COMMITTEE REPORT

Newsgathering Committee Memo:

Model Brief on Jury Access Issues

March 17, 2004

This model brief addresses several issues that frequently arise involving access to juror information. Thanks go to Duffy Carolan of Davis Wright Tremaine LLP and Cynthia Counts of Counts & Associates, who shared the laboring oar in drafting the brief, with editorial comments from Co-Chairs, Dean Ringel and Kelli Sager.

80 Eighth Avenue, Suite 200 New York, New York 10011 (212) 337-0200
www.medialaw.org

**[Insert attorneys name, state bar number,
firm name,
address,
city, state ZIP
telephone number and
fax number here]**

Attorneys for **[insert client name here]**

IN THE UNITED STATES DISTRICT COURT

[Insert venue here]

[Insert], Plaintiff, v. **[Insert]** Defendant.	Case No. ---------- **[MEDIA COMPANY'S] MOTION TO INTERVENE AND VACATE COURT'S ORDERS (1) BARRING ACCESS TO JUROR IDENTIFYING INFORMATION; (2) EMPANELLING AN ANONYMOUS JURY; (3) SEALING VOIR DIRE QUESTIONNAIRES, AND (4) BARRING PRESS FROM CONTACTING JURORS POST-VERDICT** Hearing Date: Time: Dept:

I. INTRODUCTION

II. FACTUAL BACKGROUND

[This brief assumes a factual scenario in a criminal trial where the judge has entered an order employing the use of an anonymous jury, thereby barring disclosure of juror identifying information, and juror questionnaires. The court has also entered an order barring the press from contacting the jury after the verdict is rendered.]

III. LEGAL ANALYSIS

A. Media Company's Motion To Intervene Should Be Granted

The First Amendment right of access is an affirmative, enforceable public right. See Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555, 572 (1980); Globe Newspaper Co. v. Superior Court, 457 U.S. 596 (1982) ("Globe Newspaper I")[1]. The standing of the press to enforce this right is well settled. See, e.g., Globe Newspaper I, 457 U.S. at 609 n.25; In re Application of Dow Jones & Co., 842 F.2d 603, 606-08 (2d Cir. 1988); United States v. Criden, 675 F.2d 550, 552 n.2 (3d Cir. 1982); United States v. Brooklier, 685 F.2d 1162, 1168 (9th Cir. 1982).

[Insert law from your circuit here, e.g.: The Ninth Circuit has recognized a motion to intervene is the proper procedural device for protecting the public's right of access in criminal proceedings. See, e.g., Brooklier, 685 F.2d at 1168.]

Therefore, this Court should grant Media Company's motion to intervene for the limited purpose of protecting the public's right of access and decide the merits of this motion.

B. The Court's Order Sanctioning The Empanelment Of An Anonymous Jury Should Be Vacated As Unconstitutional And Contrary To Statutory And Common Law

The constitutional, common law and statutory rights of access to names and addresses of jurors empanelled to judge a criminal defendant's guilt or innocence and the absence of

[1] Three decisions involving Globe Newspaper Co. are referenced in this brief, and for clarity will be referred to sequentially by date of decision: Globe Newspaper Co. v. Superior Court, 457 U.S. 596 (1982) "(Globe Newspaper I"); In re Globe Newspaper Co., 729 F.2d 47 (1st Cir. 1984) ("Globe Newspaper II"); In re Globe Newspaper Co., 920 F.2d 88 (1st Cir. 1990) ("Globe Newspaper III")

exceptional circumstances warranting the drastic measure of an anonymous jury in this case mandate that the Court's order be vacated and, instead, a new order be entered granting access to the identities of all juror on the venire panel.

1. The First Amendment, Common Law and Statutory Law Establish a Right of Access to Juror Identifying Information

a. The First Amendment Right of Access Applies to Juror Identifying Information

While the United States Supreme Court has yet to precisely address the issue before this Court, its decisions governing the right of access in criminal trials, and the jury selection process in particular, support a determination that the First Amendment right of access extends to juror identifying information. Indeed, the right of access to jury identifying information is consistent with the historical tradition of open court proceedings, particularly the tradition of access to the jury selection process, and with the functional utility access serves under the circumstances. This dual analysis is the hallmark of the Supreme Court's access jurisprudence and is employed to determine whether a First Amendment right of access attaches in the first instance.

Here, a review of the high Court and leading lower court access cases and application of those cases to the facts at hand demonstrate that access to juror identifying information satisfies this two-part analysis.

(1) Review of Relevant Access Cases

In 1980, the United States Supreme Court held that the First Amendment provides the public and the press with a right of access to criminal trials. Richmond Newspapers, 448 U.S. at 576-77. The case involved a retrial in a murder prosecution that had been closed without findings or consideration of alternatives to closure. In holding that criminal trials are covered by the "presumption of openness" so that closure of the proceedings may be justified only by an "overriding interest articulated in findings," the Court reviewed the history of access from before the Norman Conquest to what has become "the modern criminal trial in Anglo-American justice." Id. at 564, 573, 581.

Specifically, the Court observed that "throughout its evolution, the trial has been open to all who cared to observe." Id. at 564. In the days before the Norman Conquest, cases in England

were brought before moots or local courts where attendance was compulsory and free men were called upon to publicly render judgment. Id. at 565. "From these early times, although great changes in courts and procedures took place, one thing remained constant: the public character of the trial at which guilt or innocence was decided." Id. at 566. In acknowledging the critical importance of the right to trial by a jury, the Court noted that "neither life, liberty nor property," can be taken except upon the judgment of jurors after a "fair trial, and full enquiry, *face to face*, in open Court, before as many of the people as [choose] to attend." Id. 568-569 (citations omitted, emphasis added).

In addition to historical evidence of open court proceedings both here and in England, the Court considered "the importance of openness to the proper functioning of a trial." Id. at 569; see also id. at 589 (Brennan, J., concurring). Thus the presumption of openness was supported by the fact that openness assures proceedings are conducted fairly, perjury and misconduct of participants is discouraged, decisions are rendered without secret bias or partiality, and public confidence in the fair administration of justice is enhanced. Id. at 569, 571-572. Moreover, open public trials serve a prophylactic and therapeutic value by providing an outlet for community concerns, hostility and emotion through awareness that "society's responses to criminal conduct are underway." Id. at 571.[2]

Two years after Richmond Newspapers, the Supreme Court decided Globe Newspaper I, 457 U.S. 596, striking down a state statute that had mandated closure during the testimony of minor victims in criminal trials involving certain sexual offenses. Adopting the two-part analysis in Richmond Newspapers, the Court confirmed that the public and the media have a First Amendment right of access to criminal trials rooted in the historically open nature of such proceedings and the benefits derived from openness. Id. at 605-06.

In Press-Enterprise Co. v. Superior Court, 464 U.S. 501 (1984) ("Press-Enterprise I"), the court specifically addressed the issue of access to juror information in holding that a First

[2] The Court also recognized that the right to attend trials in person is less frequently exercised than in the past and that most people receive information concerning trials through the media, "whose representatives 'are entitled to the same rights [to attend trials] as the general public.'" Id. at 577 n.12 (citing Estes v. Texas, 381 U.S. 532, 540 (1965)).

Amendment right of access to voir dire exists. In that case, a California state court judge closed portions of voir dire proceedings dealing with "death qualifications" and other "special areas" in an emotionally-charged trial of a defendant accused of raping and murdering a teenage girl. Id. at 503-04. All but three days of voir dire were closed to the public. Id. Both the government, which cited juror privacy concerns, and the defendant, who cited his Sixth Amendment right to a fair trial, supported the closure order. Id. at 504. In issuing its closure order, the trial court noted that some jurors' responses in voir dire included "personal problems … which could be somewhat sensitive as far as publication of those particular individual's situations are concerned." and that it was problematic for "a person performing their [sic] civic duty as a prospective juror [to open] their private information [to] the public…." Id.

Despite these concerns, the United States Supreme Court held that the closure order was flatly unconstitutional, and that the "process of selection of jurors has presumptively been a public process" in the American justice system. Id. at 505-08. Not even the defendant's Sixth Amendment rights were sufficient to overcome this presumption. Id. at 508. Addressing the functional utility of open court proceedings, the Court explained, "the primacy of the accused's right [to a fair trial] is difficult to separate from the right of everyone in the community to attend the voir dire which promotes fairness." Id. at 508. The Court stated:

> The value of openness lies in the fact that people not actually attending trials can have confidence that standards of fairness are being observed; the sure knowledge that anyone is free to attend gives assurance that established procedures are being followed and that deviations will become known. Openness thus enhances both the basic fairness of the criminal trial and the appearance of fairness so essential to public confidence in the system.

Id. at 507-08 (citations omitted).

Based on the historical tradition of open court proceedings and the functional utility access serves, the Court held that the right of access clearly encompasses voir dire proceedings so that closure "must be rare and only for cause shown that outweighs the value of openness." Id. at 509. More specifically, the Court articulated the standard by which the decision to close any portion of jury selection must be judged: "The presumption of openness may be overcome only by an overriding interest based on findings that closure is essential to preserve higher values and is

narrowly tailored to serve that interest. The interest is to be articulated along with findings specific enough that a reviewing court can determine whether the closure order was properly entered." Id. at 510.

A few years later, the Court extended the right of access to include the right to attend preliminary hearings. Press-Enterprise Co. v. Superior Court, 478 U.S. 1 (1986) ("Press-Enterprise II"). In so doing, the Court again recognized the importance of open jury selection: "Through voir dire, cumbersome as it is in some circumstances, a court can identify those jurors whose prior knowledge of the case would disable them from rendering an impartial verdict." Id. at 15.[3]

These Supreme Court decisions have served to inform several circuit courts specifically confronted with the issue of access to juror identifying information. For example, in a high-profile criminal prosecution of savings and loan executives, the Fourth Circuit Court of Appeal relied on Press-Enterprise I in holding that the press had a right of access to the names and addresses of jurors selected to decide the case, as well as the venire persons who attended court but were not selected. In re Baltimore Sun Co., 841 F.2d 74, 75 (4th Cir. 1988). The court pointed out that "[w]hen the jury system grew up with juries of the vicinage,[ ] everybody knew everybody on the jury and we may take judicial notice that this is yet so in many rural communities throughout the country. So, everyone can see and know everyone who is stricken from a venire list or otherwise does not serve." Id. at 75 (footnotes omitted). While recognizing that "anonymity of life in the cities" makes knowledge of the names of jurors less common in those areas, the court nevertheless concluded that the "risk of loss of confidence of the public in the judicial process is too great to permit a criminal defendant to be tried by a jury whose members may maintain anonymity." Id. at 76. As the Court explained:

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[3] Other courts also have extended the qualified right of access to criminal proceedings beyond the trial itself. Indeed, that right now indisputably encompasses suppression hearings (Waller v. Georgia, 467 U.S. 39 (1984)), bail hearings (In re Globe Newspaper Co., 729 F.2d 47 (1st Cir. 1984) ("Globe Newspaper II")), and transcripts, pleadings and other documents filed with the court. See, e.g., Nixon v. Warner Communications, Inc., 448 U.S. 589, 597 (1978). This right has been extended to civil proceedings as well. NBC Subsidiary, Inc. v. Superior Court, 86 Cal. Rptr. 2d 778, 980 P.2d 337 (1999); see also Richmond Newspapers, 448 U.S. at 580 n.17 ("[w]hether the public has a right to attend trials of civil cases is a question not raised by this case, but we note that historically both civil and criminal trials have been presumptively open").

> We think it no more than an application of what has always been the law to require a district court, upon the seating of the panel of a jury and alternates, if any, which will hear a case, to release the names and addresses of those jurors who are sitting, as well as those veniremen and women who have attended court but have not been seated for one reason or another.

Id. at 75. Thus, even though the names of the persons on the venire list were available during the open voir dire proceedings, the court said "that does not serve as a reason not to place on the public record, contemporaneously with the trial, the names and addresses of those jurors…." Id.[4]

The First Circuit also has recognized a right of access to juror identifying information. In In re Globe Newspaper Co., 920 F.2d 88, 91 (1st Cir. 1990) ("Globe Newspaper III"), the court granted a newspaper's petition for post-trial access to juror names and addresses. While acknowledging the privacy concerns of jurors following a highly-publicized trial, the court nonetheless held that the loss of confidence in our justice system that would result from anonymous juries outweighed such "unfocused" fears. Id. at 94. Grounding its decision on a federal statute but applying constitutional principles governing access to court proceedings, the court noted several advantages that access to juror identifying information provides: "Knowledge of juror identities allows the public to verify the impartiality of key participants in the administration of justice, and thereby ensures fairness, the appearance of fairness and public confidence in that system." Id. at 94. Specifically, the court stated that access to names and addresses could assist inquiry into whether the jurors were selected from only a narrow social group, or from persons with a certain political affiliation or from those associated with organized crime. Id. Further, the court noted that access serves to educate the public regarding the judicial system, aids public discourse on how to improve the process, assists in uncovering juror bias or confusion, and could serve to deter intentional misrepresentation at voir dire. Withholding this information, in contrast, would add to the suspicions of impropriety in the jury selection process. Id.

[4] The court, however, denied access to other information on the questionnaires completed by the prospective jurors under 28 U.S.C. Section 1867(f), "unless some question concerning the same should properly arise within the case being tried."

Thus, while the Globe Newspaper III court recognized that there may be rare circumstances necessitating withholding juror information – such as when there is a "credible threat of jury tampering … a risk of personal harm to individual jurors," or "other evils affecting the administration of justice" – the court concluded that the "personal preferences of the jurors and the judge's distaste for exposing them to press interviews" is not enough to outweigh the benefits of access to this information. Instead, the court determined that the federal statute at issue, which allowed withholding juror identifying information under "an interest of justice" standard, required a finding of "exceptional circumstances" to justify withholding the names and addresses of jurors following completion of a criminal trial. Id. at 97.

The Third Circuit also addressed the issue of access to jury identifying information, albeit indirectly, when it held that the constitutional right of access attached to transcripts of voir dire proceedings that had been sealed in response to the media's request for the names and addresses of the jurors in a high profile criminal trial. United States v. Antar, 38 F.3d 1348, 1351 (3d Cir. 1994). While the voir dire proceedings were not closed in Antar, the limited space available to the public effectively precluded the media from learning the names and hometowns of the jurors, which were stated in open court by each of the jurors during voir dire. Id. at 1351. In holding that the constitutional right of access extends to voir dire transcripts as well as the proceedings themselves, the court noted that "[a]t the heart of the Supreme Court's right of access analysis is the conviction that the public should have access to *information*…. True public access to a proceeding means access to knowledge of what occurred there." Id. at 1360 (footnote omitted; emphasis in original). Because the trial court had sealed the transcripts without complying with the substantive and procedural safeguards required before limitations on the right of access can be imposed, the court found the trial court's closure order was unconstitutional. Id. at 1363.

Several lower federal courts and state courts also have held explicitly or implicitly that a constitutional right of access attaches to juror identifying information. See, e.g., In re Bay City Times, 143 F. Supp. 2d 979, 980 (E.D. Mich. 2001) (granting post-verdict access to names and communities of residence of jurors announced during voir dire proceedings but ordering that home telephone numbers, addresses and other information about the trial jurors not be released even

though not requested); United States v. Espy, 31 F. Supp. 2d 1, 2 (D.D.C. 1998) (granting post-verdict access to juror names but ordering seven day delay to allow jurors "to catch up on precious time spent away from family, in the service of society" and "to resume [their] normal round of activities") (quoting United States v. Doherty, 675 F. Supp. 719, 725 (D. Mass 1987), aff'd in part, rev'd in part, 867 F.2d 47 (1st Cir. 1989)); Sullivan v. National Football League, 839 F. Supp. 6, 7 (D. Mass. 1993), aff'd, 25 F.3d 43 (1st Cir. 1994) (court lifted a sealing order to reveal the names and addresses of jurors but imposed a ten day waiting period following the verdict to protect the defendants' rights to a fair trial and the jurors' right to privacy); In re Indianapolis Newspapers, Inc., 837 F. Supp. 956, 957-58 (S.D. Ind. 1992) (concluding generally that media's right of access and juror's right of privacy could be accommodated by releasing names and addresses one week after verdict); State v. Swart, 20 Media L. Rep. 1703 (Minn. Ct. App. 1992) (same); United States v. Butt, 753 F. Supp. 44, 45 (D. Mass. 1990) (same); Doherty, 675 F. Supp. 719, 725 (access to juror names granted seven days after verdict); State ex rel. Beacon Journal Publ'g Co. v. Bond, 781 N.E.2d 180, 194-95 (Ohio Sup. Ct. 2002) (holding that First Amendment right of access attached to juror names, addresses and questionnaires sought by media); State v. Hill, 737 N.E.2d 577, 583-84 (Ohio App. 2000), rev'd on other grounds 749 N.E.2d 274 (Ohio 2001) (relying on experience/logic analysis, the court held that "empaneling of a jury is the first step in the commencement of the actual trial. It is from the venire that citizens of our state pick the jury of their peers. To deny citizens the right to know the names and addresses of their potential peers … is indeed a structural error."); In re Disclosure of Juror Names and Addresses, 592 N.W.2d 798, 808-09 (Mich. Ct. App. 1999) (holding that media had a First Amendment right of access post-verdict to names and addresses of jurors: "Were this not so, in an extreme case, a court could, with unlimited discretion, totally conceal the identity of jurors and thus create the impression of a secret process that *Press-Enterprise I* and *II* caution against."); see also State v. Neulander, 173 N.J. 193, 801 A.2d 255, 271 (N.J. 2002) (holding order prohibiting media from identifying jurors violated First Amendment to extent it restrained use of information that was part of public record); Copley Press, Inc. v. Superior Court, 228 Cal. App. 3d 77, 83, 278 Cal. Rptr. 443 (1991) (recognizing right of access applies to voir dire questionnaires, which presumably provide juror

identifying information); Lesher Communications, Inc. v. Superior Court, 224 Cal. App. 3d 774, 778, 274 Cal. Rptr. 154 (1990) (same).

[Parties in some jurisdictions will need to address and distinguish the following cases: Despite the overwhelming weight of authorities holding a right of access attaches to juror identifying information, some courts have responded to requests for juror information by either imposing various levels of restraints or by holding that there is no First Amendment qualified right of access to this information. For example, in Gannett Co. v. Delaware, 571 A.2d 735, 745 (Del. 1989), the court, applying the experience/logic test, found no significant tradition of announcing juror's names in the court: "Merely because an historic procedure exists, does not automatically enlarge it to constitutional proportions." Addressing the logic prong of the Supreme Court analysis, the court concluded that release of the juror's names would not serve the interests of justice any further than existing jury procedures. Id. at 749; but see In re Disclosure of Juror Names and Addresses, 592 N.W.2d at 808 (noting that the court in Gannett was "substantially influenced" by Gannett's prior violations of the court's confidentiality orders in a previous trial and criticizing the court for not adequately considering how media access to juror's names advances the policy of open judicial proceedings).

More recently, the Fifth Circuit in United States v. Brown, 250 F.3d 907, 921-22 (5th Cir. 2001) ("Brown II"),[5] upheld what the court characterized as the "outer limit of permissible restrictions," including the post-verdict denial of access to juror names and addresses unless voluntarily consented to by the juror, denial of access to juror questionnaires and certain restrictions on juror interviews. The case involved the highly publicized prosecutions of Louisiana's colorful ex-Governor and the state Insurance Commissioner on various counts, including conspiracy, mail and wire fraud charges. Id. at 910. The court upheld most of the trial court's restrictions to protect against "real threats to

[5] Two decisions involving Brown are referenced in this brief, and for clarity will be referred to sequentially by date of decision: United States v. Brown, 218 F.3d 415 (5th Cir. 2000) ("Brown I"), writ of mandamus denied, and United States v. Brown, 250 F.3d 907 (5th Cir. 2001) ("Brown II").

the administration of justice" shown by charges that the defendants had attempted to interfere with the judicial process by, among other things, engaging in witness tampering and shown by the media's prior violation of the court's anonymous jury order in a related trial of the ex-Governor. Id. at 907. Important to the court's determination was the fact that the media did not contest the propriety of the trial court's use of an anonymous jury, which the court held was supported by the record and "closely tied" to the issue of post-verdict access to the juror's names and addresses. Id. at 921.

In the earlier related case of United States v. Edwards, 823 F.2d 111, 120 (5th Cir. 1987), the court upheld redaction of the jurors' names from the transcripts of mid-trial *in camera* hearings conducted to investigate allegations of juror misconduct. In so doing, the court recognized that "the values of openness are significantly implicated in jury misconduct matters," but found that access to redacted transcripts of the proceedings sufficiently satisfied the "constitutional values of public scrutiny." Id. at 116, 118. The court also found the usefulness of releasing jurors' names "highly questionable" given that access to the transcripts would "reveal the substance and significance of the issues." Id. at 120; see also United States v. Gurney, 558 F.2d 1202 (5th Cir. 1977) (holding that no constitutional right of access attached to a jury list containing names, addresses and other information about the jury, which was not part of public record, even though names of jurors were revealed in open voir dire).

Importantly, neither the Brown II nor Edwards court held that there is no First Amendment right of access to juror identifying information and the Gurney court, which did make such a determination, was decided before Richmond Newspapers and its progeny.]

Thus, the majority of courts addressing the issue now before this Court already have concluded that a right of access to juror identifying information exists, and most have elevated the right to constitutional stature. This authority should compel the same conclusion here.

(2) Application of the Experience/Logic Test Supports a First Amendment Right of Access

As recognized by the Supreme Court, there is a long history and tradition of access to identifying information about jurors. That tradition dates back to at least the early 16th century, when cases in England were brought before local moots where "everyone knew everybody on the jury" and had no doubt about their place of residence. Baltimore Sun, 841 F.2d at 74-75; Richmond Newspapers, 448 U.S. at 565. Throughout the 19th century, the names and addresses of jurors in America were freely available to the public. Baltimore Sun, 841 F.2d at 75. As one commentator recognized:

> So common was the practice of disclosing the identity of jurors that in the conspiracy trial of Aaron Burr, over which Chief Justice Marshall presided, the names of the twelve chosen jurors were printed in the reported decision. The jurors' names were also made public in the highly publicized trials of William Penn in 1670 and of John Peter Zenger in 1735. Thus, there is a long-established tradition of allowing access to jurors' identities in criminal trial in the United States.

Steven D. Zansberg, The Public's Right of Access To Juror Information Loses More Ground, 17 WTR Comm. Law. 11, at 2 (2000) (internal footnotes omitted). While today "the anonymity of life in the cities" no doubt makes it unlikely that the public or even the media will know the identities of jurors, courts nevertheless have recognized that disclosure of the names and addresses of jurors is "no more than an application of what has always been the law…." Baltimore Sun, 841 F.2d at 75; Globe Newspaper III, 920 F.2d at 94.

Disclosure of the names and addresses of the jurors here is supported not only by the long tradition of access to this information but also by the benefits to be derived from access under the circumstances of this case. **[Explain how access in your case will achieve the benefits of access as set forth in Richmond Newspapers and Globe Newspaper III.]**

Similarly, recent examples illustrate how access can help uncover juror bias or misconduct through post-verdict interviews with jurors and how disclosure of this information can enhance the public's confidence in the criminal justice system. For example, following the 2001 federal court trial in New York of four men convicted of conspiring with Osama bin Laden in the bombing of two American Embassies in East Africa, The New York Times made contact with nine of the

jurors even though their names had been kept secret. The post-verdict interviews revealed that two jurors had violated the judge's directive by consulting with their pastors during jury deliberations, another juror had conducted legal research on the Internet, and some jurors who opposed the death penalty were accused by others of not deliberating in good faith on that issue. The jury deadlocked on the death penalty for the two defendants facing execution. See Benjamin Weiser, A Jury Torn and Fearful In 2001 Terrorism Trial, N.Y. Times, Jan. 5, 2003, §1 at 1. In other cases, access to juror information helped reveal that an African-American juror had refused to convict an African-American criminal defendant, regardless of the evidence, and that jurors had been exposed to prejudicial outside influences. See supra, 17-WTR Comm. Law. 11, at 3 (citing Daniel Klaidman, Racial Politics in the Jury Room, LEGAL TIMES, Apr. 23, 1990, at 1, and United States v. Posner, 644 F. Supp. 885, 886 n.2 (S.D. Fla. 1986), aff'd, 828 F.2d 773 (11th Cir. 1987), respectively).

Juror anonymity, on the other hand, can diminish public confidence in the criminal justice system by creating the appearance that secret justice is being meted out. For example, when an anonymous jury in California acquitted the police officers accused of beating Rodney King, the verdict sparked riots in the Los Angeles area and was dismissed by the public as the product of blatant racial bias. Access to juror information in that case may well have served the therapeutic values recognized by the Supreme Court in Richmond Newspapers by ensuring public confidence in the trial's results through, at the very least, the appearance of unbiased and fair justice. Id. at 3.

[Insert examples from your jurisdiction.]

Thus, in addition to the overwhelming weight of authority, application of the experience/logic test to the facts of this case independently mandates the conclusion that public access to juror identifying information should be allowed.

b. A Common Law Right of Access to Juror Identifying Information Also Exists

The common law independently establishes a right of access to jury identifying information. At the most basic level, the jurors' names and addresses, whether stated in open court and thereafter transcribed, contained in written questionnaires, or otherwise recorded by the

court or clerk, are a judicial record covered by the presumptive right of access to judicial documents. The right of access to judicial documents has been expressly recognized by the United States Supreme Court. See Nixon v. Warner Communications, Inc., 435 U.S. 589, 597-98 (1978) (recognizing common law right of access to "Nixon tapes" admitted in evidence at trial of former President's advisors); see also Antar, 38 F.3d at 1360-61 (holding common law right of access provided independent support for access to voir dire transcripts); Publicker Indus., Inc. v. Cohen, 733 F.2d 1059, 1066-67 (3d Cir. 1984) ("The existence of a common law right of access to … inspect judicial records is beyond dispute"); but see Indianapolis Newspapers, 837 F. Supp. 956 (characterizing juror name and address information as "collateral information" maintained for administrative purposes, but nevertheless granting access under statutory and constitutional principles). This right encompasses voir dire transcripts containing jury identifying information. Antar, 38 F.3d at 1350, 1360-61. It also has been a basis for compelling disclosure of juror names and addresses contained on the venire list. Baltimore Sun Co., 841 F.2d at 75 (describing venire list as containing names, addresses, occupations, marital status, spouse's names and spouse's occupation, which are compiled by the clerk from juror questionnaires and used by the parties in exercising their peremptory challenges). Thus, the common law right of access to judicial documents independently supports a right of access to the juror identifying information sought here.

c. Federal Statutory Law Further Supports a Right of Access to Juror Identifying Information

Federal statutory law, as implemented by **[insert district where action brought]**, also supports a presumption of public access to juror identifying information. Specifically, the Jury Selection and Service Act of 1968, 28 U.S.C. Section 1863(b)(7) (2001) and **[insert implementing statute from specific jurisdiction here; for example, the District of Massachusetts Plan for Random Selection of Jurors (the "Plan") Section 10(c), which implements that Act in the District of Massachusetts]** allow for disclosure of the names drawn from the qualified jury wheels [**once the jurors have been summoned and have appeared, or**

failed to appear in response to the summons, unless the "interest of justice" requires that the names remain confidential]. [Check timing of disclosure under specific District Court rules.]

In Globe Newspaper III, 920 F.2d at 97, the court held that [these regulations or similar regulations to those at issue here] had to be interpreted in a manner consistent with the constitutional right of access to judicial proceedings. See also Bay City Times, 143 F. Supp. 2d at 981 (applying Globe's statutory and constitutional principles to request for disclosure of juror names and communities of residence under similar jury selection plan); cf. Indianapolis Newspapers, Inc., 837 F. Supp. at 958 (disclosure of names and addresses of jurors ordered where one week had passed since jury returned verdict and jury had been discharged from current jury pool so no risk of prejudice to jury pool). Thus, under the "interest of justice" standard, courts can withhold juror identities "only upon a finding of exceptional circumstances peculiar to the case." Globe Newspaper III, 920 F.2d at 97. According to the court, such circumstances include "a credible threat of jury tampering, a risk of personal harm to individual jurors, and other evils affecting the administration of justice, but do not include the mere personal preferences or views of the judge or jurors." Id.

Since none of these circumstances exist here, a presumptive right of access to juror identifying information is established under 28 U.S.C. Section 1863(b)(7) and **[Section 10(c) of [the Plan]**. This right of access independently compels disclosure here.

2. This Court's Order Must Be Vacated Because It Does Not Meet the Substantive or Procedural Safeguards Required by the First Amendment Before Closure or Sealing Can Be Ordered

Once a right of access attaches, the United States Supreme Court has held that closure may not be ordered unless there are detailed, on-the-record findings showing: (1) that closure is necessary to further a compelling governmental interest; (2) the closure order is narrowly tailored to serve that interest; and (3) that no less restrictive means are available to adequately protect that interest. Press-Enterprise I, 464 U.S. at 510-11; Press-Enterprise II, 478 U.S. at 14 (noting that access may be restricted only if "findings are made demonstrating that … reasonable alternatives" do not exist); Globe Newspaper I, 457 U.S. at 606-607 (restrictions on access must be "necessitated by a compelling governmental interest"). Moreover, the burden of justifying closure

or restrictions on access under these strict standards is on the party advocating against access. Associated Press v. District Court, 705 F.2d 1143, 1145 (9th Cir. 1983) (party seeking closure must establish that the procedure is "strictly and inescapably necessary"); see also Brooklier, 685 F.2d at 1167.

[Add application of facts to law here, for example: None of the reasons proffered here for empanelling an anonymous jury and thereafter denying access to their names and addresses and to the names and addresses of the remaining venire persons not selected, meet these strict constitutional standards. Indeed, the only justification offered for maintaining anonymity is vague concerns about juror privacy. Such unfocused concerns do not rise to the level necessary to overcome the qualified First Amendment right of access here. See Press-Enterprise I, 464 U.S. at 511 (juror privacy rises to the level of a "compelling" interest only when "interrogation touches on deeply personal matters that [prospective juror] has legitimate reasons for keeping out of the public domain."); see also Globe Newspaper III, 920 F.2d at 94.]

Because the Court's order does not meet these strict substantive and procedural safeguards, it cannot stand.

3. The Drastic Measure of an Anonymous Jury Should Be Used Only In Rare Circumstances

Because the use of an anonymous jury implicates not only the public's First Amendment right of access but also the defendant's Sixth Amendment right to a fair trial, reviewing courts have affirmed the use of anonymous jurors only in the most atypical cases. Indeed, the use of anonymous juries is widely recognized to be "a drastic measure, one which should be undertaken only in limited and carefully delineated circumstances." United States v. Ross, 33 F.3d 1507, 1519 (11th Cir. 1994); see also United States v. Sanchez, 74 F.3d 562, 564 (5th Cir. 1996). Most courts concur that before empanelling an anonymous jury, there must be "strong reason to believe the jury needs protection." United States v. Mansoori, 304 F.3d 635 at 650 (7th Cir. 2002), quoting United States v. Crockett, 979 F.2d 1204, 1215, 1216-17 (7th Cir. 1992), quoting United States v. Paccione, 949 F.2d 1183, 1192 (2d Cir. 1991); United States v. Branch, 91 F.3d 699, 724 (5th Cir. 1996), rev'd sub nom on other grounds Castillo v. United States, 530 U.S. 120 (2000);

United States v. Edmond, 52 F.3d 1080, 1089 (D.C. Cir. 1995) (per curiam); Ross, 33 F.3d at 1520.[6] Factors bearing on the propriety of an anonymous jury include some combination of the following:

> (1) the defendants' involvement in organized crime; (2) the defendants' participation in a group with the capacity to harm jurors; (3) the defendants' past attempts to interfere with the judicial process or witnesses; (4) the potential that, if convicted, the defendants will suffer a lengthy incarceration and substantial monetary penalties; and, (5) extensive publicity that could enhance the possibility that jurors' names would be become public and expose them to intimidation and harassment.

Sanchez, 74 F.3d at 564 (quoting United States v. Krout, 66 F.3d 1420, 1427 (5th Cir. 1995)); Mansoori, 304 F.3d at 640-41 (same); Branch, 91 F.3d at 724 (same); United States v. Darden, 70 F.3d 1507, 1532-33 (8th Cir. 1995) (same); Edmond, 52 F.3d at 1090 (same); Ross, 33 F.3d at 1520 (same); Paccione, 949 F.2d at 1192 (same); Crockett, 979 F.2d at 1216 (same).

Of these factors, some courts have noted that "[a]n obstruction of justice charge, particularly one involving jury tampering, has always been a crucial factor in our decisions regarding anonymous juries." United States v. Vario, 943 F.2d 236, 240 (2d Cir. 1991); United States v. Gambino, 818 F. Supp. 536, 540 (E.D.N.Y. 1993); but see Edmond, 52 F.3d at 1091 ("[w]hile we recognize that a defendant's history of jury tampering has played a critical role in some appellate court decisions upholding the use of anonymous juries, … we do not believe such evidence is necessary in every case") (internal citations omitted)); Branch, 91 F.3d at 724. For example, the court in Vario concluded that a district court "must make a determination that this connection [with a crime family] has some direct relevance to the question of juror fears or safety in the trial at hand, beyond the innuendo that this connection conjures up." Id. at 241; see also Mansoori, 304 F.3d at 651 ("[w]hat demonstrates the need for jury protection is not simply the means of intimidation, but some evidence indicating that intimidation is likely"); Darden, 70 F.3d at 1532-33; Ross, 33 F.3d at 1520-21; Vario, 943 F.2d at 240-241.

[6] Additionally, the court must take "reasonable precautions to minimize any prejudicial effects on the defendant and to ensure that his fundamental rights are protected." Paccione, 949 F.2d at 1192; see also Ross, 33 F.3d at 1520.

Of the eight circuits that have approved the use of anonymous juries, most involved large scale organized crime where violence and intimidation towards witnesses or jurors was likely. See, e.g., **First Circuit Court of Appeals**: United States v. Marrero-Ortiz, 160 F.3d 768, 776 (1st Cir. 1998) (indictments charged defendant and coconspirators with membership in drug ring that often resorted to violence, brawl erupted during arraignment following return of indictment, and government proffered evidence that drug ring was plotting to murder federal agents and local police to improve odds at trial); United States v. DeLuca, 137 F.3d 24, 31-32 (1st Cir. 1998) (defendants linked to organized crime, history of involvement in violent crimes, and evidence of witness tampering and suborning perjury in instant case). **Second Circuit Court of Appeals**: United States v. Aulicino, 44 F.3d 1102, 1116 (2d Cir. 1995) (evidence of witness tampering, bribery and threats of violence against witnesses along with witness tampering in prior case); United States v. Amuso, 21 F.3d 1251, 1264-65 (2d Cir. 1994) (indictment alleged that defendant was responsible for crimes of extreme violence including murders of government witnesses); United States v. Wong, 40 F.3d 1347, 1376-1377 (2d Cir. 1994) (violent criminal syndicate with extensive history of interfering with judicial process, a "policy of killing witnesses" and "means to harm jurors"); Vario, 943 F.2d 236 (demonstrated willingness of Mafia conspirators to tamper with judicial process); Paccione, 949 F.2d at 1192-93 (history of violence, potential retaliation and evidence of jury tampering, including middle-of-the-night anonymous telephone call to witness saying that he would be safe so long as he "remembered nothing."); United States v. Tutino, 883 F.2d 1125, 1132-33 (2d Cir. 1989) (where at least three jurors in prior matter had been approached to acquit the same defendant and where the lead defendants personally had been involved in the jury tampering); United States v. Persico, 832 F.2d 705, 717 (2d Cir. 1987) (violent acts alleged as part of normal Colombo Family business and family willingness to corrupt and obstruct the criminal justice system); United States v. Barnes, 604 F.2d 121, 141 (2d Cir. 1979) (multi-defendants in large scale narcotics case where "allegations of dangerous and unscrupulous conduct abounded"). **Third Circuit Court of Appeals**: United States v. Thomas, 757 F.2d 1359, 1364 (3d Cir. 1985) (defendants were "alleged to be very dangerous individuals engaged in large-scale organized crime who had participated in several 'mob-style' killings" and had been accused of

"attempts to interfere with the judicial process by murdering government witnesses"); United States v. Scarfo, 850 F.2d 1015, 1023 (3d Cir. 1988) (anonymous jury justified where "[j]uror's fears of retaliation from criminal defendants are not hypothetical; such apprehension has been documented"); United States v. Eufrasio, 935 F.2d 553 (3d Cir. 1991) (juror apprehensions for own safety stemming from prior organized crime prosecutions in Scarfo case justified unanimous jury). **Fifth Circuit Court of Appeals**: Branch, 91 F.3d 699 (Branch Davidian trial); United States v. Krout, 66 F.3d 1420 (5th Cir. 1995) (defendants were members of Texas Mexican Mafia, whose tenant was to interfere with and even murder prospective witnesses); United States v. Riggio, 70 F.3d 336 (5th Cir. 1995) (defendant had organized crime connections and previous instance of jury fraud). **Seventh Circuit Court of Appeals**: Crockett, 979 F.2d at 1216 (evidence indicated that one potential witness had been murdered and that attempts had been made to influence or intimidate other witnesses); United States v. DiDomenico, 78 F.3d 294, 301-02 (7th Cir. 1996) (defendants were connected to organized crime syndicate that had history of bribery and intimidation). **Eighth Circuit Court of Appeals**: Darden, 70 F.3d 1507 (powerful cocaine and heroin distribution ring). **Eleventh Circuit Court of Appeals**: Ross, 33 F.3d 1507 (major international drug organizations which had ordered death of potential witness). **District of Columbia Circuit**: Edmond, 52 F.3d at 1091-92 (defendants in narcotics conspiracy prosecution also was charged with murder, other defendants were implicated in that murder and there was some evidence of planned and attempted witness intimidation); United States v. Childress, 58 F.3d 693 (D.C. Cir. 1995) (large-scale cocaine distribution ring); cf. Mansoori, 304 F.3d at 651 (evidence that defendants had the ability and incentive to threaten jurors without additional evidence that they were likely to act on ability and incentive was not enough to justify anonymous jury but error was harmless).[7]

[7] The Ninth Circuit was presented with a juror anonymity issue in Unabom Trial Media Coalition v. U.S. District Court, 183 F.3d 949, 952-53 (9th Cir. 1999), but concluded that the issue was moot. Earlier cases in that circuit, while not confronted with a true anonymous jury – one in which the names and addresses of the jurors are withheld from the parties and the public – have upheld the withholding of the exact residential addresses of jurors from criminal defendants. Johnson v. United States, 270 F.2d 721, 724 (9th Cir. 1959); Hamer v. United States, 259 F.2d 274, 276-80 (9th Cir. 1958); Wagner v. United States, 264 F.2d 524, 527 (9th Cir. 1959).

Since none of the concerns that justify use of an anonymous jury is present in this case, this Court should vacate its order regarding use of an anonymous jury and instead grant access to the juror identifying information sought here.

C. The First Amendment And Common Law Mandate Access To The Complete Jury Questionnaires

The United States Supreme Court has left no doubt that the public and press have a qualified First Amendment right of access to voir dire proceedings. Press-Enterprise I, 464 U.S. at 510-11. While the Supreme Court has yet to address the right of access to juror questionnaires, which contain information about jurors and are used by the parties during voir dire, other courts unequivocally have held that a First Amendment right of access attaches. For example, in Beacon Journal, 781 N.E.2d at 187-88, the Ohio Supreme Court directly confronted the issue of whether juror questionnaires are part of the voir dire process itself such that the qualified right of access set out in Press-Enterprise I, 464 U.S. at 505, applies. Because voir dire examination of prospective jurors is presumptively open under Press-Enterprise I, and juror questionnaires are used "merely to expedite the examination of prospective jurors," the court held that "it follows that such questionnaires are part of the voir dire process." Beacon Journal, 781 N.E.2d at 188. The court reasoned, "The fact that a lawyer elicits juror responses from written questions rather than oral questions has no bearing on whether the responses are considered in accepting or rejecting a juror." Id.; see also United States v. McDade, 929 F. Supp. 815, 817 n.4 (E.D. Pa. 1996) (recognizing First Amendment right of access to voir dire extends to both oral and written questioning of prospective jurors).

Other courts likewise have concluded a right of access to juror questionnaires exists. Indeed, in Lesher Communications, 224 Cal. App. 3d at 778, the court stated emphatically that "the public access mandate of Press-Enterprise[I] applies to voir dire questionnaires as well as to oral questioning." The court recognized that public access to juror questionnaires is crucial. "The questionnaire is a part of the voir dire itself," the court explained. "The fact that a lawyer does not orally question a juror about a certain answer does not mean that the answer was not considered in accepting or rejecting the juror." Id. at 778; see also Copley Press, 228 Cal. App. 3d at 87-88 (recognizing right of access applies to questionnaires completed by prospective jurors who are

called to the jury box for oral questioning); but see Baltimore Sun Co., 841 F.2d at 75 (information other than names and addresses on the venire list compiled by clerk from completed questionnaires and used by the parties in exercising their peremptory challenges held protected from disclosure by 28 U.S.C. Section 1867(f), which protects the "contents of records or papers used by … the clerk in connection with the jury selection process.").

Additionally, as judicial records, a common law right of access attaches to juror questionnaires. See Nixon, 435 U.S. at 597-98; see also Antar, 38 F.3d at 1360-61; Publicker Indus., Inc., 733 F.2d at 1066-67, discussed above. This right independently supports access to the juror questionnaires sought here.

Applying the rigorous three part test for closure here, it is clear that no good reason, let alone a compelling one, justifies not releasing the questionnaires. **[Additional arguments depending on what interest is asserted, e.g. privacy: The Supreme Court has stated that juror privacy rises to the level of a "compelling" interest only when "interrogation touches on deeply personal matters that [prospective juror] has legitimate reasons for keeping out of the public domain." Press-Enterprise I, 464 U.S. at 511. This is not the type of case likely to touch upon deeply personal matters.]**

Because both the First Amendment and common law support a right of access to the juror questionnaires and because no compelling interest exists to keep these judicial records from public disclosure, the Court should vacate its closure order and enter a new one granting access to these judicial records.

D. The Court's Order Precluding The Press From Contacting Jurors Post-Verdict Is Unconstitutional

The Court's order restricting post-verdict contact between jurors and the press directly restricts the First Amendment rights of jurors and is unconstitutional. It also indirectly restricts the rights of the public and press, as their ability to obtain information is stifled.[8] Because this gag

[8] The First Amendment protection held by the media is extended not just to the reporting of news, but to the gathering of news as well. See Food Lion Inc. v. Capital Cities/ABC, Inc., 194 F.3d 505, 520 (4th Cir. 1999); see also CBS Inc. v. Young, 522 F.2d 234, 239 (6th Cir. 1975) ("Although the news media are not directly enjoined from discussing the case, it is apparent that significant and meaningful sources of information concerning the case are effectively removed from them and their representatives. To that extent their protected right to obtain information

order affects the rights of the public and the press, the media has standing to challenge the validity of the gag order.

Courts have consistently held that any government action restricting the "press news-gathering rights must be necessitated 'by [1] a compelling governmental interest, and [2] narrowly tailored to serve that interest.'" See, e.g., In re Express-News Corp., 695 F.2d 807, 808-09 (5th Cir. 1982) (quoting Globe Newspaper I, 457 U.S. 596 (1982) (emphasis added)). In this case, the Court has made no finding of a compelling governmental interest and has not narrowly tailored its restrictive order to serve any such interest.[9]

1. The Interests Served by the No-Contact Order are Outweighed by First Amendment Rights of the Jurors and the Press

The First Amendment provides the press not only with rights in the publication of fact and opinion, but also in the actual gathering of information for dissemination to the public. See Branzburg v. Hayes, 408 U.S. 665, 681 (1972) (stating "without some protection for seeking out the news, freedom of the press could be eviscerated"); Richmond Newspapers, 448 U.S. at 580 (quoting Branzburg and holding that without the freedom to attend criminal trials important aspects of freedom of speech and 'of the press could be eviscerated.'); CBS Inc., 522 F.2d at 239; Food Lion Inc., 194 F.3d at 520. Throughout the last two decades, the United States Supreme Court has opened the doors to the courtroom for the media even further. See Press-Enterprise I, 464 U.S. at 505-08 (holding media has First Amendment right of access to voir dire examination of potential jurors); Press-Enterprise II, 478 U.S. at 15 (upholding media's rights includes right to obtain information from a preliminary hearing transcript).

This court's gag order cannot be justified by the accused's right of a fair trial. In highly sensational cases, some courts have imposed gag orders early in the trial process to prevent pre-verdict statements made to the press from reaching the jury that might taint their view of the case.[10] See, e.g., United States v. Brown, 218 F.3d 415 (5th Cir. 2000) ("Brown I"). Gag orders

concerning the trial is curtailed and impaired.").

[9] The government carries the burden of demonstrating a need for a restraint on First Amendment rights. See Express-News Corp., 695 F.2d 807, 810 (5th Cir. 1982); United States v. Sherman, 581 F.2d 1358, 1361 (9th Cir. 1978).

[10] In cases attracting public attention, "[t]here is tension between the media's First

applying to post-verdict statements, however, do not implicate such concerns about the accused's right to an impartial jury. Logically, a no-contact order such as in this case is not issued to prevent tainting of the jury pool, because the accused has already stood in front of an impartial jury.

As justification for an order restricting post-verdict contacts, some courts have reasoned that the media's First Amendment rights are overcome by the jurors' right to privacy and protection against undue harassment. See, e.g., Brown II, 250 F.3d at 918; United States v. Harrelson, 713 F.2d 1114, 1118 (5th Cir. 1983). In Brown II, prosecutors alleged that several high profile defendants, including a former governor of Louisiana, had attempted to interfere in the judicial process by "witness tampering, attempting to bribe a judge, attempting to illegally terminate a federal investigation and influencing a court-appointed special master." Brown II, 250 F.3d at 911. Harrelson similarly involved the murder of a U.S. District Judge. But no-contact orders usually are limited to cases that involve crimes aimed towards the governmental process or parties that evoke a high probability of jury harassment, neither of which is a threat in this case.

Because this Court has made no finding of a compelling governmental interest, the restrictive order imposed here does not pass the test for constitutionality.

2. The No-Contact Order Is Not Narrowly Tailored to Serve a Compelling Interest

In reviewing a broadly constructed, post-verdict no-contact order, the reviewing court must determine whether a less-restrictive alternative could effectively protect the rights of the accused and members of the jury. The media's right to gather news only can be restricted, if at all, by a *narrowly tailored* court rule preventing a substantive threat to the administration of justice. Express-News Corp., 695 F.2d at 810. When weighing the validity of such a restraint, a court must make specific findings that alternative, less pervasive, means are inadequate to protect the rights of the accused. Nebraska Press Ass'n, 427 U.S. 539. Since the District Court did not properly consider the numerous alternatives to this no-contact order that are less restrictive of the rights of the press guaranteed by the First Amendment, this Order should be found invalid.

Amendment right to publish and an accused person's Sixth Amendment right to a fair trial before an impartial jury." In re Application of Dow Jones & Co., Inc., 842 F.2d 603, 609 (2d Cir. 1988). See also Nebraska Press Ass'n v. Stuart, 427 U.S. 539 (1976); Brown II, 250 F.3d 907.

Courts consistently have rejected the argument that all post-verdict contact between the media and members of the jury may be banned. See, e.g., Sherman, 581 F.2d 1358; CBS Inc., 522 F.2d at 241 (holding that no-contact orders encompassing everyone involved in a trial constitute a prior restraint, are "presumptively void and may be upheld only on the basis of a clear showing that an exercise of First Amendment rights will interfere with the rights of the parties to a fair trial"). "That unrestrained post-verdict inquiry into every juror's vote and every jury's deliberations in every trial might be harmful cannot validate a categorical denial of all access." Express-News Corp., 695 F.2d at 811.

Some less restrictive no-contact orders have been deemed "narrowly tailored" by appellate courts. In Harrelson, for example, several defendants were accused of murdering a U.S. District Judge and a significant amount of public interest arose regarding the case. Harrelson, 713 F.2d at 1115. The court entered a post-verdict order barring juror interviews that was limited in scope to (a) *repeated* requests for interviews and (b) inquiries into the specific votes of *other* jurors. Id. at 1116. This order was found to be narrowly tailored by the Fifth Circuit. Id. at 1118.

In upholding the restriction, the Fifth Circuit emphasized the fact that the narrowly tailored order allowed the media to contact each juror at least once, and only prevented repeated harassment of jurors who wished to maintain their privacy. Id. It also upheld the portion of the order banning inquiries into the specific votes of *other* jurors, stating that because the media has no "right of access to matters not available to the public at large," an order may apply to post-verdict interviews regarding the deliberations and voting of other members of the jury without overly offending the freedom of the press guaranteed by the First Amendment. Id.; see also United States v. Cleveland, 128 F.3d 267, 269 (5th Cir. 1997) (holding that restrictions were narrowly tailored where they were limited to interviews with jurors regarding the jury deliberations, not jurors' general reactions and impressions). This arrangement was found to properly balance the freedom of press with the privacy rights of jurors. No similar balancing of interests was conducted here; instead, the Court entered a blanket ban on post-verdict contacts with the jurors.

Because such a sweeping order is neither necessary to meet a compelling governmental interest nor narrowly tailored to serve such an interest, it must be vacated.

IV. CONCLUSION

The Court's orders in this action unconstitutionally restrict the media from gaining vital information about the judicial process generally and the administration of justice in this particular action. Because these orders were entered without regard to the constitutional, common law and statutory rights of the press and without specific findings of fact justifying the need for such orders, they must now be set aside.

DATED: **[ ]**

Respectfully Submitted,

By: _____
[name]

Attorneys for **[party]**

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