE OF CALIFORNIA

11 vs.

12 SCOTT PETERSON

CASE NO: 1056770

)  
)  
) OPPOSITION OF POTENTIAL  
) WITNESS AMBER FREY TO  
) PROPOSED IMPOSITION OF A  
) GAG ORDER UPON HER;  
) DECLARATION OF GLORIA  
) ALLRED

Date: June 6, 2003  
Time: 8:30 a.m.

16 TO THE HONORABLE COURT, TO THE PROSECUTION, AND TO COUNSEL  
17 FOR DEFENDANT:

18 On May 27, 2003, this honorable Court stated that on June 6, 2003, the Court would  
19 consider whether or not a protective order should be issued in the case of People v. Peterson  
20 against the parties to the case, their attorneys and witnesses.

21 Amber Frey, a potential witness in the above-entitled matter, hereby submits the  
22 following Memorandum of Points and Authorities, and the Declaration of Gloria Allred, in  
23 opposition to the proposed imposition of a gag order upon her in the above-entitled matter.

24 DATED: June 4, 2003

ALLRED, MAROKO & GOLDBERG

25 Gloria Allred  
26 GLORIA ALLRED

Attorneys for AMBER FREY, a potential witness

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June 4, 2003

OPPOSITION OF POTENTIAL WITNESS AMBER FREY TO PROPOSED IMPOSITION OF A GAG ORDER UPON HER;  
DECLARATION OF GLORIA ALLRED



1 her even though she asserted that she did not wish to make any further comments. Press  
2 intrusion became so intense that Ms. Frey engaged attorney Gloria Allred to act as her  
3 attorney and spokesperson. In doing so, Ms. Frey hoped to protect her own remaining privacy.  
4 She also sought to protect the integrity of her potential testimony by having Ms. Allred  
5 address press calls and announce that Ms. Frey would not do interviews or provide  
6 information about her relationship with Mr. Peterson before trial. In addition, Ms. Frey also  
7 retained counsel to respond as necessary to unfair attacks on her reputation and to false  
8 statements about her private life.

9 Ms. Frey appeared at a second press conference on May 19, 2003 to announce the  
10 engagement of Ms. Allred and to state that she would not do interviews prior to testifying and  
11 would like to have her privacy respected. On that occasion, Ms. Frey read from a short  
12 statement which said, inter alia, as follows: "I don't think its' appropriate to talk about what  
13 might be contained in my testimony prior to being called to the witness stand." A true and  
14 correct copy of the text of Ms. Frey's statement is attached as Exhibit "A."

15 Since then, Ms. Frey has not given interviews to the press. Unfortunately, however, the  
16 media continue to report rumors about Ms. Frey. Those rumors amount to an assault on her  
17 character and reputation. The press has, for example, reported that "Amber may pose" for  
18 Playboy magazine. (See Exhibit "B"). In addition, the press called Ms. Frey's counsel to  
19 follow up on rumors that Ms. Frey had been convicted of a crime. Her counsel told the  
20 reporter that such rumors were false.

21 (B) **Amber Frey poses no threat to the defendant's right to a fair trial**

22 Mr. Peterson is certainly entitled to a fair trial. The question here is whether Amber  
23 Frey poses a clear and present danger, or any danger at all, to Mr. Peterson's right to a fair  
24 trial. She clearly does not pose such a danger. Ms. Frey is not an eyewitness to the murders in  
25 question, and is not a witness "for" any side despite what either side may argue. In this regard,  
26 it is crucial to note that she does not accuse the defendant of murdering anyone. She has not  
27 sought out the media in any significant way. She is, in the final analysis, a private citizen who  
28

1 by cruel circumstance has been dragged into this highly public matter.

2 Ms. Frey is expected to be a witness because she performed a civic duty. Believing  
3 that she might have relevant information in a criminal investigation, she voluntarily contacted  
4 the police and provided that information to them. Because her information was deemed to be  
5 relevant, she is now expected to be a witness. Ms. Frey should not have to suffer unjustified  
6 attacks on her in the press without the ability to respond as the price of simply doing her duty  
7 as a citizen.

8 She presented no danger to the defendant's fair trial rights by simply telling the press  
9 that she would not give interviews before her testimony in a court of law. In fact, her conduct  
10 should be seen as protective of a fair trial. To Ms. Frey's credit she has voluntarily refrained  
11 from press contact without any gag order in place, and before the Court even indicated that it  
12 was considering the imposition of such an order upon witnesses.

13 The imposition of a gag order would render Ms. Frey unable to respond to unfair attacks  
14 on her reputation and would do irreparable damage to her. In short, a gag order against Ms.  
15 Frey would render her helpless in the face of a continued onslaught of rumor and innuendo. If  
16 the price a person may have to pay for providing police with evidence that may be relevant to  
17 a criminal investigation in a high profile case is that the person will be gagged and unable to  
18 respond to unjustified attacks on their reputation and character, then witnesses may be  
19 reluctant to step forward and provide law enforcement with relevant evidence.

## 20 II.

21 **SINCE MS. FREY POSES NO RISK TO THE DEFENDANT'S ABILITY TO OBTAIN**  
22 **A FAIR TRIAL, SHE SHOULD NOT BE PREVENTED FROM THE EXERCISE OF**  
23 **HER OWN FUNDAMENTAL CONSTITUTIONAL RIGHTS.**

24 "Orders which restrict or preclude a citizen from speaking in advance are known as  
25 "prior restraints," and are disfavored and presumptively invalid. Gag orders on trial  
26 participants are unconstitutional unless (1) the speech sought to be restrained poses a clear and  
27 present danger or serious and imminent threat to a protected competing interest; (2) the order

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June 3, 2003

[Insert name of pldq]

1 is narrowly tailored to protect that interest; and (3) no less restrictive alternatives are  
2 available.' (Citation omitted)"Saline v. Superior Court, 100 Cal.App.4th 909, 915, 122  
3 Cal.Rptr.2d 813, 817 (2002).<sup>1</sup>

4 The mere potential for prejudice is inadequate to justify a gag order. In Hurvitz v.  
5 Hoeflin, 84 Cal.App.4th 1232, 1242, 101 Cal.Rptr.2d 558, 566 (2000), the Court of Appeal  
6 summarized the relevant principles as follows: "The trial court based its order in part on its  
7 finding '[n]eedless dissemination of this privileged information ... might prejudice potential  
8 jurors.' This does not constitute a finding a risk of prejudice actually exists, and indeed there  
9 is no evidence in the record to support such a finding. Where a party contends his or her right  
10 to a fair trial has been or will be compromised by pretrial publicity, the law has long imposed  
11 on that party the burden of producing evidence to establish the prejudice. 'It is not enough for  
12 a court to decide that the fair trial right may be affected by the exercise of free speech.'"

13 Ms. Frey is entitled to have the Court apply each of the three elements of the gag order  
14 test to her as an individual. In fact, none of those elements, when applied to Ms. Frey, argue in  
15 favor of prior restraint.

16 With respect to the first element, there is no showing of any speech by Ms. Frey that  
17 poses a clear and present danger or serious and imminent threat to Mr. Peterson's right to a  
18 fair trial. She has not accused him of any crime, and has not threatened to do so. Ms. Frey has  
19 stated (through her attorney) that the question of Mr. Peterson's guilt or innocence is for the  
20 jury to decide, and that she has not taken a position on the question.

21 As for the second element, a gag order preventing Ms. Frey from protecting her name  
22 is certainly not narrowly tailored to protect Mr. Peterson's interest in a fair trial. He can obtain  
23

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24 <sup>1</sup> "Gag orders on trial participants are unconstitutional unless (1) the speech sought to be  
25 restrained poses a clear and present danger or serious and imminent threat to a protected  
26 competing interest; (2) the order is narrowly tailored to protect that interest; and (3) no less  
27 restrictive alternatives are available. *The trial court must make express findings showing it applied  
28 this standard and considered and weighed the competing interests.*"Hurvitz v. Hoeflin, 84  
Cal.App.4th 1232, 1241-2, 101 Cal.Rptr.2d 558, 565 (2000)(emphasis added).

1 a fair trial without preventing Ms. Frey from responding to assaults on her character and  
2 reputation that seem to be directed at her constantly.

3 Finally, if the Court is inclined to take some action vis a vis the prosecutors or defense  
4 counsel, the Court can easily carve Ms. Frey out of that order. In other words, the Court can  
5 take measures which preserve Ms. Frey's rights of free speech, while at the same time  
6 addressing speech which the Court finds to be more threatening to a fair trial.

7 III.

8 CONCLUSION

9 Ms. Frey has been made to suffer public humiliation as a result of her status as a  
10 potential witness in this case. On her end, she has done nothing to present a serious risk of  
11 harming the defendant's right to a fair trial. Yet she faces (1) the loss of profoundly important  
12 First Amendment rights, and (2) further humiliation in the sense that she will be unable to  
13 answer those who would slander or libel her, through the imposition of a gag order upon her.  
14 For all of these reasons, it is respectfully submitted that no gag order should issue as to her.

15 DATED: June 3, 2003

ALLRED, MAROKO & GOLDBERG

17  
18 BY: 

GLORIA ALLRED

Attorney for AMBER FREY, a potential witness

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**DECLARATION OF GLORIA ALLRED**

I, GLORIA ALLRED, do hereby declare and affirm:

1. I am an attorney at law licensed to practice before all of the Courts of the State of California. I am a partner in the law firm of Allred, Maroko & Goldberg, counsel for Amber Frey, a potential witness in the People vs. Scott Peterson criminal matter.

2. This declaration is made in opposition to the Court's proposed imposition of a gag order upon witnesses to events that are or may be relevant in the above-entitled matter. Amber Frey opposes such an order as to her individually on the grounds that there is no showing that she poses a risk of depriving the defendant of a fair trial.

3. Amber Frey is a witness to certain events that may be relevant to this case.

4. It is beyond dispute that this case is, and has been, the subject of intense media focus. Because of her status as a potential trial witness, Ms. Frey has herself become the subject of intense media focus. As set forth hereinafter, she has not, however, conducted herself in any way that could reasonably be construed as a threat to the defendant's right to a fair trial.

5. Ms. Frey has not accused the defendant of any crime, commented on the merits of the case, or disclosed what her potential testimony might be. She has only gone before the media on two occasions over a five month period. On both occasions, her conduct did nothing to threaten the defendant's ability to have a fair trial.

6. Ms. Frey's first appearance at a press conference was on January 24, 2003. Prior to the press conference, the press had reported from leaks by others that Ms. Frey had engaged in a romantic relationship with the defendant while he was still married to one of the victims, Laci Peterson. These reports placed Ms. Frey in a false light, and were damaging to her reputation. The press then sought Ms. Frey out and hounded her relentlessly. To put an end to the media harassment and assaults on her reputation, she decided to make a statement of her own. She therefore appeared, with police representatives present, before the media and affirmed that she had been involved in a romantic relationship with defendant Scott Peterson while he was still married to Laci Peterson, but that she had been told that he was not married. Ms. Frey was

1 hopeful that her response would end the untruths and harassment of her. This statement took  
2 place before Ms. Frey obtained counsel of her own.

3 7. Ms. Frey's appearance in January did not diminish the interest of the press in her.  
4 She has remained a focus of media and public attention ever since.

5 8. The level of scrutiny of her personal life, false and misleading statements about her,  
6 and continued efforts by press to contact her became so intense that Ms. Frey engaged me to  
7 act as her attorney and spokesperson. In doing so, Ms. Frey hoped to protect her own  
8 remaining privacy and the integrity of her potential testimony, by having me address press  
9 calls to make clear to the press that she would not discuss her testimony prior to testifying in a  
10 court of law. In addition, she wished me to respond as her attorney where necessary to unfair  
11 attacks on her reputation and to false statements about her private life.

12 9. Ms. Frey appeared with me at a second press conference on May 19, 2003 to announce  
13 my engagement as her counsel. I was present on that occasion, when Ms. Frey gave a short  
14 statement stating, inter alia, as follows: "I don't think it's appropriate to talk about what might  
15 be contained in my testimony prior to being called to the witness stand." A true and correct  
16 copy of the text of Ms. Frey's statement is attached as Exhibit "A" hereto.

17 6. Since then, Ms. Frey has not given interviews to the press. Without any gag order in  
18 place, she has voluntarily not gone before the media.

19 10. Unfortunately, however, the media continue to report rumors about Ms. Frey.  
20 The press has, for example, reported that "Amber may pose" for Playboy magazine. (See  
21 Exhibit "B"). In addition, the press called me to follow up on rumors that Ms. Frey had been  
22 convicted of a crime. I told the reporter that such rumors were false. Such accusations are  
23 very upsetting and damaging to Ms. Frey.

24 11. Ms. Frey is not an eyewitness to the murders in question, and is not a witness "for" any  
25 side despite what either side may argue. She is a neutral witness even if she may be called by  
26 the prosecution. She does not accuse the defendant of murdering anyone. She is simply a  
27 witness who would like to exercise fundamental rights of speech when she deems it necessary



1 to do so.

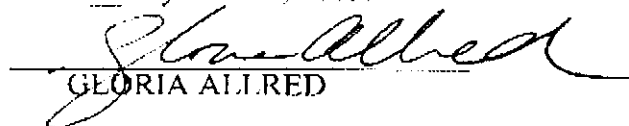
2 12. Ms. Frey is expected to be a witness because she believed that she might have  
3 relevant information in a criminal investigation, and therefore voluntarily contacted the police  
4 to provide that information to them. That act, and her other actions as outlined hereinabove,  
5 do not justify the deprivation of Ms. Frey's ability to respond to unjustified attacks on her in  
6 the press.

7

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

9 Executed at Los Angeles, California on this 3 day of June, 2003.

10

  
GEORGIA ALLRED

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Pg 14

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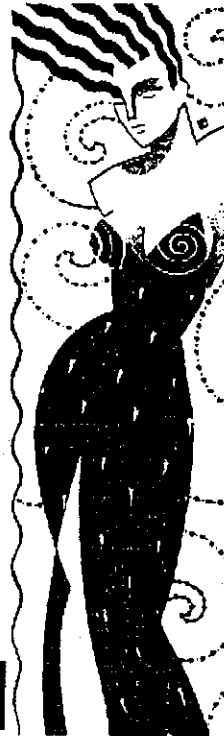
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# Cindy Adams



## Next in Laci case: Amber may pose

**W**E speak now of Amber Frey, that girlfriend of that Laci Peterson pig husband. People are muttering they won't be startled, surprised, stunned, shocked if they hear she OKs a Playboy spread. The sum bandied about as a could-be should-be would-be offer is \$500,000.

Amber's high cotton lawyer Gloria Allred has a high success rate, which also comes with high maintenance. Although Gloria's into publicity, she's even more into being highly paid.

The matters are: Amber didn't necessarily need a high-profile lawyer just to be a witness. And that Amber is a masseuse and somehow masseuses sometimes have something in their back-grounds someplace that have as many kinks somewhere as their clients' bones.

If a masseuse with small money hires a big lawyer, wouldn't it be neat if half a nut suddenly fell into one of their laps? Is all I'm saying.

White House is now concentrating on the economy. Vice President Dick Cheney has laid subordinates. "The way to lick this recession is to get all those deadbeats out of the soup kitchens." ... Kiefer Sutherland is shooting the thriller "Taking Lives," with Angelina Jolie and Ethan Hawke in dad Donald's neck of the woods, Montreal. Senior Sutherland putting time aside to spend with sonny this summer in Canada, despite their problems.

**TIMOTHY Hutton**, Best Supporting Oscar winner for "Ordinary People," isn't ordinary people. Tuesday he became president of The Players Club. And where'd he celebrate? At P.J. Clarke's. Why? He's one of its investors. In fact, we met in that great old tavern's brand-new addition, Sidercar. In fact, Tim's the one who named it. (On the side of newly refurbished P.J.'s.

**SALMAN Rushdie's** son Zafar, who worked for big London clubs, joined Susan Blom's p.r. firm ... **Larry King's** like crabgrass. All over. Pushing his best seller "Moon Over Manhat tan," addressing Harvard's commencement, and doing "Shrek 2" as "the sound of the lady bartender." He told me, "They told me, just talk in your normal voice." ... **Bernard Kerik's** Father of the Year? How? This father's far away. Downtown Baghdad's a tough commute ... **Gina Lynn**, who showed her porn starrability in "Analyze That" and "8 Mile," next shakes it in **Scott Rudin's** about-to film "The Stepford Wives" ... Shooting all over New York beginning July is "Gods and Monsters" director **Bill Condon** doing "Kinsey," as in the Kinsey Report. Stars **Liam Neeson** and **Laura Linney**, who was readying herself with tuna salad and yogurt at 57th's Great American kosher vegery.



**TIMOTHY HUTTON**  
Oscar-winner, bar-owner and busboy?

**CHIEF Justice William Rehnquist** and Justice **Sandra Day O'Connor** both contemplate retirement. If they hang it up soon, fine. If they hang around till year's end, bad news for George W.

Compelled to fill the vacancies beginning of 2004, it would make his appointments the subject of bitter Senate hearings involving ickies like abortion and affirmative action. The heat surrounding that could melt W's re election.

It's why **Sen. Orrin Hatch**, Chair of the Senate Judiciary Committee, advised both Supremes that if they're looking to mothball those robes, do it fast. No replacements can be debated before '04 election season gets in.

Watch. Both resign next month. Watch.

**PART** of the decision to take that **Clinton/Dole** waltz off next season's "60 Minutes" dance card was that staffers and insiders themselves hated it. Called it "embarrassing." ... **Jonathan Tolins**, who wrote "The Last Sunday in June," which is at off-Broadway's Century Center, also knocked off a firm about the life of **Phyllis Diller**. Negotiations are on for a lead actress. And the good news? Phyllis will not be playing herself.

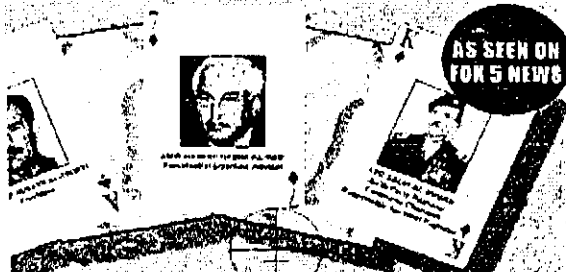
this proper steak-and-chops reservation-only restaurant has antique beams from a bridge in Maine and old wood from an ancient mushroom cave upstate. It's had a soft opening. Isn't publicly known yet. But it's where **Jonathan Tisch**, who weds socialite **Jill Swird** in the Hamptons in August, has his engagement party next month. Remember Jonathan's former Temple of Deidre wedding of the-ecotury to **Saul Steinberg's** daughter **Laura**, where just the flower bill was \$400,000? Remember after the divorce, he said he'd never marry again? Well, forget it.

Back to Sidercar. Heretofore accessible only by private card which investors, family and friends had, they're now accepting phone reservations. Tell them I sent you.

Back to Timothy, who lives here. July he starts "Secret Window," with **Johnny Depp** and **John Turturro**. 11 films here. Nice. So he can still run The Players and his tables at P.J.'s.

Only in New York, kids, only in New York.

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# EXHIBIT "B"

Contact: Gloria Allred  
323-653-6530

Statement of Amber Frey

I want to express my sympathy to Laci's family. My heart goes out to them for the terrible loss of their daughter and grandson.

I am grateful that Gloria Allred has agreed to represent me as my attorney. This has been a painful and stressful time for me and I really appreciate her support.

I expect that I will be asked to testify in this case, and I am prepared to do so. I don't think it's appropriate to talk about what might be contained in my testimony, prior to my being called to the witness stand.

Until that time I just want to lead a normal life and regain my privacy. I hope that everyone will understand and respect my wishes.

May 19, 2003

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 6300 Wilshire Boulevard, Suite 1500, Los Angeles, California 90048.

On June 4, 2003, I served the foregoing document described as **OPPOSITION OF POTENTIAL WITNESS AMBER FREY TO PROPOSED IMPOSITION OF A GAG ORDER UPON HER; DECLARATION OF GLORIA ALLRED** on interested parties in this action

by placing true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:

by placing  the original  a true copy thereof enclosed in sealed envelopes at Los Angeles, California addressed as follows:

District Attorney James Brazelton Fax #: (209) 525-5910  
Stanislaus County  
800 11<sup>th</sup> St.  
P.O. Box 3488  
Modesto, CA 95353

Mark Geregog, Esq. Fax #: (213) 625-1600  
GEREGOS & GEREGOS  
350 S. Grand Ave., 39<sup>th</sup> Fl.  
Los Angeles, CA 90071

**BY MAIL:** I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Los Angeles, California.

**BY PERSONAL SERVICE:** I caused such envelope to be delivered by hand to the addressee(s).

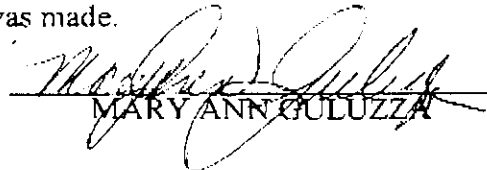
**BY OVERNIGHT MAIL:** I caused such envelope to be delivered by Federal Express overnight mail to addressee.

**BY FAX:** by transmitting a true copy via facsimile transmission from telecopier number (323) 653-1660 located at 6300 Wilshire Blvd., Ste. 1500, Los Angeles, California 90048, to the following:

Executed on **June 4, 2003** at Los Angeles, California.

**State** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

**Federal** I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

  
MARY ANN BULUZZA