TO JAMES P. SPEARS, CONSERVATOR OF THE ESTATE OF BRITNEY SPEARS, AND TO OTHER INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on Friday, August 6, 2021 at 10:00 A.M., or as soon thereafter as the matter can be heard in Dept. 4 of the above-entitled court located at Stanley Mosk Courthouse 111 N. Hill Street, Los Angeles, CA, 90012, Conservatee Britney Jean Spears ("Ms. Spears"), will and hereby does apply to the Court, on an *ex parte* basis, for an Order Advancing the September 29 Hearing Date on Conservatee's Petition to Remove James Spears as Conservator of the Estate and Petition to Appoint Jason Rubin as Conservator of the Estate. In the alternative, Conservatee moves for the immediate suspension of James P. Spears as Conservator and the appointment of Jason Rubin as Temporary Conservator pending the hearing presently set for September 29, 2021.

This *ex parte* application is supported by good cause and is based on the accompanying Memorandum of Points and Authorities; the June 23 and July 14, 2021 testimony of Britney Spears; the subject Petitions and Supporting Declarations of Jodi Montgomery and Lynne Spears filed on July 26, 2021; the Declaration of Mathew S. Rosengart; and the Verified Joinder of Conservator of the Person Jodi Montgomery filed on July 27, 2021 (collectively, the "Petition").

Pursuant to Rule of Court 3.1200, *et seq.* timely notice of the date, time, place, and nature of this Application has been provided. The contact information for counsel of record is listed in the accompanying proof of service.

Dated: August 4, 2021 Respectfully submitted,

GREENBERG TRAURIG, LLP

By: <u>/s Mathew S. Rosengart</u>
Mathew S. Rosengart

Attorneys for Conservatee Britney Jean Spears

PETITION TO REMOVE JAMES P. SPEARS AS CONSERVATOR OF THE ESTATE

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This Application seeks uncontroversial relief, which is in the best interests of Ms. Spears and should be supported by Conservator of the Estate James P. Spears—namely, an order advancing the hearing date on Ms. Spears's Petition to Remove James Spears as Conservator of the Estate and to Appoint Jason Rubin as successor (presently set for September 29, 2021) to the earliest date this Court's calendar will permit on or after August 23, 2021. There can be no actual prejudice to Mr. Spears from the requested relief because, by statute, these petitions may be heard within 15 days. (See Probate Code, §§ 1460, 2562.) Thus, Mr. Spears still will have the full notice period to which he is entitled under the Code.

Conversely, every day that passes is another day of avoidable harm and prejudice to Ms. Spears and the Estate. As described in the Verified July 26 Petitions and filings under Probate Code Section 2650(j), Ms. Spears's emotional health and well-being must be, and are, the paramount concern. Further, all interested parties forcefully agree that Mr. Spears's continued presence as Conservator of the Estate is contrary to Ms. Spears's best interests, health, and well-being, and that his prompt removal—or, at the very least, his immediate suspension—is "*critical*" at this juncture. (See, e.g., July 22, 2021 Declaration of Jodi Montgomery ¶ 8) (underlined emphasis in original).

In short, for a variety of legitimate, compelling reasons in the conservatee's best interests, the time has come for Mr. Spears's reign to end. *This* Application, however, simply asks that the pending hearing be advanced to the earliest date under the Code and that this Court's calendar will permit so that:

(i) if Mr. Spears chooses to put his daughter's well-being first and accept an outcome that does not even ask him to admit to fault, Ms. Spears can begin to have a semblance of her "life back" or (ii) if Mr. Spears chooses to put his own self-interest first by opposing his ultimate removal (thereby putting himself at risk for attorneys' fees), this Court can take that fact into account in determining whether to suspend Mr. Spears pending the outcome of that litigation. Indeed, there already is substantial record evidence warranting Mr. Spears's suspension *now*, and should he seek to promote delay by opposing this Application, any such opposition would speak volumes.

II. GOOD CAUSE EXISTS FOR THE GRANTING OF THIS APPLICATION

On June 23 and July 14, 2021, Ms. Spears poignantly described the often-nightmarish circumstances of her *13-year* conservatorship, which has been dominated from its inception by her father James P. Spears. Among other things, Ms. Spears described the trauma and abuse she endured under the control of her father and those beholden to him—several of whom are being enriched *from monies earned by Ms. Spears*, without her actual consent. Ms. Spears also explained that she had been traumatized, felt like "I was dead," and like "I didn't matter."

Less than two weeks after this firm's July 14 initial appearance and as a first step, Ms. Spears petitioned this Court for her father's removal, nominating a highly-regarded licensed fiduciary as successor. The July 26 Petition did not require that Mr. Spears admit, or require the Court to find, that Mr. Spears has acted wrongfully, even though there is ample cause to believe he has. Instead, the Petition invoked and is based solely on a specific provision of the Probate Code, Section 2650(j), which vests the Court with broad discretion to order removal, if removal "is in the best interests" of the conservatee.

The Petition contains overwhelming evidence warranting Mr. Spears's prompt removal under Section 2650(j)'s "best interests" test, including Ms. Spears's own compelling June 23 and July 14 testimony. The evidence also includes the testimony of Interested Party Jodi Montgomery, who stated under oath in her Declaration that "Mr. Spears's removal as Conservator is critical to [Britney Spears's] emotional health and well-being and in the best interests of the conservatee" (Petition at ¶ 12) (underlined emphasis in original). ¹ Ms. Montgomery also filed a Verified Joinder to the Petition on July 27, 2021, which provides the following:

• Ms. Montgomery has concluded that Jamie Spears ("Mr. Spears") should not continue to act as the Conservatee's Conservator of the Estate, because his doing so is not in the best interest of the Conservatee. Because the paramount concern for this Conservatorship is doing what is in the best interest of the Conservatee, Petitioner hereby joins Conservatee in the Removal Petition. Petitioner seeks from this Court the same relief prayed by Ms. Spears in the Removal Petition. (Joinder at ¶ 2.)

¹ Unless otherwise indicated, all emphases have been added.

- Ms. Montgomery also joins in the nomination of Jason Rubin ("Mr. Rubin") as Conservator of the Estate, who she recognizes and agrees is eminently qualified and who she believes understands his duties and obligations to act in the best interests of the Conservatee; therefore, she also joins in the Appointment Petition, seeking to appoint Mr. Rubin as Conservator of the Estate in place and stead of Mr. Spears, and seeks from this Court the same relief prayed by Ms. Spears in the Appointment Petition. (*Id.* at ¶ 3.)
- In further support of the Removal Petition and Appointment Petition, and in her role as Conservator of the Person of Ms. Spears, Ms. Montgomery respectfully notes that Ms. Spears's medical team agrees that it is not in the best interest of the Conservatee for Mr. Spears to be and remain Conservator of the Estate. (*Id.* at ¶ 4.)
- Ms. Spears has also informed Ms. Montgomery that it is her wish for Mr. Spears to be removed [and] Ms. Montgomery believes in good faith that Ms. Spears's best interests are served by granting the Removal Petition and removing Mr. Spears and replacing him as Conservator of the Estate with Mr. Rubin as requested in the Appointment Petition. (See Prob. Code, § 2650, subd. (j)) (*Id.* at ¶¶ 5-6.)

Similarly, Interested Party Lynne Spears declared that "It is clear to me that James P. Spears is incapable of putting my daughter's interests ahead of his own on both a professional and a personal level and that his being and remaining a conservator of my daughter's estate is not in the best interests of my daughter, the conservatee." (Lynne Spears Decl. at ¶ 13.)

Finally, and importantly, as referenced in the Petition and above, Ms. Spears's medical team is also in agreement: *Mr. Spears's removal is necessary*. During the July 14 Hearing, Ms. Montgomery's counsel stated that it has been the "strong recommendation by the medical team, that Mr. Spears, her father, needs to be off of the conservatorship." (July 14, 2021 Hearing Transcript at p. 47.) Ms. Montgomery herself confirmed, based upon personal knowledge, that "I have had numerous, ongoing conversations with the medical team and we all agree that it would be best for Ms. Spears' well being and mental health that her father stop acting as her Conservator." (Montgomery Decl. ¶7.)

Based upon this evidence alone, we respectfully submit, Mr. Spears's immediate suspension and removal should be inexorable. Indeed, as we have previously stated, if Mr. Spears truly had the best

interests of his daughter in mind, consistent with his obligation as a fiduciary to elevate her interests above his own, he would resign, *today*. If he fails to do so and instead chooses to contest the pending Petition, he is on notice that in addition to acting adversely to his daughter's best interests, he also may well be liable for attorneys' fees. (See, e.g., *Conservatorship of Lefkowitz* (1996) 50 Cal.App.4th 1310, 1316-1317.)

In short, although a two-month wait for a hearing on the Petition may not seem significant in the context of 13 years, Ms. Spears should not be forced to continue feel traumatized, lose sleep, and suffer further. Every day matters.

Under the circumstances—including Ms. Spears's own testimony—there is a compelling need for this Court to grant this Application and hear and rule on the pending Petition to Remove the Conservator of the Estate promptly after the California Probate Code Section 2652 15-day notice period has elapsed or to suspend Mr. Spears in the interim.

A. An Order Advancing the Hearing Date on the Pending Petitions Is Necessary to Protect the Best Interests of the Conservatee

Good cause exists to grant this Application because Ms. Spears continues to suffer ongoing harm each day that Mr. Spears remains in place as the Conservator of the Estate—emotionally, psychologically, and financially.

First, as evidenced in (i) Ms. Spears's Petition, (ii) Ms. Spears's testimony in open court on June 23, 2021 and again on July 14, 2021, (iii) Jodi Montgomery's Declaration in Support of Petition for Removal of Conservator, (iv) Jodi Montgomery's Verified Joinder, and (v) Lynne Spears's Declaration in Support of Removal of Jamie Spears as Conservator of the Estate, Mr. Spears's presence as Conservator is causing continued emotional and psychological distress. This continuing anguish can be mitigated now in one of two ways—by Mr. Spears's prompt suspension or by a prompt hearing on the Petition so Ms. Spears may begin the process of healing and working toward a care plan that will adequately address these issues and allow her to return to her career should she wish to do so, while also allowing her to seek other relief.

Second, Ms. Spears has indicated, as her prior counsel stated, that she will not work until this issue is resolved, which will cause the Estate to suffer additional loss of income. The hiatus caused by

abuse, trauma, and Ms. Spears's fear of her father potentially deprives the estate of millions of dollars annually and further impacts her well-being insofar as she is unable to pursue her career and life's passion without feeling suffocated by her father's oppressive oversight and micromanagement. As Lynne Spears's July 22, 2021 Declaration provides, the arrangement created by Mr. Spears has been "exhausting and terrifying, like living in custody." (Lynne Spears Declaration ¶ 10.) Innumerable other examples are in the record and they continue to grow.

Finally, there has been an evident dissipation of assets of Ms. Spears's estate, and that dissipation is ongoing. As referenced in the Petition, Mr. Spears has paid multiple teams of expensive attorneys to represent him and the conservatorship, contrary to the wishes of Ms. Spears. Mr. Spears's litigation counsel (Holland & Knight), alone seeks compensation—from Ms. Spears—of \$1,356,293 in attorney's fees from October 17, 2020 to June 30, 2021, including a shocking and inexplicable \$541,065.50 for "Media Matters." (Petition at ¶ 4.)² Mr. Spears has also enriched himself at the expense of his daughter, reaping millions of dollars from her services as a performer, in addition to paying himself \$16,000 per month from Ms. Spears's Estate, \$2,000 more than he has allotted to Ms. Spears, plus \$2,000 per month for office expenses.

These spendthrift ways are particularly problematic when contrasted with the stringent, "absolutely microscopic control" Mr. Spears has exerted over his daughter, evidently since her childhood and continuing through today. (Lynne Spears Declaration ¶ 9.) Most recently, and by way of one illustration only, Mr. Spears objected to his daughter's wish in late July to take a short vacation, disapproving of the expenditure that would have come from his daughter's own, hard-earned money. Although Mr. Spears and his team ultimately relented, the mere objection to his adult daughter taking a brief, well-earned vacation at this point in her life, while other funds are lavishly expended, underscores why suspension, and ultimately removal, should not wait.

Further, and again by way of illustration only, although a full recitation of facts discovered thus far (in just two-three weeks) is beyond the scope of this Application, whether out of misfeasance or something far worse, Mr. Spears appears to have, at the least, grossly overpaid Ms. Spears's former

² Upon information and belief some of these services have included, or at least now include, leaking misleading information to the press about Conservator of the Person Jodi Montgomery.

business manager Tri Star Sports & Entertainment ("Tri Star"), allowing it to extract exorbitant sums of money from the Estate (without Ms. Spears's actual consent).

For example, in December 2019, Mr. Spears inexplicably approved a payment to Tri Star in excess of \$300,000 *above* the approximate \$200,000 that was supposedly payable to Tri Star at the time. This \$300,000 payment was not due to any extra duties or work performed by Tri-Star. To the contrary, for whatever reason, Mr. Spears complied with Tri Star's request for a \$500,000 payment from the Estate as a "floor." More problematically, this payment was sought (and paid) despite Ms. Spears's indefinite early-2019 *hiatus*. That is, rather than negotiating a new, *less lucrative* agreement as a result of Ms. Spears's hiatus, or moving Ms. Spears's business management elsewhere, Mr. Spears allowed Tri Star to siphon more than twice Ms. Spears's annual allowance out of her Estate, while Ms. Spears was on hiatus. When cast even in the most benign light, this decision prioritized Tri Star's interests (and those of its principals) over Ms. Spears's interests, in contravention of Mr. Spears's fiduciary obligations and responsibility as conservator to elevate Ms. Spears's best interests over his own or those of others in his circle. An investigation is warranted but can only commence fully once Mr. Spears is removed.

A conservatorship should be a last resort, designed to benefit the conservatee rather than a mechanism designed to serve as a tool for the enrichment of third parties.³ Although a proper conservatorship exists to protect a conservatee from undue influence, it is apparent that this conservatorship has allowed would-be influencers to take control of the Estate and exploit Ms. Spears, often for their own benefit. The suspension and ultimate removal of Mr. Spears will be the first step towards rectifying that abuse.

³ Tri Star and its principal Lou Taylor have been accused by third parties of attempting to utilize conservatorships to their business advantage. (See Ronan Farrow and Jia Tolentino, "Britney Spears's Conservatorship Nightmare, *The New Yorker*, Jul. 3, 2021, last accessed Aug. 1, 2021. (https://www.newyorker.com/news/american-chronicles/britney-spears-conservatorship-nightmare)). Although these allegations have been denied by Tri Star and further investigation is warranted before conclusions are reached, the exploitation of Ms. Spears and the presumption that the Britney Spears "brand" is what needs protection is more than troubling. It also flies in the face of the legislative and judicial intent of the Probate Code: to serve the Conservatee's best interests.

B. If the Court Cannot Grant This Application Due to Calendar Constraints, The Court Should Nevertheless Suspend Mr. Spears's Powers Immediately Because Further Delay in His Removal Would Not Be in The Best Interests of the Conservatee and Will Cause Further Injury To The Conservatee and To The Estate

The Court has the discretion to suspend a conservator's powers pending a noticed hearing when doing so is necessary to prevent the conservatee or the estate from suffering loss or injury during the time required for notice and hearing. (Prob. Code § 2654.) The Probate Code provision for suspension pending hearing serves the same purpose as the procedure to shorten time for a hearing—to prevent ongoing harm due to procedural delay. The harms alleged above in support of advancing the hearing date also support the Court's exercise of discretion to suspend Mr. Spears as Conservator of the Estate. In order to prevent disruption to the operations of Ms. Spears's estate pending hearing, the Court may further protect the interests of the conservatee by appointing a temporary conservator during this period of suspension. (Prob. Code § 2250(i) ["If the court suspends powers of the guardian or conservator under Section 2334 or 2654 or under any other provision of this division, the court may appoint a temporary guardian or conservator to exercise those powers until the powers are restored to the guardian or conservator or a new guardian or conservator is appointed"].)

For the same reasons outlined above, we respectfully submit that the ongoing loss and injury to Ms. Spears and her Estate are more than sufficient for the Court to order Mr. Spears's suspension now, regardless of when the hearing on removal occurs. Further, Ms. Spears has already identified an eminently-qualified conservator and nominated him to replace Mr. Spears as Conservator of the Estate, and he is ready and willing to begin his duties with the sole focus of acting in the best interests of Ms. Spears consistent with a conservator's fiduciary duties. In sum, although advancing the hearing date is important, as between suspension and an order advancing the hearing date, immediate suspension would be the most effective interim remedy, in the best interests of Ms. Spears.

III. <u>CONCLUSION</u>

Given the ongoing harm endured each day that Mr. Spears remains in place, it is in the best interests of Ms. Spears and also in the interests of justice to grant this *Ex Parte* Application.

DECLARATION OF MATHEW S. ROSENGART

I, MATHEW S. ROSENGART, declare as follows:

- 1. I am an attorney licensed to practice in the State of California and a shareholder with the law firm of Greenberg Traurig, LLP, attorneys for Conservatee Britney Jean Spears ("Ms. Spears"). I respectfully submit this Declaration in support of Ms. Spears's *Ex Parte* Application.
- 2. Unless expressly otherwise stated, I have personal knowledge of the matters stated herein and could competently testify thereto in a court of law.
- 3. On August 5, 2021, prior to 10:00 a.m., my office will have transmitted by email to counsel of record notice of the date, time, place, and nature of this *ex parte* application and also explaining the relief sought by this Application. The notice will have gone to Vivian Thoreen, Jonathan Park, Geraldyne Wyle, and Jeryll Cohen (counsel for James P. Spears), Yasha Bronshteyn, Gladstone N. Jones, III, and Lynn E. Swanson (counsel for Lynne Spears), and Lauriann Wright and Marie Mondia (counsel for Jodi Montgomery, Conservator of the Person).
- 4. On July 26, 2021, my office filed the Petition for Removal and all concurrently filed documents (the "Petitions").
- 5. The Petitions were initially set to be heard in mid-December and were then advanced to September 29, 2021.
- 6. As detailed in the Verified July 26, 2021 Petition and the Declaration attached to that Petition from Conservator of the Person Jodi Montgomery, putting aside investigative and other issues that must be addressed in the longer term, Ms. Spears is suffering ongoing distress due to the continued presence of Mr. Spears as Conservator of the Estate, and his suspension and ultimate removal are essential at this time to Ms. Spears's well-being.
- 7. The testimony of Ms. Spears and the above-referenced evidence speak for themselves. By way of one additional, brief illustration concerning Mr. Spears, Ms. Spears wanted to take a short vacation to Maui, in late July. Given Mr. Spears's present position, his consent was sought by Ms. Spears's team. Rather than promptly approving his 39-year old daughter's right to take a well-earned vacation (supported by her own hard-earned money), Mr. Spears or his representative opposed the trip as

unnecessary, even as Mr. Spears was paying himself from her Estate. Although this firm ultimately obtained approval for the trip, this dispute caused understandable anguish to Ms. Spears (a functioning adult who has earned tens of millions of dollars in only the past few years and has substantial future earning power as well, should she choose to exercise that power).

- 8. Although Ms. Spears's health and well-being are paramount, there are financial and other considerations that are also relevant. As reported to the Court by her previous attorney, Ms. Spears will not return to work while her father is serving as conservator of her estate. This fact alone is causing ongoing damage to the Estate.
- 9. Further, since filing the July 26, 2021 Petition for Removal, my firm has continued its investigation into the reasons for the depletion of Ms. Spears's Estate. Without, at this stage, drawing conclusions of wrongdoing by any particular actors, it has become apparent that there has been a dissipation of assets, and if these issues are not addressed promptly, Ms. Spears's Estate will continue to suffer, as discussed more fully in the accompanying Memorandum of Points and Authorities.
- 10. Finally, it merits mention, respectfully, that as conservator, Mr. Spears continues to serve at the pleasure of the Court and has no vested, inalienable right to remain in this position and draw a lavish paycheck each month while his presence has an adverse impact on his daughter.
- 11. For the foregoing reasons and all those incorporated by reference, including those contained in the Declaration and Joinder of Jodi Montgomery, it is evident that Ms. Spears and her Estate will suffer further harm if her Petition is not heard prior to September 29 or if Mr. Spears is not suspended pending the hearing.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on August 4, 2021 in Los Angeles, California.

/s Mathew S. Rosengart	
Mathew S. Rosengart	

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 1840 Century Park East, Suite 1900, Los Angeles, CA 90067-2121. My email address is cronkritec@gtlaw.com.

On August 5, 2021, I caused the document(s) described as: NON-APPEARANCE EX PARTE APPLICATION FOR AN ORDER ADVANCING THE SEPTEMBER 29 HEARING DATE ON THE PETITION TO REMOVE JAMES P. SPEARS AS CONSERVATOR OF THE ESTATE OR FOR HIS IMMEDIATE SUSPENSION; DECLARATION OF MATHEW S. ROSENGART to be transmitted to the addressee(s) listed on the attached Service List by electronic mail at the e-mail address(es) set forth herein.

- \boxtimes **(BY E-SERVICE)** I caused the document(s) to be sent to the person(s) at the e-mail address(es) indicated on the attached service list using One Legal e-service platform.
- \boxtimes I declare under penalty of perjury under the laws of the State of California that the (STATE) foregoing is true and correct.

Executed on August 5, 2021, at Los Angeles, California.

Christine C. Cronkrite

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SERVICE LIST CASE BP108870

Vivian L. Thoreen Jonathan H. Park HOLLAND & KNIGHT, LLP 400 S. Hope Street, 8th Floor Los Angeles, CA 90071 Tel: 213-896-2400 Fax: 213-896-2450 Email: vivian.thoreen@hklaw.com jonathan.park@hklaw.com	Attorneys for James P. Spears, Conservator of the Estate
Geraldine A. Wyle Jeryll S. Cohen FREEMAN FREEMAN & SMILEY, LLP 1888 Century Park East, Suite 1500 Los Angeles, CA 90067 Email: Geraldine.wyle@ffslaw.com Jeryll.cohen@ffslaw.com	Attorneys for James P. Spears, Conservator of the Estate
Yasha Bronshteyn GINZBURG & BRONSHTEYN, LLP 11111 Santa Monica Blvd., Suite. 1840 Los Angeles CA 90025 Tel: 310-914-3222 Email: yasha@gbllp-law.com	Attorneys for Lynne Spears
Gladstone N. Jones, III Lynn E. Swanson JONES SWANSON HUDDELL & GARRISON, LLC Pan-American Life Center 601 Pyodras Street, Suite 2655 New Orleans, LA 70130 Tel: 504-523-2500 Email: gjones@jonesswanson.com; lswanson@jonesswanson.com	Attorneys for Lynne Spears
Lauriann C. Wright Marie Mondia WRIGHT KIM DOUGLAS, ALC 130 S. Jackson Street Glendale, CA 91205-1123 Tel: 626-356-3900 Email: lauriann@wkdlegal.com marie@wkdlegal.com	Attorneys for Jodi Montgomery, Conservator of the Person