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PLYMOUTH, ss.

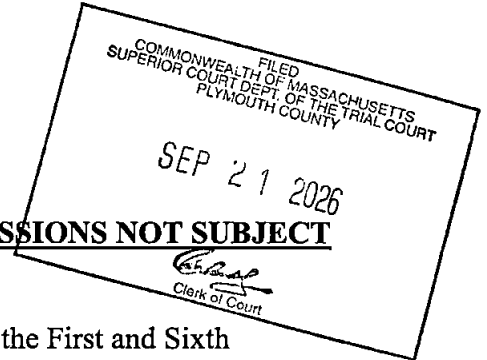
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT
NO. 2383CR00198

COMMONWEALTH

v.

LINDSAY CLANCY

**MOTION TO ORDER JUROR NOTES AND SIDEBAR DISCUSSIONS NOT SUBJECT
TO IMPOUNDMENT**



Now comes Lindsay Clancy and moves the Court, pursuant to the First and Sixth Amendments to the United States Constitution, Articles 12 and 16 of the Massachusetts Declaration of Rights, and the common law right of access to judicial documents, to remove the juror notes and transcripts of sidebar discussions relating to the jury deliberations in this case that ultimately led to the declaration of a mistrial from any applicable impoundment order. Those materials are central to Ms. Clancy's Motion to Dismiss on Double Jeopardy grounds and, counsel submits, are subject to the presumption of public access, which is not outweighed by significant countervailing considerations now that the jury's deliberations have concluded. Ms. Clancy has redacted her publicly filed Motion to Dismiss to omit information currently subject to impoundment. In the event the instant Motion is granted, she intends to re-file the Motion to Dismiss without redactions.

"[C]ourts recognize a strong presumption in favor of a public trial, 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." *Commonwealth v. Cohen*, 456 Mass. 94, 107 (2010) (citations omitted). "This presumption of public access to judicial [proceedings and] records allows the public and the media to develop a full understanding of a judicial proceeding so that they may keep a watchful eye on the judicial system." *Commonwealth v. Winfield*, 464 Mass.

672, 678 (2013) (citation omitted). Here, Ms. Clancy submits no showing of necessity sufficient to justify impoundment can be made.

The notes submitted by the jury to the Court, ultimately leading to the declaration of a mistrial, which Ms. Clancy challenges in a Motion to Dismiss contemporaneously filed herewith, are crucial to ensuring a complete and accurate record for the disposition of the Motion to Dismiss, both by this Court and in any eventual appeals. Ms. Clancy would assent to the redaction of any juror names or other identifying information reflected in the notes. Counsel does not currently have access to the jury notes and hereby requests them.

The sidebar discussions, wherein the parties and the Court discussed potential alternatives to the mistrial, are likewise crucial to Ms. Clancy's Motion to Dismiss. The transcripts of such discussions are, without doubt, judicial records, subject to the strong presumption in favor of public access. *See Winfield*, 464 Mass. at 679 ("A certified transcript of a criminal proceeding is filed with the court and is presumptively a public document."). The transcripts contain no juror names or other identifying information, and counsel submits there is no reason for their continued impoundment. The trial is now over, so the mere fact that the sidebar discussions relate to deliberations, which have since concluded, does not support impoundment.

Lindsay Clancy
By her attorneys,

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Dated: September 21, 2026

CERTIFICATE OF SERVICE

I, Martin G. Weinberg, hereby certify that the foregoing filing was served upon the Clerk of Court and the Commonwealth at the following verified email addresses:

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