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1 PICCARRETA DAVIS PC  
 2 145 South Sixth Avenue  
 3 Tucson, AZ 85701-2007  
 4 (520) 622-6900  
 5 Michael L. Piccarreta  
 6 State Bar No. 003962  
 7 Email: mlp@pd-law.com  
 8 Jefferson Keenan  
 9 State Bar No. 013896  
 10 Email: jkeenan@pd-law.com  
 11 Attorneys for Defendant  
 12 -and-  
 13 WRIGHT STANISH & WINCKLER  
 14 300 S. Fourth Street, Suite 701  
 15 Las Vegas, NV 89101  
 16 (702) 382-4004  
 17 Richard A. Wright  
 18 Email: rick@wswlawlv.com  
 19 Nevada Bar No. 000886  
 20 Attorney for Defendant

21 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
 22  
 23 IN AND FOR THE COUNTY OF MOHAVE

|    |                     |   |                           |
|----|---------------------|---|---------------------------|
| 18 | STATE OF ARIZONA,   | ) | NO. CR-2007-743           |
| 19 |                     | ) |                           |
| 20 | Plaintiff,          | ) | REPLY TO RESPONSE TO      |
| 21 | vs.                 | ) | MOTION FOR DISCLOSURE     |
| 22 |                     | ) | OF IMPEACHMENT MATERIAL   |
| 23 | WARREN STEED JEFFS, | ) | CONCERNING COMPLAINING    |
| 24 |                     | ) | WITNESS                   |
| 25 |                     | ) |                           |
| 26 |                     | ) | [Oral Argument Requested] |
| 27 | Defendant.          | ) | [Hon. Steven F. Conn]     |
| 28 |                     | ) |                           |

25 The defendant, Warren Jeffs, by and through his counsel undersigned,  
 26 hereby replies to the State's response to his motion for disclosure of  
 27 impeachment material concerning complaining witness!  
 28

1           The State contends that neither the State nor \_\_\_\_\_ is required to  
2 produce the requested impeachment material because she is a “victim” under the  
3 Arizona Victim’s Bill of Rights and the statutes and rules implementing it.  
4 However, the State’s contention has been directly rejected by the Arizona courts  
5 in *State ex rel. Romley v. Superior Court*, 172 Ariz. 232, 836 P.2d 445 (App.  
6 1992) – a case discussed in defendant’s motion but not addressed in the State’s  
7 reply. In *Romley*, the court clearly held that a defendant’s right to have pretrial  
8 access to impeachment material to effectively cross examine a “victim” is  
9 superior to the victim’s right to decline a discovery request. The victim in  
10 *Romley* refused to disclose her medical records. The court held “that the victim’s  
11 medical records come within the phrase ‘other discovery requests’” under the  
12 victim’s bill of rights. Nevertheless, the court held that the defendant’s right to  
13 effectively cross examine her accuser, guaranteed by the due process clauses of  
14 the Fifth and Fourteenth Amendments to the United States Constitution,  
15 prevailed over the victim’s right to refuse a discovery request:  
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21           concomitant with the Arizona Victim’s Bill of Rights, the defendant  
22 has a due process right, under the federal and Arizona constitutions  
23 to present a defense. *Chambers v. Mississippi*, 410 U.S. 284 [ ]  
24 (1973). The defendant also has a concomitant right to effective  
25 cross-examination of a witness at trial. *Davis v. Alaska*, 415 U.S.  
26 308 [ ] (1974).

27           ...

28           We therefore hold that when the defendant’s constitutional right to  
due process conflicts with the Victim’s Bill of Rights in a direct

1 manner, such as the facts of this case present, then due process is  
2 the superior right.

3 *Id.* at 236, 836 P.2d at 449.

4 The court went on to hold that the victim must produce the medical  
5 records even if the victim had not disclosed the records to the state:  
6

7 If the medical records have *not* been made available to the  
8 prosecution (or any agent of the state such as law enforcement  
9 officers), then the victim has the right to refuse defendant's  
10 discovery request under the Victim's Bill of Rights. However, if the  
11 trial court determines that *Brady* and due process guarantees require  
12 disclosure of exculpatory evidence and, further, if the court  
13 determines that the medical records *are* exculpatory and are  
14 essential to presentation of the defendant's theory of the case, or  
15 necessary for impeachment of the victim relevant to the defense  
16 theory, then the defendant's due process right to a fundamentally  
17 fair trial and to present the defense of self-defense overcomes the  
18 statutory physician-patient privilege on the facts as presented here,  
19 just as the due process right overcomes the Victim's Bill of Rights  
20 on these facts.

21 *Id.* at 239, 836 P.2d at 452 [*italics in original, other emphasis supplied*].

22 It is beyond cavil that financial and other benefits an accuser receives as a  
23 result of her accusations are the paradigm of "impeachment" materials, and the  
24 State does not argue otherwise. Accordingly, neither the State nor — have  
25 the right to withhold the requested impeachment material:  
26

27 The Victim's Bill of Rights was appropriately amended to the  
28 Arizona constitution as a shield for victims of crimes. See *Slayton v.*  
*Shumway*, 166 Ariz. 87, 800 P.2d 590 (1990). However, the  
amendment should not be a sword in the hands of victims to thwart  
a defendant's ability to effectively present a legitimate defense. Nor  
should the amendment be a fortress behind which prosecutors may

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isolate themselves from their constitutional duty to afford a criminal defendant a fair trial.

*Id.* at 241, 836 P.2d at 454.

In the present case, . has written a book and interviewed repeatedly on national television about her interactions with Mr. Jeffs and the Fundamentalist Church of Jesus Christ of Latter-day Saints (FLDS). She can hardly claim a need for secrecy now.

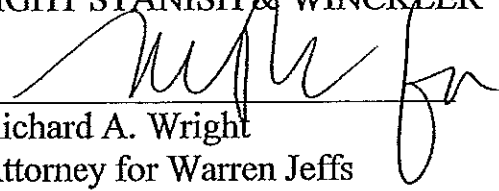
Accordingly, the defendant now respectfully requests this Court to issue its order directing the State and/or to disclose an itemization of all financial benefits and the supporting documentation that she has received as a result of the publication of her book, *Stolen Innocence*, including her book contract, any other financial benefits she has received, will receive, or expects to receive arising out of the publication of the book, including the sale of ancillary rights, and any other benefits from media appearances and connected expenses. The defendant also respectfully requests this Court to direct the State to disclose any other benefits, as yet undisclosed, that has received from any governmental source or from other third parties arising out of her role as a critic and accuser of Mr. Jeffs and/or the FLDS.

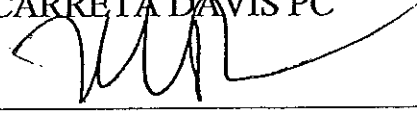
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RESPECTFULLY SUBMITTED this 1st day of December, 2009.

WRIGHT STANISH & WINCKLER

PICCARRETA DAVIS PC

By   
Richard A. Wright  
Attorney for Warren Jeffs

By   
Michael L. Piccarreta  
Jefferson Keenan  
Attorneys for Warren Jeffs

Original of the foregoing mailed  
this 1st day of December, 2009, to:

Clerk of Mohave County Superior Court  
401 East Spring Street  
Kingman, AZ 86401

Copy of the foregoing emailed  
this 1st day of December, 2009, to:

Hon. Steven F. Conn  
Mohave County Superior Court  
401 East Spring Street  
Kingman, AZ 86401

Matthew J. Smith, Esq.  
Mohave County Attorney's Office  
315 North Fourth Street  
P.O. Box 7000  
Kingman, AZ 86402-7000