

FILED

LOS ANGELES SUPERIOR COURT

AUG 10 2011

John A. Clarke, Executive Officer/ Clerk

By: M. S. L., Deputy

1 LOUIS R. MILLER (State Bar No. 54141)
 smiller@millerbarondess.com
 2 GEOFFREY A. NERI (State Bar No. 258802)
 gneri@millerbarondess.com
 3 ELINA A. KREDITOR (State Bar No. 250641)
 ekreditor@millerbarondess.com
 4 MILLER BARONDESS, LLP
 1999 Avenue of the Stars, Suite 1000
 5 Los Angeles, California 90067
 Telephone: (310) 552-4400
 6 Facsimile: (310) 552-8400

7 Attorneys for Plaintiff
 Brand Sense Partners, LLC

8
 9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 10 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

11 In re the Conservatorship of the Person and the
 12 Estate of

13 BRITNEY JEAN SPEARS,

14 Conservatee,
 15

CASE NO. BP108870

[Assigned to the Honorable Reva G. Goetz,
 Department 9]

16 **BRAND SENSE PARTNERS LLC'S**
OPPOSITION TO MOTION TO
BIFURCATE THE BRIEFING AND
DETERMINATION ON THE PENDING
MOTION OF BRAND SENSE PARTNERS,
LLC; DECLARATION OF GEOFFREY A.
NERI

17 Date: August 12, 2011
 18 Time: 1:30 p.m.
 19 Dept.: 9
 20
 21
 22
 23
 24
 25
 26
 27

1 **TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 Brand Sense Partners, LLC (“Brand Sense”) will and hereby does oppose the Motion to
3 Bifurcate the Briefing and Determination on the Pending Motion of Brand Sense Partners, LLC to
4 Lift This Court’s May 25, 2011 Sealing Order, and to Vacate this Court’s June 7, 2011 Instructions
5 to Conservators (the “Bifurcation Motion”).

6 **MEMORANDUM OF POINTS AND AUTHORITIES**

7 **I. INTRODUCTION**

8 The Bifurcation Motion seeks to further delay the resolution of issues raised by Brand
9 Sense’s own motion pending before this Court and should be denied. The Bifurcation Motion
10 asserts that Britney Spears’ court-appointed attorney, Samuel Ingham III, and the Conservators (the
11 “Spears attorneys”) will be able to demonstrate that Brand Sense has no standing to challenge a June
12 7, 2011, order of the court. Regardless of whether the Spears attorneys are correct (they are not), the
13 Court should not order bifurcation of issues and hearing now based on counsel’s mere insistence that
14 they will prevail on the issue. It would be improper and inefficient to order bifurcation based on a
15 yet-to-materialize standing argument and on the assumption that bifurcation will prove to have been
16 warranted *ex post facto* by the Spears attorneys.

17 Furthermore, Brand Sense’s motion currently pending before the Court challenges the
18 petition instructing conservators and resulting order on procedural grounds. Opposing the
19 procedural issues raised by Brand Sense’s challenge to the petition will not call for or require the
20 Spears attorneys to reveal any purported confidential information that they would not otherwise have
21 to submit in opposing the motion to unseal. As stated throughout its motion, Brand Sense cannot
22 argue the substance of the petition for instruction and the resulting June 7, 2011 order because all of
23 the pleadings, including the petition, and supporting evidence are sealed. The Spears attorneys will
24 thus not be required to “effectively litigate” substantive issues with respect to the petition and June
25 7, 2011 order. None of the Brand Sense Motion is dedicated to substantive issues regarding the
26 petition for a simple reason: Brand Sense has never seen it.

27 Brand Sense awaits this Court’s ruling on the issues raised in Brand Sense’s motion so that it
28 can proceed with its discovery plan. As described more fully below, Brand Sense explained to the

1 trial court at case management conference that it was seeking relief from this Court with respect to
2 the deposition of Britney Spears. Opposing counsel stated on the record that he would have no
3 opposition to producing Ms. Spears if the probate court's orders were no longer in place. In
4 response, the trial court stated: "Right now, we have a court order. This court is following that
5 order. Let's see what happens at the probate level." Respectfully, this Court's orders are the only
6 thing standing in the way of Brand Sense's ability to obtain the testimony it needs and deserves. The
7 Court should rule on the issues Brand Sense has raised by motion without further delay and without
8 the unnecessary complications of bifurcated proceedings. The Bifurcation Motion should be denied.

9 II. PROCEDURAL BACKGROUND

10 Brand Sense filed its Motion to Unseal Documents and Set Aside Orders of May 25 and June
11 7, 2011 on July 26, 2011 (the "Brand Sense Motion"). (Declaration of Geoffrey A. Neri ("Neri.
12 Decl.") at ¶ 2 & Ex. "A".) On the evening of July 27, 2011, counsel for one of the co-conservators
13 sent counsel for Brand Sense correspondence alleging notice to her was defective and indicating that
14 she would be applying *ex parte* for a two-week continuance of the hearing on the Brand Sense
15 Motion. (*Id.* at ¶ 3.) The letter demanded that counsel for Brand Sense re-notice its motion and that
16 "we will withdraw this *ex parte* notice only if you provide us timely written confirmation that you
17 will re-set and re-notice the hearing." (*Id.* at ¶ 4.)

18 The next morning, on July 28, 2011, counsel for Brand Sense attended a case management
19 conference ("CMC") on July 28, 2011 in the matter of *Brand Sense Partners, LLC v. Britney*
20 *Brands, Inc., et al.*, Los Angeles Superior Court, Case No. BC458461 (Sanchez-Gordon, J.). (Neri
21 Decl. at ¶ 5.) At the CMC, Judge Sanchez-Gordon inquired as to the status of discovery. (*Id.* at ¶
22 6.) Counsel for Brand Sense indicated that he had filed the Brand Sense Motion and that a hearing
23 on the issue of Britney Spears' deposition was noticed for August 16, 2011. (*Id.*) Judge Sanchez-
24 Gordon inquired of Britney Brands' counsel: "If the probate court determines that yes, Ms. Spears
25 can be deposed, then you'll make that happen. Right?" (*Id.* at ¶ 7 & Ex. "B" at 6.) Opposing
26 counsel responded "yes" and Judge Sanchez-Gordon concluded "Right now, we have a court order.
27 This court is following that order. Let's see what happens at the probate level." (*Id.*).

28 Immediately following the CMC, counsel for Brand Sense went back to his office and

1 responded by email to counsel's *ex parte* notice, stating that he would be appearing to oppose the *ex*
2 *parte*. (Neri Decl. at ¶ 8.) In that email, counsel for Brand Sense asked for clarification as to why
3 the co-conservators would be appearing to oppose a motion challenging a petition that they had not
4 filed. Counsel for Brand Sense never received a reply and appeared the next day to oppose the *ex*
5 *parte* application. (*Id.*)

6 At the *ex parte* hearing on July 29, 2011, three attorneys appeared on behalf of the
7 conservators and the conservatee. (*Id.* at ¶ 9.) They argued that the issues raised by the nine-page
8 Brand Sense Motion were so complex that all three of them needed to be involved in the briefing,
9 that one of them would be unavailable due to a week of depositions and that her partner would be on
10 vacation. (*Id.*) Counsel for Brand Sense stated that he had just had a CMC in the trial court, that
11 discovery was being held up, and that the issues raised by the Brand Sense Motion were
12 straightforward and calling for a speedy resolution. (*Id.* at ¶ 10.) The Court accommodated the
13 Spears attorneys' *ex parte* request and continued the hearing date for August 30, 2011. (*Id.* at ¶ 11.)
14 At no point at the July 29, 2011 *ex parte* hearing did the Spears attorneys raise or request the issue of
15 bifurcation of hearing. (*Id.* at ¶ 12.)

16 Instead, the Spears attorneys filed the instant Bifurcation Motion the next week on August 2,
17 2011. (Neri Decl. at ¶ 13.) The Spears attorneys also filed a motion for order shortening time,
18 asking the court to give Brand Sense counsel only two days to brief an opposition, despite having
19 obtained over a month to brief their own opposition to the Brand Sense Motion. (*Id.*) The Court
20 granted the motion for an order shortening time and gave Brand Sense one week to prepare this
21 opposition. (*Id.* at 14.)

22 II. ARGUMENT

23 A. The Court Should Not Order Bifurcation Based On an Unfounded Assumption 24 that the Spears Attorneys Will Prevail on a Standing Argument

25 The Bifurcation Motion asks the Court to take it as an article of faith that the Spears
26 attorneys will be able to demonstrate a lack of standing. As stated in the Bifurcation Motion, "a
27 dispositive challenge to Brand Sense's standing to contest the Order Instructing Conservators, *will*
28 *likely render moot* any need to address or resolve the sensitive issues on the propriety of that Order."

(Bifurcation Motion at 1: 25-27 (*italics added*); *see also id.* at 5: 6-7 (“Determination of the bifurcated issues *will likely moot* any need to determine whether the order instructing conservators should be reconsidered.”) (*italics added*). The Bifurcation Motion cites no relevant case law, and there is none, for the proposition that bifurcation of proceedings is warranted upon a unilateral and unsubstantiated assertion by counsel that they “will likely” prevail on an issue. The two cases cited in the Bifurcation Motion do not even address the issue. *People v. Bigelow*, 37 Cal.3d 731 (1984), is a criminal law sentencing case in which the dissent suggested that a bifurcation of “guilt and special circumstance phases” of a trial was preferable to limiting instructions. *Id.* at 757-58. *Grappo v. Coventry Financial Corp.*, 235 Cal.App.3d 496 (1991), is a marital dissolution case in which the court bifurcated the issue of whether an individual had any interest in community property, based on the suggestion of more than one party. Neither of these cases is applicable or relevant.

In lieu of case authority, the Bifurcation Motion falls back on generic and vague references to “the interests of justice” and “judicial economy” but neither of these would be served by bifurcating proceedings in this case. The interests of justice would be served by quickly resolving an issue that is currently disrupting Brand Sense’s ability to obtain testimony to which it is statutorily entitled. As described above, Brand Sense has represented to the trial court that it expects to have some resolution of the issues raised by this Court’s orders soon. Brand Sense respectfully submits that the issues raised by its motion call for a resolution without further delay. While the Bifurcation Motion states that “[i]t is difficult to conceive of a case where the interests of justice more clearly compel issuance of a bifurcation order,” (Bifurcation Motion at 6: 9-10), this is hyperbole, unsupported by any decisional or statutory authority. In addition, judicial *economy* is disserved by the unnecessarily complicated and protracted briefing and hearing schedule described in the Bifurcation Motion.

Finally, while the Bifurcation Motion suggests that “bifurcation will enable this Court to protect all legitimate interests,” (*id.*), that statement assumes that Brand Sense has no legitimate interest in a speedy determination of issues. This assumption is mistaken. The notice period prescribed in California’s Code of Civil Procedure is not arbitrary. It has been calculated based on a determination that the time afforded is sufficient to allow all parties to prepare their papers and arguments. The Spears attorneys have already been given two extra weeks to prepare their

1 opposition to the Brand Sense Motion. When granted the two weeks' extension, the Spears
2 attorneys never raised the issue of bifurcation, belying their assertion that responding to the Brand
3 Sense Motion on the current hearing schedule would now "force[] [them] to make [] an impossible
4 and destructive choice." (Bifurcation Motion at 6: 27). The Spears attorneys should not be
5 permitted to belatedly raise the issue of bifurcation now and create even further delay.

6 **B. The Brand Sense Motion Does not Require the Spears attorneys to "Effectively**
7 **Litigate" the Substantive Issues Raised in the Petition or Resulting June 07, 2011**
8 **Order Instructing Conservators**

9 As the Court and all parties are well aware, Brand Sense is prevented from viewing the May
10 25, 2011 petition for instructions filed by Ms. Spears' court-appointed attorney. That pleading and
11 all of the evidence submitted in support have been sealed. Thus, logic and common sense dictate
12 that the Brand Sense Motion is not a challenge to the substance of the petition, but rather a challenge
13 to the procedures under which it was adjudicated. Indeed, the entire first argument section of the
14 Brand Sense Motion is dedicated to the presentation of cases and argument establishing that courts
15 must give litigants an opportunity to be heard at a reasonable time and manner before taking away
16 substantial rights. (See Brand Sense Motion, attached to Neri Decl. as Exh. "A," at 3-5). The rest of
17 the argument is devoted to sealing procedures and standards under California Rule of Court 2.550(d)
18 and *NBC Subsidiary (KNBC TV), Inc. v. Sup. Ct.*, 20 Cal.4th 1178, 1226 (1999). (*Id.* at 4-6.)

19 Nowhere in Brand Sense Motion is there any argument as to the substance of the petition for
20 an order instructing conservators. Although the Spears' attorneys claim to have to disclose highly
21 private and confidential information to demonstrate "there is no factual basis for altering the
22 instructions," (Bifurcation Motion at 2:1-2), the Brand Sense Motion neither calls for nor requires
23 such disclosure. It calls for and requires a response to the simple point that Ms. Spears' attorneys
24 made an end run around the trial court and notice procedures for obtaining a protective order by
25 petitioning this Court for the functional equivalent of one.

26 In opposition, the onus is on Ms. Spears' attorneys to explain why it was not a violation of
27 procedural due process and rudimentary principles of fair play to adjudicate the petition without
28 effective notice to or opposition from Brand Sense. While Brand Sense believes that, ultimately, it

1 will be able to demonstrate that there is no basis for an order instructing the conservators not to
2 produce Ms. Spears for her deposition, this is not the issue raised by the Brand Sense Motion. The
3 Spears attorney point to an "insuperable hurdle [] in re-proving the propriety of the Order Instructing
4 Conservators," (Bifurcation Motion at 5:6); this is a hurdle that they have erected, not Brand Sense.
5 The Spears attorneys should not be granted a bifurcation of procedures and hearings based on their
6 own perceived need to make arguments in response to issues not raised by the Brand Sense Motion.

7 Finally, the Bifurcation Motion fails to acknowledge the safeguards already in place and
8 other less disruptive means for addressing the Spears attorneys alleged privacy concerns.
9 Presumably, the Spears attorneys will file any confidential documents under seal, as they did in
10 opposing the Brand Sense Motion. No private or confidential documents will be open to public view
11 if and until the Court determines otherwise. In addition, the Spears attorneys could stipulate to an
12 attorneys' eyes only arrangement with Brand Sense, up and until the time the Court determines
13 whether the documents should be unsealed. Any confidential information discussed or used by
14 Brand Sense would also need to be filed under seal. None of these alternatives to bifurcation are
15 discussed in the Bifurcation Motion, although they would clearly be simpler and more efficient than
16 the convoluted procedure requested in the Bifurcation Motion.

17 **III. CONCLUSION**

18 For all the foregoing reasons, the Bifurcation Motion should be denied and briefing and
19 hearing on the Brand Sense Motion should proceed accordingly.

20
21 Respectfully submitted,

22
23 DATED: August 10, 2011

MILLER BARONDESS, LLP

24
25 By: 

26 Geoffrey A. Neri
27 Attorneys for Plaintiff
BRAND SENSE PARTNERS, LLC

DECLARATION OF GEOFFREY A. NERI

1
2 1. I am an attorney at law, duly licensed to practice before all courts in the State of
3 California, with the law firm of Miller Barondess, LLP, counsel of record for Brand Sense Partners,
4 LLC ("Brand Sense"). I have personal knowledge of all the facts contained in this declaration and,
5 if called as a witness, I could and would competently testify to all of said facts.

6 2. On behalf of Brand Sense, I filed a Motion to Unseal Documents and Set Aside
7 Orders of May 25 and June 7, 2011 on July 26, 2011 (the "Brand Sense Motion"). A true and
8 correct copy of the Brand Sense Motion is attached hereto as Exhibit "A."

9 3. On the evening of July 27, 2011, counsel for one of the co-conservators in these
10 proceedings, Ms. Geraldine Wyle, sent me correspondence indicating that she would be applying *ex*
11 *parte* for a two-week continuance of the hearing on the Brand Sense Motion.

12 4. The letter demanded that I re-notice the Brand Sense Motion and further stated that
13 "we will withdraw this *ex parte* notice only if you provide us timely written confirmation that you
14 will re-set and re-notice the hearing."

15 5. The next morning, on July 28, 2011, I attended a case management conference
16 ("CMC") on July 28, 2011 in the matter of *Brand Sense Partners, LLC v. Britney Brands, et al.*, Los
17 Angeles Superior Court, Case No. BC458461 (Sanchez-Gordon, J.).

18 6. At the CMC, Judge Sanchez-Gordon inquired as to the status of discovery. I
19 indicated that I had filed the Brand Sense Motion and that a hearing on the issue of Britney Spears'
20 deposition was noticed for August 16, 2011.

21 7. Judge Sanchez-Gordon inquired of my opposing counsel: "If the probate court
22 determines that yes, Ms. Spears can be deposed, then you'll make that happen. Right?" Opposing
23 counsel responded "yes" and Judge Sanchez-Gordon concluded "Right now, we have a court order.
24 This court is following that order. Let's see what happens at the probate level." A true and correct
25 copy of an excerpt of the transcript from that CMC reflecting that exchange is attached hereto as
26 Exhibit "B."

27 8. Immediately following the CMC, I went back to my office and responded by email to
28 counsel's *ex parte* notice, stating that he would be appearing to oppose the *ex parte*. In that email, I

1 asked for clarification as to why the co-conservators would be appearing to oppose a motion
2 challenging a petition and motion that they had not filed. I never received a reply and appeared the
3 next day to oppose the ex parte.

4 9. At the *ex parte* hearing on July 29, 2011, three attorneys appeared on behalf of the
5 conservators and the conservatee. They argued that the issues raised by the nine-page Brand Sense
6 Motion were so complex that all three of them needed to be involved in the briefing and that one of
7 them would be unavailable due to a week of depositions and that her partner would be on vacation.

8 10. At the *ex parte* hearing, I stated that I had just had a CMC in the trial court, that
9 discovery was being held up, and that the issues raised by the Brand Sense Motion were
10 straightforward and calling for a speedy resolution.

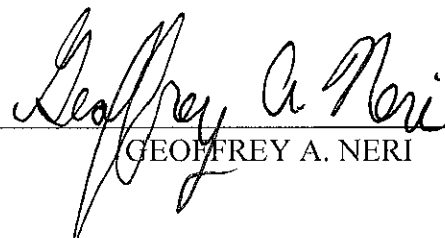
11 11. Nevertheless, the Court accommodated the Spears attorneys and continued the
12 hearing date for August 30, 2011.

13 12. At no point at the July 29, 2011 *ex parte* hearing did the Spears attorneys raise or
14 request the issue of bifurcation of hearing.

15 13. Instead, the Spears attorneys filed the instant Bifurcation Motion the next week on
16 August 2, 2011. The Spears attorneys also filed a motion for order shortening time, asking the court
17 to give Brand Sense counsel only two days to brief an opposition, despite having obtained over a
18 month to brief their own opposition to the Brand Sense Motion.

19 14. The Court granted the motion for an order shortening time and gave Brand Sense one
20 week to prepare this opposition.

21
22 I declare under penalty of perjury pursuant to the laws of the State of California and the
23 United States that the foregoing is true and correct. Executed on this 10th day of August 2011, at
24 Los Angeles, California.


25
26 
27
28

GEOFFREY A. NERI

EXHIBIT A

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

JUL 26 2011

JOHN A. CLARKE, EXECUTIVE OFFICER/CLERK
BY  M. ZENAROSA, Deputy

1 LOUIS R. MILLER (State Bar No. 54141)
smiller@millerbarondess.com
2 GEOFFREY A. NERI (State Bar No. 258802)
gneri@millerbarondess.com
3 MILLER BARONDESS, LLP
1999 Avenue of the Stars, Suite 1000
4 Los Angeles, California 90067
Telephone: (310) 552-4400
5 Facsimile: (310) 552-8400

6 Attorneys for Plaintiff
Brand Sense Partners, LLC
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
10

11 In re the Conservatorship of the Person and the
Estate of

12 **BRITNEY JEAN SPEARS,**
13 **Conservatee,**
14

CASE NO. BP108870

[Assigned to the Honorable Reva G. Goetz,
Department 9]

**NOTICE OF MOTION AND MOTION TO
UNSEAL DOCUMENTS AND SET ASIDE
ORDERS OF MAY 25 AND JUNE 7, 2011;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
GEOFFREY A. NERI**

Date: August 17, 2011

Time: ~~8:30 a.m.~~ 10:00

Dept.: 9

MILLER BARONDESS, LLP

ATTORNEYS AT LAW
1999 AVENUE OF THE STARS, SUITE 1000 LOS ANGELES, CALIFORNIA 90067
TEL: (310) 552-4400 FAX: (310) 552-8400

COPY

1 **TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that on August 17, at 8:30 a.m., or as soon thereafter as may
3 be heard, in Los Angeles Superior Court, Department 9, Brand Sense Partners, LLC will and hereby
4 does move the Court for an order unsealing records sealed in the above-entitled proceedings by the
5 Court's order of May 25, 2011 (the "Sealing Order"). In addition, Brand Sense requests that the
6 Court exercise its discretionary powers and set aside the Sealing Order, as well as its subsequent
7 order entered on June 7, 2011 (the "Final Order"), which prevents Brand Sense from obtaining the
8 deposition of Britney Jean Spears.

9 The Final Order is the functional equivalent of a protective order, which can only be entered
10 pursuant to a formal noticed motion and hearing. *See St. Paul Fire & Marine Ins. Co. v. Superior*
11 *Court*, 156 Cal.App.3d 82, 86 (1984) (any order precluding deposition requires that opponent be
12 given notice of application and opportunity to be heard according to requirements which are
13 generally applicable to motions). Brand Sense therefore requests that the Court reset the matter for
14 hearing to allow Brand Sense a fair opportunity to be heard.

15 This motion is made pursuant to Rule 2.551 (h) of the California Rules of Court and Section
16 128(a)(3)&(8) of the Code of Civil Procedure, and on the grounds that Sealing and Final Orders
17 violate Brand Sense's right to procedural due process and are contrary to the First Amendment to the
18 United States and California Constitutions, and California law, specifically California Rule of Court
19 2.551(d) and *NBC Subsidiary (KNBC TV), Inc. v. Sup. Ct.*, 20 Cal.4th 1178, 1226 (1999).

20 This motion will be based on this notice of motion and motion; the memorandum of points
21 and authorities and declaration and any other documents which are being or will be filed in support
22 thereof; all other materials on file herein; and any other matters the Court considers at the hearing.

23
24 DATED: July 26, 2011

MILLER BARONDESS, LLP

25
26 By: Geoffrey A. Neri

GEORGEY A. NERI

Attorneys for Plaintiff

BRAND SENSE PARTNERS, LLC

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The Court has issued orders on an *ex parte* basis that seal records and prevent Brand Sense Partners LLC ("Brand Sense") from obtaining the deposition of Britney Jean Spears. Brand Sense is entitled to and urgently needs Ms. Spears' testimony to prosecute and defend against claims by Ms. Spears in a case that has been pending in the Los Angeles Superior Court for over four months. Brand Sense was denied Ms. Spears testimony, without notice, based on sealed evidence and pleadings that Brand Sense cannot even view or challenge. This is a violation of fundamental due process, which requires courts to give individuals and entities a fair opportunity to be heard before taking away a substantial right or interest. Under California law, even if no statute makes notice a condition, notice is regarded as essential in any application affecting the rights of an adverse party.

Furthermore, under both the United States and California constitutions, a court may seal a judicial record only "in the rarest of circumstances." *NBC Subsidiary (KNBC TV), Inc. v. Sup. Ct.*, 20 Cal.4th 1178, 1226 (1999). This is not one of those rare circumstances and even where sealing is warranted, it is to be done pursuant to noticed motion, in a narrowly-tailored fashion, and upon express factual findings. *Id.* The sealing of Ms. Spears' records was done without adequate notice, without *specific* factual findings, and the resulting order is overbroad. *NBC Subsidiary* makes clear that the privacy rights of celebrities such as Ms. Spears are no greater than the average citizen.

California Rule of Court 2.551(h) provides "a mechanism for third parties to correct overbroad or unsubstantiated sealing orders," *Savaglio v. Wal-Mart Stores, Inc.* 149 Cal.App.4th 588, 592 (2007). Pursuant to Rule 2.551(h), the Court should grant Brand Sense's Motion and order unsealed documents sealed by the May 25, 2011 of the Court. Furthermore, the Court should set aside its order of June 7, 2011, which is the functional equivalent of a protective order, and reset a hearing date to allow opposition, after an opportunity to view and challenge the sealed records. The Court has discretion, under Section 128(a)(3)&(8) of the Code, to "provide for the orderly conduct of proceedings before it, or its officers" and "amend and control its process and orders to make them conform to law and justice." Ms. Spears' attorneys must not be allowed to make an end run around the trial court and the Rules of Civil Procedure, which required notice under the circumstances.

1 **II. BACKGROUND**

2 Brand Sense filed a Complaint in the Los Angeles Superior Court on March 30, 2011,
3 entitled *Brand Sense Partners, LLC v. Britney Spears et al.*, Los Angeles Superior Court Case No.
4 BC 458461 (the "*Brand Sense Action*"). The Complaint names Britney Spears and her father Jamie
5 Spears, individually, and Ms. Spears' company Britney Brands, Inc., as defendants, *inter alia*.
6 Brand Sense's claims all revolve around Ms. Spears. (Declaration of Geoffrey A. Neri ("Neri
7 Decl.") ¶ 2.) She executed the operative agreements, the agreements were entered into solely to
8 benefit her and her company Britney Brands, and she has personal knowledge of all of the facts
9 alleged in the pleadings. (*Id.* at ¶ 3.)

10 Brand Sense identified and developed lucrative brand licensing opportunities for Ms. Spears,
11 during a time when Ms. Spears was flailing both professionally and personally. These licenses have
12 earned and continue to earn her millions dollars in revenue. (Neri Decl. at ¶ 4.) Ms. Spears agreed
13 in three separate written contracts, all of which were signed by her, to pay Brand Sense commissions
14 on the licensing revenues. Ms. Spears has since breached those contracts, forcing Brand Sense to
15 sue her; in turn, Ms. Spears' personal corporation has counter-sued Brand Sense. (*Id.* at ¶ 5.) Brand
16 Sense has been trying to obtain Ms. Spears' deposition for over three months, as Brand Sense needs
17 and is entitled to her testimony to prosecute and defend against the claims. (*Id.* at ¶ 6.)

18 Therefore Brand Sense noticed Ms. Spears' deposition on April 19, 2011. Over three months
19 later, Ms. Spears has yet to appear to testify, due in part to her litigation attorneys' stalling tactics,
20 but more importantly due to this Court's issuance of two orders. (*Id.* at ¶ 7.) Unbeknownst to Brand
21 Sense, on May 25, 2011, while Brand Sense's motion to compel Ms. Spears' deposition was
22 pending, Britney Spears' court-appointed attorney, Samuel D. Ingham III, filed a Petition for
23 Instruction (the "Petition") with this Court. (*Id.* at ¶ 8.)

24 In response to the Petition, Judge Michael I. Levanas issued a temporary order dated May 25,
25 8 2011, instructing the Conservators ("the Interim Order"). (Neri Decl. at ¶ 9.) Judge Levanas also
26 issued a sealing order (the "Sealing Order"), which sealed the Petition, all pleadings and the Interim
27 Order. (*Id.* at ¶ 6.) Judge Reva G. Goetz subsequently issued a final, sealed order relating to the
28 Petition for Instructions on June 7, 2011 (the "Final Order"). (*Id.* at ¶ 10.)

The Final Order prevents Brand Sense from obtaining Ms. Spears' testimony for reasons that are unknown to Brand Sense.¹ The Sealing Order prevents Brand Sense from even viewing the evidence presented to support the Petition and Interim and Final Orders. (*Id.* at ¶ 11.) Brand Sense did not immediately challenge the probate court's orders in order to allow the trial judge in the Brand Sense Action, Judge Sanchez-Gordon, to make her ruling on the motion to compel. (*Id.* at ¶ 12.) At the subsequent motion to compel hearing in the *Brand Sense Action*, Judge Sanchez-Gordon denied the motion, ruling that she was bound by the probate court's orders. (*Id.* at ¶ 13.) When counsel for Brand Sense observed that Brand Sense could not even review the basis for the probate court's rulings because all of the documents had been sealed, Judge Sanchez-Gordon indicated that this was an issue to be raised before the probate court. (*Id.* at ¶ 14.) Likewise, in response to a letter written by Brand Sense's counsel to the Presiding Judge of the Los Angeles Superior Court, Hon. Lee Smalley Edmon, Assistant Presiding Judge David S. Wesley suggested that a motion to unseal documents was a possible remedy. (Neri Decl. at ¶ 15 & Ex. A.)

III. ARGUMENT

A. THE COURT SHOULD UNSEAL THE RECORDS AND SET ASIDE THE SEALING AND FINAL ORDERS

Brand Sense's right to take Britney Spears' deposition is a substantial statutory right. *See, e.g., Ahern v. Superior Court*, 112 Cal.App.2d 27 (1952) (litigant is entitled to take a deposition as a matter of right); *Tatkin v. Superior Court*, 160 Cal.App.2d 745 (1958) (trial court ordinarily has no discretion to refuse to exercise its powers so far as necessary to secure the litigant's right to take a deposition). Before depriving Brand Sense of that substantial right, the Court was required to afford Brand Sense "an opportunity to be heard at a meaningful time and in a meaningful manner." *People v. Swink*, 150 Cal.App.3d 1076 (1984). "For the government to dispose of a person's significant interests without offering him a chance to be heard is to risk treating him as a nonperson, an object,

¹ Here and throughout this Motion, Brand Sense has taken great care not to disclose the contents of the Final Order and refers only to its effects on Brand Sense. However, the fact that Brand Sense may only obliquely refer to the orders issued by the Court is another indication of the prejudice caused by the Sealing Order. Brand Sense not only cannot view and challenge any of the evidence submitted in support of the orders, it cannot openly challenge the orders without risk of violating the Sealing Order.

1 rather than a respected, participating citizen.” *People v. Ramirez*, 25 Cal.3d 260, 268 (1979). “The
2 rudiments of fair play include notice, an opportunity to respond, and a hearing.” *In re Marriage of*
3 *Flaherty*, 31 Cal.3d 637 (1982).

4 In this case, rather than go to the trial court and obtain a protective order from Judge
5 Sanchez-Gordon, Britney Spears circumvented the proper procedure and petitioned the probate court
6 instead, understanding that Brand Sense would not have notice as a result. This ploy worked. The
7 Court dispensed with notice and Brand Sense never had an opportunity to respond to the Petition for
8 Instructions before its statutory right to a deposition was taken away. In fact, both the Sealing Order
9 and Final Order dispense with notice to Brand Sense. This was unfair and improper under California
10 law. See 6 Witkin, Cal. Proc. 5th (2008), § 7 (“General Requirement of Notice”), 2 (“Where Rights
11 Are Affected”) (“Even if no statute makes notice a condition, notice is usually considered essential
12 in any application affecting the rights of the adverse party, unless there is pressing necessity for
13 dispensing with it.”) (collecting cases). “Due process also is a flexible concept, whose application
14 depends on the circumstances and the balancing of various factors.” *Ingrid E. v. Superior Court*, 75
15 Cal.App.4th 751, 757 (1999).

16 Although Brand Sense is not a party to Ms. Spears’ conservatorship proceedings, it is an
17 adverse party to Ms. Spears, as the pleadings submitted to the probate court made clear.
18 Furthermore, notice to the individual or entity adversely affected by a ruling is the touchstone of
19 procedural due process; “[n]otice, however given, must be that notice reasonably calculated, under
20 all the circumstances, to apprise interested parties of the pendency of the action and afford them an
21 opportunity to present their objections.” *California School Employees Ass’n v. Livingston Union*
22 *School Dist.*, 149 Cal.App.4th 391, 399 (2007) (underscore added). “The California Supreme Court
23 has announced the ‘general rule’ that ‘notice of motion must be given whenever the order sought
24 may affect the rights of an adverse party.” *St. Paul Fire & Marine Ins. Co. v. Superior Court*, 156
25 Cal.App.3d 82, 85 (1984) (protective order cannot be entered without formal notice and hearing)
26 (citations omitted).

27 In this case, the Court adjudicated an issue which was obviously critical to Brand Sense and
28 therefore Brand Sense was an interested party. It entered the functional equivalent of a protective

1 order, which cannot be entered without a formal noticed motion and hearing. *Id.* It took away
2 Brand Sense's right to obtain key testimony, and yet failed to require that Brand Sense be given
3 notice. Brand Sense was unable to contest the proceedings, object to any of the evidence proffered
4 and cannot even view any of the documents submitted under seal in the probate court proceedings.
5 The resulting order, also adjudicated without notice to Brand Sense, fails to take into any
6 consideration Brand Sense's interests and demonstrates why *ex parte* proceedings are highly
7 disfavored, even in probate court proceedings.

8 They lead to a shortage of factual and legal contentions. Not only are facts and law from the
9 [adverse party] lacking, but the moving party's own presentation is often abbreviated because
10 no challenge from the defendant is anticipated at this point in the proceeding. The deficiency
11 is frequently crucial, as reasonably adequate factual and legal contentions from diverse
12 perspectives can be essential to the court's initial decision.

13 *Conservatorship of Malvern Schaeffer*, 98 Cal.App.4th 159, 164 (2002).²

14 Here, the probate court allowed Ms. Spears' attorneys to strip away Brand Sense's right to a
15 deposition without hearing any of the evidence or arguments of Brand Sense. Brand Sense should
16 be allowed to submit its own evidence and challenge the testimony provided by Ms. Spears to the
17 effect that she is unable to testify. With all due respect to this Court, the notion that Britney Spears
18 is unfit to testify under oath is a sham. Ms. Spears currently has the mental, emotional and physical
19 capacity to endure the strain of a months-long international concert tour, make numerous public
20 appearances, engage in frequent interviews with the media, participate in numerous promotional
21 campaigns for her various business enterprises, and take care of her minor children. She has
22

23
24 ² The Court of Appeal's decision in *Conservatorship of Schaeffer* is instructive. In that case, the probate
25 court entered an order sealing a report submitted by conservatee's appointed counsel. The sealed order
26 prevented the wife of the conservatee from challenging the probate court's ruling against her, understanding
27 the basis for the ruling or presenting any evidence of her own. *Id.* at 165. The wife appealed, contending her
28 due process rights had been violated as the result of the sealing. The Court of Appeal agreed, explaining:
"Mrs. Schaeffer was not even allowed to see the report the court relied on. . . . Mrs. Schaeffer could not raise
any of these objections or present any evidence or argument to counter the report, because she was not
permitted to see it." *Id.* Importantly, although a provision of the Probate Code also required disclosure of the
report, the Court of Appeal made clear that its holding was rooted in principles of due process. See *id.* at 164
(citing *Fewel v. Fewel*, 23 Cal.2d 431, 433 (1943) (reliance on evidence which adversely affected party
cannot view denies a "fair trial in open court"))).

1 admitted in prominent publications that she has "never been happier" in her life. (*Id.* at ¶ 16 & Ex.
2 "C".) Ms. Spears certainly has the capacity to engage in the rudimentary exercise of a deposition.
3 An individual need only understand questions, communicate competently and respond coherently to
4 give a deposition. Ms. Spears is fit enough to do this and Brand Sense should be allowed to prove it.

5 **B. BRAND SENSE AND THE PUBLIC HAVE A CORE CONSTITUTIONAL**
6 **RIGHT TO ACCESS THE COURT RECORDS IN THIS CASE**

7 Under the United States and California constitutions, the press and the public in general have
8 a right to obtain access to court records, including probate court records. "Absent strong
9 countervailing reasons, the public has a legitimate interest and right of general access to court
10 records" *Estate of Hearst*, 67 Cal.App.3d 777, 784 (1977) (reversing sealing order of the
11 probate court). For over one hundred years, the California Supreme Court has hewn closely to the
12 "first principle that the people have the right to know what is done in their courts." *In re Shortridge*,
13 99 Cal. 526, 530 (1893).

14 As the Supreme Court explained in *Estate of Hearst*, "[i]f public court business is conducted
15 in private, it becomes impossible to expose corruption, incompetence, inefficiency, prejudice, and
16 favoritism." 67 Cal.App.3d at 784. Probate court proceedings are no exception. "Probate
17 proceedings . . . are not closed proceedings. No statute exempts probate files from the status of
18 public records." *Copley Press, Inc. v. Superior Court*, 63 Cal.App.4th 367, 376 (1998) (issuing writ
19 of mandate to probate court to vacate order denying motion to unseal).

20 The blanket sealing of documents in Ms. Spears' conservatorship proceedings is improper
21 and contrary to core constitutional principles. As stated by the California Supreme Court in its
22 seminal opinion *NBC Subsidiary, supra*, "when individuals employ the public powers of state courts
23 to accomplish private ends, . . . they do so in full knowledge of the possibly disadvantageous
24 circumstance that the documents and records filed . . . will be open to public inspection." 20 Cal.4th
25 1178 at 1211 n.27 (quoting *Hearst, supra*, 67 Cal.App.3d at 821). The Sealing Order cites Ms.
26 Spears' privacy concerns as a basis for the sealing, but *NBC Subsidiary* makes clear that privacy
27 concerns of a celebrity are to be given no greater consideration than a non-celebrity. If privacy
28

1 concerns were an adequate basis for sealing orders, any proceedings or evidence involving sensitive
2 or embarrassing facts could be closed or sealed. *NBC Subsidiary* is clear that that is not the case.

3 *NBC Subsidiary* involved a trial between actor Clint Eastwood and actress Sondra Locke.
4 There the California Supreme Court reiterated that civil court documents are presumptively open to
5 the public, even where those documents involve "private facts" about celebrities *Id.* at 1208 & n.25,
6 1211 n.27, 1218-19. The Court explained that "'in a sense [such civil litigants] take the good with
7 the bad, knowing that with public protection comes public knowledge' of otherwise private facts."
8 *Id.* at 1211 n.27 (quoting *Hearst, supra*, 67 Cal.App.3d at 821).

9 Effective January 1, 2001, the Judicial Council promulgated Rules of Court to implement the
10 *NBC Subsidiary* opinion. California Rule of Court 2.550(c) provides: "Unless confidentiality is
11 required by law, court records are presumed to be open." "In determining whether to unseal a
12 record, the court is required to consider the elements outlined in rule 2.550(c)-(e). (Cal. Rules of
13 Court, rule 2.551(h)(4).) No showing of changed circumstances is necessary on a motion to unseal."
14 *In re Marriage of Nicholas*, 186 Cal.App.4th 1566, 1577 (2010). A court may order a record sealed
15 (and conversely unseal records) based on a consideration of the following factors:

- 16 (1) there exists an overriding interest that overcomes the right of public access to the record;
- 17 (2) the overriding interest supports sealing of the record;
- 18 (3) a substantial probability exists that the overriding interest will be prejudiced if the record
- 19 is not sealed;
- 20 (4) the proposed sealing is narrowly tailored; and
- 21 (5) no less restrictive means exist to achieve the overriding interest.

22 CAL. R. CT. 2.550(d).

23 Even if a court makes these express findings, its order must (1) *specifically set forth the facts*
24 *that support the findings*, and (2) direct the sealing of only those documents and pages, or, if
25 reasonably practicable, portions of those documents and pages that contain the material that needs to
26 be placed under seal. CAL. R. CT. 2.550(e). All other portions of each document or page must be
27 included in the public file.

28

1 In the Sealing Order, the Court makes obligatory references to these requirements, but makes
2 no effort to substantiate them. As to the first three requirements, the Court simply cites to Ms.
3 Spears' privacy concerns (which, as already stated, is no greater than any other individual) and her
4 medical records. There is no analysis of the countervailing right of Brand Sense and the public to
5 know why Ms. Spears is still subject to a conservatorship which, by all outward appearances, has
6 outlived any purpose. Nor is there any analysis of how Ms. Spears "overriding interest" of privacy
7 concerns will be prejudiced if the records are not sealed.

8 Access to records in Ms. Spears conservatorship proceedings is not merely fodder for the
9 gossip pages, but part and parcel to the public's "in observing and assessing the performance of its
10 public judicial system." *In re Marriage of Nicholas*, 186 Cal.App.4th at 1575 (quoting *NBC*
11 *Subsidiary*). As the Court of Appeal instructed last year in *In re Marriage of Nicholas*, even where a
12 case involves the interests of minor children and "intense media scrutiny and interest," those factors
13 do not outweigh the public's right to access. As explained by the Court of Appeal, "[o]pen court
14 records safeguard against unbridled judicial power, thereby fostering community respect for the rule
15 of law" and counter public perceptions of "favoritism." *Id.* In this case, both Brand Sense and the
16 public have the right to confirm for themselves, based on open court proceedings and records, that
17 Ms. Spears is not being shown favoritism by the Court.

18 Finally, the Sealing Order makes no attempt to narrowly tailor the sealing in this case or find
19 a less restrictive means of protecting Ms. Spears overriding interests. The Sealing Order could have
20 redacted sensitive medical information and selectively sealed sensitive documents. Instead, it sealed
21 virtually every document related to the hearing, including all of the pleadings. Although Brand
22 Sense and the public have been unable to view the pleadings, it cannot be the case that every page of
23 the pleading is so sensitive that the entire document had to be sealed. Likewise, it cannot be that
24 case that every other document submitted in support of the pleadings is so suffused with private and
25 confidential information that it cannot be redacted and filed publicly.

26 **IV. CONCLUSION**

27 It is fundamentally unfair for Brand Sense to be stonewalled in discovery based on secretive
28 proceedings and a petition and orders that Brand Sense was never even allowed to see, let alone

1 oppose. Furthermore, Brand Sense and the public have a right to know the basis for the Court's
2 orders. For those reasons and all of the reasons above, Brand Sense should be granted the relief
3 sought herein.
4

5 DATED: July 26, 2011

MILLER BARONDESS, LLP

6
7 By: *Geoffrey A. Neri*

8 GEOFFREY A. NERI

9 Attorneys for Plaintiff

10 BRAND SENSE PARTNERS, LLC
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Abstract

DECLARATION OF GEOFFREY A. NERI

I, Geoffrey A. Neri, declare and state as follows:

1. I am an attorney at law, duly licensed to practice before all courts of the State of California. I am an attorney with the law firm Miller Barondess LLP, counsel of record in this matter for Brand Sense Partners, LLC ("Brand Sense"). I have personal knowledge of all of the facts contained in this declaration and, if called as a witness, I could and would competently testify to all of said facts.

2. I caused to be filed the original Complaint in an action entitled *Brand Sense Partners, LLC v. Britney Spears et al.*, Los Angeles Superior Court Case No. BC458461, a true and correct copy of which is attached hereto as Exhibit "A." The Complaint names Britney Spears and her father Jamie Spears, individually, and Ms. Spears' company Britney Brands, Inc., as defendants, inter alia.

3. As the allegation of the Complaint set forth, Ms. Spears executed the operative agreements, the agreements were entered into solely to benefit her and her company Britney Brands, and she has personal knowledge of all of the facts alleged in the pleadings. (See Ex. A & attached exhibits).

4. Brand Sense identified and developed lucrative brand licensing opportunities for Ms. Spears, during a time when Ms. Spears was flailing both professionally and personally, which have earned and continue to earn her millions dollars in revenue. (*Id.*)

5. Ms. Spears agreed in three separate written contracts, all of which were signed by her, to pay Brand Sense commissions on those licensing revenues. Ms. Spears has since breached those contracts, forcing Brand Sense to sue her; in turn, Ms. Spears' personal corporation has counter-sued Brand Sense. (*Id.*)

6. Brand Sense has been trying to obtain Ms. Spears' deposition for over three months, as Brand Sense needs and is entitled to her testimony to prosecute and defend against the claims.

7. Therefore, on behalf of Brand Sense, I noticed Ms. Spears' deposition on April 19, 2011. Over three months later, Ms. Spears has yet to appear to testify, due in part to her litigation attorneys' stalling tactics, but more importantly due to this Court's issuance of two orders.

1 8. Unbeknownst to me, on May 25, 2011, while Brand Sense's motion to compel Ms.
2 Spears' deposition was pending, Britney Spears' court-appointed attorney, Samuel D. Ingham III,
3 filed a Petition for Instruction (the "Petition") with this Court.

4 9. In response to the Petition, Judge Michael I. Levanas issued a temporary order dated
5 May 25, 2011, instructing the Conservators ("the Interim Order").

6 10. Judge Levanas also issued a sealing order (the "Sealing Order"), which sealed the
7 Petition, all pleadings and the Interim Order. Judge Reva G. Goetz subsequently issued a final,
8 sealed order relating to the Petition for Instructions on June 7, 2011 (the "Final Order").

9 11. The Final Order prevents Brand Sense from obtaining Ms. Spears' testimony for
10 reasons that are unknown to Brand Sense. The Sealing Order prevents Brand Sense from even
11 viewing the evidence presented to support the Petition and Interim and Final Orders.

12 12. Brand Sense did not immediately challenge the probate court's orders in order to
13 allow the trial judge in the Brand Sense Action, Judge Sanchez-Gordon, to make her ruling on the
14 motion to compel.

15 13. At the subsequent motion to compel hearing in the Brand Sense Action, Judge
16 Sanchez-Gordon denied the motion, ruling that she was bound by the probate court's orders.

17 14. When I observed that Brand Sense could not even review the basis for the probate
18 court's rulings because all of the documents had been sealed, Judge Sanchez-Gordon indicated that
19 this was an issue to be raised before the probate court.

20 15. Likewise, in response to a letter written by Louis R. Miller, also an attorney for Brand
21 Sense, to the Presiding Judge of the Los Angeles Superior Court, Hon. Lee Smalley Edmon, the
22 Assistant Presiding Judge David S. Wesley suggested that a motion to unseal documents was a
23 possible remedy. A true and correct copy of Judge Wesley's correspondence is attached hereto as
24 Exhibit "B."


25 16. In April of 2011, Ms. Spears made an admission in an interview with US Weekly
26 Magazine that she has "never been happier" in her life. A true and correct copy of the interview
27 summary is attached hereto as Exhibit "C."
28

MILLER BARONDESS, LLP
ATTORNEYS AT LAW
1999 AVENUE OF THE STARS, SUITE 1000 - LOS ANGELES, CALIFORNIA 90067
TEL: (310) 552-4400 FAX: (310) 552-8400

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed on this 26th day of July 2011 at Los Angeles, California.



Geoffrey A. Neri



0 1 2 3 4 5 6 7 8 9
 10 11 12 13 14 15 16 17 18 19
 20 21 22 23 24 25 26 27 28 29
 30 31 32 33 34 35 36 37 38 39
 40 41 42 43 44 45 46 47 48 49
 50 51 52 53 54 55 56 57 58 59
 60 61 62 63 64 65 66 67 68 69
 70 71 72 73 74 75 76 77 78 79
 80 81 82 83 84 85 86 87 88 89
 90 91 92 93 94 95 96 97 98 99

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 74

HON. TERESA SANCHEZ-GORDON, JUDGE

BRAND SENSE PARTNERS, LLC,

PLAINTIFF(S),

VS.

BRITNEY SPEARS, ET AL.,

DEFENDANT(S).

)
) SUPERIOR COURT
)
) NO. BC458461
)
)
)
)
)
)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

THURSDAY, JULY 28, 2011

APPEARANCES:

FOR PLAINTIFF:

GEOFFREY A. NERI, ATTORNEY AT LAW
MILLER BARONDESS LLP
1999 AVENUE OF THE STARS, STE. 1000
LOS ANGELES, CA 90067

FOR DEFENDANT:

HOWARD WEITZMAN, ATTORNEY AT LAW
KINSELLA, WEITZMAN, ISER, KUMP &
ALDISERT LLP
808 WILSHIRE BLVD., 3RD FLOOR
SANTA MONICA, CA 90401

REPORTED BY:

STEPHANIE L. WONG, CSR NO. 11117
OFFICIAL COURT REPORTER

ORIGINAL

1 THE COURT ORDERS. IF THE PROBATE COURT DETERMINES THAT
2 YES, MS. SPEARS CAN BE DEPOSED, THEN YOU'LL MAKE THAT
3 HAPPEN; RIGHT?

4 MR. WEITZMAN: YES.

5 THE COURT: RIGHT NOW, WE HAVE A COURT ORDER. THIS
6 COURT IS FOLLOWING THAT ORDER. LET'S SEE WHAT HAPPENS AT
7 THE PROBATE LEVEL.

8 DO YOU THINK WE SHOULD SET A STATUS
9 CONFERENCE BETWEEN NOW AND MARCH 28TH WHICH IS THE
10 MANDATORY SETTLEMENT CONFERENCE JUST TO LET THE COURT KNOW
11 WHERE YOU'RE AT IN THE EVENT YOU HAVE ANY DISCOVERY
12 ISSUES? INSTEAD OF FILING DISCOVERY MOTIONS, I WOULD LIKE
13 TO HELP YOU RESOLVE THEM BEFORE YOU START RESERVING DATES
14 FOR DISCOVERY.

15 MR. NERI: WE WOULD ALSO PREFER NOT TO HAVE TO FILE
16 MOTIONS ON DISCOVERY AND APPRECIATE YOUR HONOR'S --

17 THE COURT: LET ME GIVE YOU SOMETHING IN -- SOMETIME
18 IN JANUARY. JANUARY 11, 2012, PROBATE COURT ORDER/COURT
19 OF APPEAL. NOTICE WAIVED?

20 MR. WEITZMAN: NOTICE IS WAIVED, YOUR HONOR.

21 MR. NERI: YES, YOUR HONOR.

22 THE COURT: HAVE A TERRIFIC DAY. THANK YOU.

23 MR. WEITZMAN: SAME TO YOU.

24
25 (PROCEEDINGS CONCLUDED.)
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA,)
) SS.
COUNTY OF LOS ANGELES)

I am a citizen of the United States and employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. I am employed by MILLER BARONDESS, LLP and my business address is 1999 Avenue of the Stars, Suite 1000, Los Angeles, California 90067.

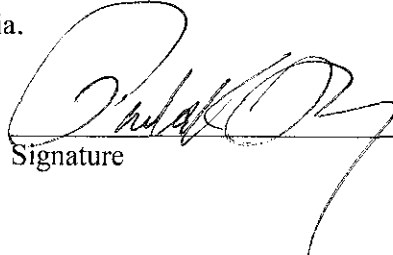
On **August 10, 2011**, I served ☐ the original ☒ a true copy of the within document(s) described as **BRAND SENSE LLC'S OPPOSITION TO MOTION TO BIFURCATE THE BRIEFING AND DETERMINATION ON THE PENDING MOTION OF BRAND SENSE PARTNERS, LLC; DECLARATION OF GEOFFREY A. NERI** on all interested parties in this action:

SEE ATTACHED SERVICE LIST

- ☐ **PERSONAL DELIVERY:** I caused such envelope to be delivered by hand to the named addressee(s) on the attached Service List.
- ☒ **BY MAIL:** I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. This correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business at our Firm's office address in Los Angeles, California. Service made pursuant to this paragraph, upon motion of a party served, shall be presumed invalid if the postal cancellation date of postage meter date on the envelope is more than one day after the date of deposit for mailing contained in this affidavit.
- ☐ **BY OVERNIGHT DELIVERY SERVICE:** I served the foregoing document by FedEx, an express service carrier which provides overnight delivery, as follows. I placed true copies of the foregoing document in sealed envelopes or packages designated by the express service carrier, addressed to each interested party as set forth above, with fees for overnight delivery paid or provided for.
- ☐ **BY FACSIMILE:** I caused such envelope to be delivered via facsimile to the offices of the addressee(s) at the facsimile numbers listed below. I certify that said transmission was completed and that all pages were received and that a report was generated by the facsimile machine which confirms said transmission and receipt.
- ☒ **BY ELECTRONIC MAIL:** by transmitting via electronic mail a true copy of the above listed document(s) to the email addresses set forth below on this date before 5:00 p.m.:
- ☒ **(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 State Bar of this Court at whose direction the service was made.

Executed on **August 10, 2011**, at Los Angeles, California.

PAULA K. PERRY


Signature

SERVICE LIST

Samuel D. Ingham III, Esq.
Law Offices of Samuel D. Ingham III
9440 Santa Monica Boulevard, Suite 510
Beverly Hills, CA 90210
Telephone: (310) 556-9751
Facsimile: (310) 556-1311
e-mail: singham@inghamlaw.com

*Court-Appointed Attorney for
Conservatee Britney Jean Spears*

Andrew M. Wallet, Esq.
Hinojosa & Wallet, LLP
2215 Colby Avenue
Los Angeles, CA 90064
Telephone: (310) 473-7000
Facsimile: (310) 473-1730
e-mail: awallet@handwlaw.com

Court-Appointed Co-Conservator

Geraldine A. Wyle, Esq.
Jeryll S. Cohen, Esq.
HOFFMAN, SABBAN &
WATENMAKER
10880 Wilshire Boulevard, Suite 2200
Los Angeles, California 90024
Telephone: (310) 470-6010
Facsimile: (310) 470-6735
e-mail: gwyle@hswlaw.com

*Attorney for Co-Conservator Jamie
Spears*

Clark R. Byam, Esq.
301 E. Colorado Boulevard
Ninth Floor
Pasadena, California 91101
Telephone: (626) 796-9123
Facsimile: (626) 449-7357
e-mail: CByam@HahnLawyers.com

Served pursuant to special notice

Probate Investigations Office
Stanley Mosk Courthouse, Room 208
111 North Hill Street
Los Angeles, CA 90012
Telephone: (213) 974-5859

Served pursuant to special notice

VIA U.S. MAIL ONLY