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**FILED**  
 Los Angeles Superior Court  
 AUG 29 2010  
 John A. Clarke, Executive Officer/Clerk  
 By Stamm Deputy

11 Attorneys for Defendant  
 12 CONRAD R. MURRAY

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 14 FOR THE COUNTY OF LOS ANGELES

15 THE PEOPLE OF THE STATE OF  
 16 CALIFORNIA,  
 17 Plaintiff,  
 18 vs.  
 19 CONRAD R. MURRAY,  
 20 Defendant.

Case No. SA073164

MEMORANDUM OF POINTS AND  
 AUTHORITIES IN OPPOSITION TO  
 PEOPLE'S MOTION IN LIMINE  
 REGARDING PROPOSED DEFENSE  
 WITNESSES

21  
 22 Defendant Conrad R. Murray, by and through counsel, hereby opposes the  
 23 prosecution's motion in limine regarding proposed defense witnesses.

24 The prosecution contends that the defense has not provided discovery for the  
 25 majority of its witnesses. In short, the prosecution complains that since the defense has  
 26 identified numerous defense witnesses as "no contact made: no statement taken", the  
 27 Defense has violated it's discovery obligations. It appears that the prosecution is under the

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1 mistaken impression that the defense has a duty to obtain written statements from its  
2 witness simply for the purpose of preparing the prosecution. That has never been the law.

3 In reality, the defense has not only complied with its Section 1054.3 obligations, but  
4 has gone above and beyond what is required of it under the code. The defense has provided  
5 the prosecution a witness list and a status report detailing whether contact has been made  
6 with a witness. In those instances where contact was successfully made, the defense  
7 provided a statement to the prosecution.

8 As this Court is aware, the defense is required to disclose to the prosecution *only* the  
9 "names and addresses of persons, other than the defendant, he or she intends to call as a  
10 witness at trial, together with any relevant written or recorded statements of those  
11 persons..." (Pen. Code § 1054.3.) The defense has done so. However, it is important to note  
12 that the California Supreme Court has said quite clearly that a party does not have a *duty* to  
13 obtain a written statement from a witness just to have something to hand over in discovery.  
14 (*In re Littlefield* (1993) 5 Cal.4th 122, 136.)

15 "A party must disclose the names and addresses of witnesses  
16 who are reasonably accessible to it *only* if the relevant statutes  
17 mandate disclosure of such names and addresses. *We do not*  
18 *suggest, for example, that a party has a duty to obtain a*  
19 *written statement from a witness, even if the witness is*  
20 *ready and willing to give such a statement."*

21 (5 Cal.4th at 136 [emphasis added].)

22 As explained further below, there is no basis to the prosecution's motion in limine  
23 and it should be denied in its entirety.

24 However, Per the People's request, the following offers of proof are provided for  
25 various proposed defense witnesses:

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27 ///  
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1 Lt. Steve Robel:

2 Det. Robel is a lieutenant at the Santa Barbara Sheriff's Department and was involved  
3 in the investigation of child molestation charges against Michael Jackson. During his  
4 investigation, Mr. Robel conducted several searches of Mr. Jackson's residence and it is  
5 believed that Mr. Robel seized several drugs and medication belonging to Mr. Jackson. Mr.  
6 Jackson's possession, access to and drug use are all relevant in the instant case. In  
7 particular, it is relevant to the defense that Michael Jackson possessed both Propofol and  
8 Demorol in his residence as early as 2003.

9 The defense does not anticipate questioning Mr. Robel regarding the child  
10 molestation allegations.<sup>1</sup> The questioning will be limited to what kind of drugs/medication  
11 was seized, how much drugs/medication was seized, and Mr. Robel's personal knowledge  
12 regarding Mr. Jackson's personal drug use and habits.

13  
14 Allen Metzger:

15 Dr. Metzger has treated Mr. Jackson for two decades. In fact, as recent as April 18,  
16 2009 - 2 months prior to his death - Mr. Jackson asked Dr. Metzger to get him *intravenous*  
17 sleep medicine. Dr. Metzger's treatment and subsequent discussions regarding sleep  
18 medication with Mr. Jackson is critical and relevant to this case.

19 It is anticipated that the People will argue that Dr. Murray agreed to provide Michael  
20 Jackson Propofol during the time period that this request was made of Dr. Metzger. When  
21 Dr. Murray began providing Propofol to Michael Jackson will be a major source of  
22 disagreement between the parties.

23  
24 Dr. David Adams:

25 Dr. Adams is an anesthesiologist who administered propofol to Mr. Jackson on four  
26 different occasions. Dr. Adams told police that he used Propofol on every occasion when he  
27

28 <sup>1</sup> Further, the charges are well known and it is anticipated this will be a major source of  
conversation the People will have with potential jurors during its Voir Dire presentation.

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1 put Mr. Jackson to sleep and that Propofol is the only drug he ever used to put people to  
2 sleep. Dr. Adams stated to police that Mr. Jackson was so familiar with the drug that he  
3 referred to Propofol as "Milk". Michael Jackson also knew that Propofol was often combined  
4 with Lidocaine, which he nick-named, "anti-burn."

5 It is believed by the defense that Dr. Adams will testify that he provided Propofol to  
6 Michael Jackson for sleep in March or April of 2009 in Dr. Murray's Las Vegas office.  
7 Michael Jackson asked Dr. Adams to go on tour with him and this invitation was accepted.  
8 No financial terms were finalized.

9 This information is critical because it evidences, among other things, that (1) other  
10 physicians administered Propofol to Mr. Jackson; (2) Mr. Jackson was familiar with the use  
11 of Propofol for sleep; (3) Mr. Jackson was taking Propofol at least since July, 2008 to help him  
12 sleep; (4) Mr. Jackson had a desire for Propofol and used Propofol before enlisting the aid of  
13 Dr. Murray; and (5) Mr. Jackson's the physical capacity and tolerance for Propofol.

14 This Court has already found Dr. Adams's testimony to be material and relevant in a  
15 previous request of an out of state subpoena. The court ordered him to attend the trial in  
16 this matter. Similarly, the Coroner believed Dr. Adams to be relevant to its investigation, and  
17 issued a subpoena for his medical records.

18

19 Cherylin Lee:

20 Ms. Lee is a registered nurse who treated Mr. Jackson in 2009 for fatigue and  
21 insomnia. Ms. Lee told the police the following:

- 22 1. Michael Jackson complained to Ms. Lee that he had problems sleeping.
- 23 2. On April 19, 2009, Michael Jackson asked for the drug diprivan-propofol.
- 24 3. Dr. Lee stated that she was not then familiar with the drug.
- 25 4. She researched the drug and learned anesthesiologists commonly used propofol.
- 26 5. Michael Jackson asked her if she could get him propofol or if she knew someone
- 27 that could.

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- 1 6. Michael Jackson stated that he would pay her or another Doctor whatever they
- 2 wanted for it.
- 3 7. This was the last time she ever saw Michael Jackson.
- 4 8. On June 21, 2009, Ms. Lee received a call from Faheem Muhammad, Michael's
- 5 bodyguard, stating that Michael was sick. Ms. Lee heard Michael in the
- 6 background saying "one side of my body is hot and the other side is cold."
- 7 9. Ms. Lee opined that some drug was affecting Michael Jackson's Central Nervous
- 8 System and told Faheem Muhammad to take Michael Jackson to the hospital.
- 9 Once again, the period of time that Michael Jackson is looking for Propofol is relevant
- 10 to the Defense. It is also relevant that Mr. Jackson was on the hunt for Propofol for a specific
- 11 medical disability. It is further important that a mere four days before his death, Mr. Jackson
- 12 was so sickly that it was recommended that he be taken to the hospital. As in Dr. Adams
- 13 case, her relevancy is supported by the fact that the coroner issued a subpoena for her
- 14 medical records and both the coroner and the detectives assigned to investigate Michael
- 15 Jackson's case took her statement.

16

17 Arnold Klein:

18 Dr. Arnold Klein was Mr. Jackson's physician for a number of years. Dr. Klein

19 administered frequent intramuscular injections of Demerol to Mr. Jackson for no valid

20 medical purpose. Dr. Klein's medical records show that during just the *three* months prior to

21 his death, Mr. Jackson visited Dr. Klein 23 times, and each time received one or more

22 intramuscular injections of Demerol and midazolam. In some weeks, the total amount of

23 Demerol provided to Michael Jackson exceeded 900 milligrams. Due to Dr. Klein's

24 unconscionable actions, Mr. Jackson became physiologically and psychologically dependent

25 on Demerol.

26 Certainly, Dr. Klein treatment of Michael Jackson is highly material and relevant to

27 the defense. As we previously notified the People, the Defense experts will testify that one of

28 the severe side effects of Demerol addiction and withdrawal is the absolute inability to

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1 sleep. The evidence shows that Michael Jackson made these trips to Dr. Klein's office in  
2 secret, and that neither Dr. Murray nor the individuals who Michael Jackson worked with in  
3 the "This Is It" show knew the extent of his visits to Dr. Klein or the precise nature of his  
4 "treatments".

5 The People disagree that Michael Jackson was addicted to Demerol and have hired  
6 experts in addiction recovery. According to discovery provided by the People, these experts  
7 will claim that Michael Jackson was not addicted to Demerol and only visited Dr. Klein  
8 because he "liked" Demerol. This is likely to be a major source of contention at trial.

9

10 Ellen Brunn:

11 Ms. Brunn worked for Dr. Klein. According to the medical records produced by Dr.  
12 Klein, Ms. Brunn was the nurse who physically injected Mr. Jackson with Demerol and  
13 midazolam.

14

15 Jason Pfeiffer:

16 Mr. Pfeiffer worked as Dr. Klein's office manager. It is believed he was present  
17 during Mr. Jackson's frequent visits to Dr. Klein's medical office. He was aware of the  
18 Demerol injections that were being provided to Michael Jackson. On one occasion, Mr.  
19 Pfeiffer witnessed Mr. Jackson "too drugged up" and "disoriented" to stand on his own. On  
20 one other occasion, Dr. Klein asked Mr. Pfeiffer to prepare a doctor's note with fabricated  
21 test results to allow Mr. Jackson to get out of attending a court appearance. Mr. Pfeiffer  
22 refused.

23 Mr. Pfeiffer once approached Dr. Klein to discuss his concern about the amount of  
24 Demerol that was being provided to Michael Jackson. Dr. Klein did not share his concern.

25 Two weeks prior to Michael Jackson's death, Michael Jackson called Mr. Pfeiffer and  
26 asked him to contact Dr. Klein for him. He told Mr. Pfeiffer that he wanted Dr. Klein to get  
27 him anesthesiologist to administer Propofol. Mr. Pfeiffer directed this request to Dr. Klein.

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1 she became convinced that he was going to die. She expressed her concerns to Frank  
2 Dileo, Kenny Ortega and Randy Phillips.

3 Michael Jackson missed several rehearsals during the weeks leading up to the show.  
4 She stated that she knew of a meeting held at Michael Jackson's house on June 20<sup>th</sup> with  
5 Randy Phillips, Kenny Ortega and Michael Jackson in attendance to discuss this problem.  
6 Although Ms. Faye did not attend the meeting, when Mr. Ortega returned from the meeting  
7 he told Ms. Faye that they had "read him the riot act. He has to do this or we are going to  
8 pull the plug on him. Don't placate him." At the preliminary hearing, this statement was  
9 denied by Kenny Ortega.

10 Ms. Faye stated to police that Mr. Jackson confided in her. He once told her that he  
11 was angry he had to do 50 shows and felt that he would not be able to physically complete  
12 them all. Mr. Jackson told Ms. Faye, "It wasn't supposed to be this way. This is not what it  
13 was supposed to be. Why can't I choose?"

14  
15 Travis Payne:

16 Mr. Payne was an assistant choreographer on the "This Is It" series. He worked with  
17 Mr. Jackson on a daily basis in preparation for the tour. He has personal knowledge of Mr.  
18 Jackson's mental and physical condition throughout the auditions. Mr. Payne filled in for  
19 Mr. Jackson during the auditions that Mr. Jackson missed.

20  
21 Grace Rwaramba:

22 Since 1992, Ms. Rwaramba has been employed by Michael Jackson as a nanny and  
23 personal assistant. After the birth of Prince, Ms. Rwaramba began becoming concerned  
24 about Michael Jackson's drug use. In 1997, she attempted to arrange an intervention with  
25 Mr. Jackson because Mr. Jackson was "completely out of it" as a result of his drug use. The  
26 intervention failed. In September, 2001, Mr. Jackson was again displaying symptoms of  
27 being on and addicted to drugs. In October, 2001, she and Mr. Jackson's family attempted  
28 another intervention with Mr. Jackson. This intervention was also unsuccessful. Sometime

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MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO  
MOTION IN LIMINE REGARDING PROPOSED DEFENSE WITNESSES

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1 in May or June 2002, Ms. Rwaramba received a call from Mr. Jackson's children stating that  
2 Mr. Jackson was passed out on the floor and they couldn't revive him. She instructed them  
3 to call 911. Ms. Rwaramba told police that it was during this time that a man named Dr.  
4 Barney Vanvalin frequently came to Mr. Jackson's home and when he left, Mr. Jackson was  
5 passed out.

6 Ms. Rwaramba claims that she was fired several times during her employment with  
7 Michael Jackson because she became too involved and concerned about Michael Jackson's  
8 drug use. In January 2009 she was hired again as the children's nanny. During this time,  
9 Ms. Rwaramba observed that Michael Jackson visited Dr. Arnold Klein. She told police that  
10 when Mr. Jackson returned from these visits he "would be different." She believed he was  
11 being given drugs again, and made these complaints known.

12 Ms. Rwaramba told police that in April 2009, she was fired by AEG, who by this time  
13 was paying all of Michael Jackson's bills.

14  
15 Dr. Tohme Tohme:

16 Dr. Tohme was Mr. Jackson's business manager up until a month before his death.  
17 Although Dr. Tohme refuses to speak to the Defense and was not interviewed by the police,  
18 it is believed that Dr. Tohme has information about Mr. Jackson's health, drug use and  
19 habits in the months leading up to his death. Dr. Tohme negotiated the contract between  
20 AEG and Michael Jackson. He represented Michael Jackson in the subsequent negotiations  
21 to extend the series to 50 shows. According to Grace Rwaramba, Michael Jackson's nanny,  
22 Dr. Tohme was instrumental in her firing, because Grace had expressed concern about Mr.  
23 Jackson's drug use. After Michael Jackson's death, Dr. Tohme replaced Mr. Jackson's  
24 security detail.

25  
26 Stephen Pustilnik:

27 As the People know, Dr. Pustilnik was hired by the Defense as an expert. He is Chief  
28 Medical Examiner in Galveston County, Texas. On April 14, 2011 he met Dr.

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1 Sathyaavagiswaran and Dr. Rogers at the Los Angeles Coroner's Office to review the  
 2 procedures used by the Coroner in performing the investigation and autopsy of Michael  
 3 Jackson. During this review he observed the stomach contents collected during the autopsy.  
 4 Dr. Pustilnik prepared a report of his activities and analysis. This has been provided  
 5 to the People.

6  
7 Other Witnesses:

8 As the People noted in their motion, the Defense has not been able to make contact  
 9 with these witnesses. However, in the event contact is made prior to trial, the substance of  
 10 their testimony is expected to be the following:

11  
12 Michael Bush:

13 Mr. Bush was employed as a wardrobe supervisor for the "This Is It" series. He was  
 14 with Michael Jackson on a daily basis and would have information about Michael Jackson's  
 15 physical and mental condition in the months leading up to his death.

16  
17 Chris Carter:

18 Chris Carter worked as security for Michael Jackson between 2002-2005. It is  
 19 believed that he has information regarding Michael Jackson's drug use during this period of  
 20 time, including an event in Las Vegas where Mr. Carter needed to revive Michael Jackson  
 21 as a result of a drug overdose.

22  
23 Francisco Cascio:

24 Mr. Cascio has been a friend of Michael Jackson's since the 1980's. In 2007, Michael  
 25 Jackson stayed at Mr. Cascio's house in New Jersey. Grace Rwaramba stated that during  
 26 this time Michael Jackson was involved in heavy drug use.

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1 Dr. Alex Farschchian:

2 Dr. Alex Farschchian is a physician from Miami, Florida. According to statements  
3 made by Grace Rwaramba, Dr. Farschchian was one of Michael Jackson's Doctors who  
4 provided him drugs. According to Ms. Rwaramba, Dr. Farschchian was with them when  
5 Michael Jackson visited Berlin. During this period of time, Michael Jackson was largely  
6 intoxicated on the drugs provided to him by Dr. Farschchian.

7 During the search of Neverland Ranch in 2003, a letter from Dr. Farschchian to  
8 Michael Jackson discussed alternatives to Denerol use.

9  
10 Dr. Steven Hoeffler:

11 Dr. Steven Hoeffler is a physician in Los Angeles. He informed police investigators  
12 that he is personally aware of the drugs that Dr. Klein provided Michael Jackson.

13  
14 Dr. Gerald Labiner:

15 During the raid on Michael Jackson's neverland ranch, Dr. Labiner's name was found  
16 on bottles of prescription pills - including one for Percocet made out to "Michael  
17 Armstrong".

18  
19 Dr. Neal Ratner:

20 Dr. Neal Ratner is an anesthesiologist from New York. According to Lisa Marie  
21 Presley, in her statement to police, during a rehearsal in 1995 Michael Jackson collapsed on  
22 stage. It was during this time that she learned that Michael Jackson had a drug problem,  
23 which ultimately precipitated their divorce. She observed that Michael Jackson had two  
24 Doctors on tour with him; Dr. Alan Metzger and Dr. Neal Ratner.

25  
26 Dr. Barney Varvalin:

27 As noted above, it was reported by Grace Rwaramba that Dr. Varvalin administered  
28

GARY P. WINGROUP

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1 drugs to Michael Jackson in 2002. Dr. VanVain's name appears on Xanax and Percocet  
2 prescriptions found during the search of Michael Jackson's Neverland Ranch in 2003.

3

4 Michael LePerruque:

5 Mr. LePerruque was head of Michael Jackson's security prior to 2007. He is a former  
6 law enforcement officer who is personally familiar with Michael Jackson's excessive drug  
7 use. He reports that on one occasion, Michael Jackson was so intoxicated on drugs that he  
8 was concerned that he had overdosed. He sat with him during the evening to make sure  
9 that he did not stop breathing. When Michael Jackson died, he was present at the hospital.  
10 During the preliminary hearing, security staff that knew Michael LePerruque stated they did  
11 not know why he was in attendance.

12 In a recent television interview, Mr. LePerruque stated that he now employs one of  
13 the People's witnesses, Alberto Alvarez.

14

15 Dr. Cary Logan:

16 A Doctor who practices in Las Vegas and who has prescribed drugs to Michael  
17 Jackson, Dr. Logan is no longer expected to be called by the Defense.

18

19 Dieter Wiesner:

20 A friend of Michael Jackson who is familiar with Michael Jackson's drug habits, he is  
21 no longer expected to be called by the Defense.

22

23 Leonard Rowe:

24 A former business associate of Michael Jackson and his father, he is no longer

25 ///

26 ///

27 ///

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1 expected to be called by the Defense.

2

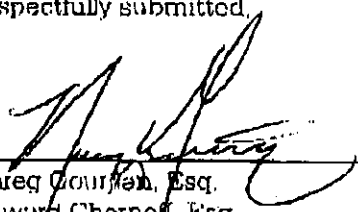
3 Dated: August 29, 2011

Respectfully submitted,

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5

Ry:



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Nareq Gourjen, Esq.

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Edward Chernoff, Esq.

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Attorneys for Defendant.

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Conrad R. Murray

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**PROOF OF SERVICE BY ELECTRONIC MAIL**

STATE OF CALIFORNIA            )  
  ) ss.:  
COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 101 N. Brand Blvd., Suite 1220, Glendale, CA 91203.

On August 29, 2011, I served on interested parties in said action the within:

**MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO PEOPLE'S MOTION IN LIMINE REGARDING PROPOSED DEFENSE WITNESSES**

by serving a true copy thereof by electronic mail to:

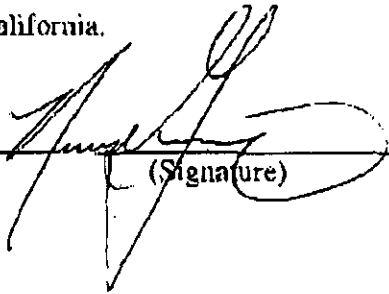
**David Walgren, D.D.A.  
Office of the District Attorney  
210 W. Temple St., 17<sup>th</sup> Floor  
Los Angeles, CA 90012**

I am readily familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

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

Executed on August 29, 2011, at Glendale, California.

Nareg Gourjian  
(Type or print name)

  
(Signature)