

OK to file and
set for 12-7-12
in D-9 @ 1:30 pm
(17A)

FILED
Superior Court of California
County of Los Angeles

NOV 13 2012

John A. Clarke, Executive Officer/ Clerk
By , Deputy

DATE OF HEARING:
12/7/12
Times: 1:30 Dept.: 9

1 SAMUEL D. INGHAM III
2 State Bar #66279
3 9440 Santa Monica Boulevard
4 Suite 510
5 Beverly Hills, California 90210-4608
6 Telephone: (310) 556-9751
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9
10 Court-Appointed Counsel For
11 BRITNEY JEAN SPEARS, Conservatee

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

11 In the Matter of the
12 Conservatorship of the Person
13 and Estate of:

No. BP 108 870

NOTICE OF MOTION AND MOTION
TO SEAL "DECLARATION IN
SUPPORT OF FEES"

MEMORANDUM OF
POINTS AND AUTHORITIES

15 BRITNEY JEAN SPEARS,

DECLARATION OF
SAMUEL D. INGHAM III

Assigned To:
Judge REVA G. GOETZ
Department: 9
Hearing Date: 12/7/12
Time: 1:30 p.m.

19 Conservatee.

22 TO ALL INTERESTED PARTIES AND TO THEIR ATTORNEYS OF RECORD:

23 YOU ARE HEREBY NOTIFIED THAT on December 7, 2012
24 p.m. in Department 9 of this Court located at 1111
25 Street, Los Angeles, California 90012, SAMUEL D. INGHAM III
26 ("Moving Party") as Court-Appointed Counsel for BRITNEY JEAN
27 SPEARS, conservatee, will move the Court for an order to seal in
28 relation to the "Declaration In Support Of Fees" ("The Privileged

CIT/CASE: 11 BP 108870
1:11 PM
RECEIPT # FIN 1202290024
DATE PAID: 11/13/12 02:12 PM
PAYMENT: \$60.00
RECEIVED: 11/13/12 02:12 PM
CHECK: \$60.00
CASH: \$0.00
CHANGE: \$0.00
TOTAL: \$60.00

11/14/2012

1 Declaration") filed conditionally under seal for hearing on
2 December 7, 2012 separately from the "Petition For Approval Of
3 Court-Appointed Attorney's Fees" also filed for hearing on December
4 7, 2012 by Moving Party. The within motion does not apply to the
5 declaration filed as Exhibit 1 to the "Petition For Approval Of
6 Court-Appointed Attorneys Fees".

7 This Motion seeks an order to seal the Privileged
8 Declaration on the ground that the Privileged Declaration relates
9 to or reveals litigation strategy, trade secrets, proprietary
10 information, medical information and sensitive information of a
11 personal nature relating to the conservatee and her minor children
12 and, therefore, should be sealed pursuant to California Rules of
13 Court 2.550 and 2.551. A sealing order is required under California
14 Rule of Court 2.550(d) because the facts establish that:

15 1. There exists an overriding interest that overcomes the
16 right of public access to the records;

17 2. The overriding interest supports sealing the record;

18 3. A substantial probability exists that the overriding
19 interest will be prejudiced if the record is not sealed;

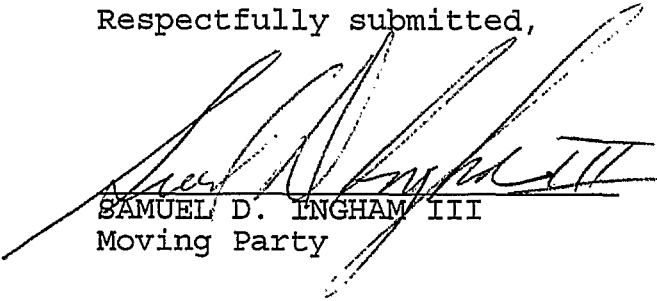
20 4. The proposed sealing order is narrowly tailored; and

21 5. No less restrictive means exist to achieve the
22 overriding interest.

23 This Motion is based on (1) this Notice of Motion and
24 Motion; (2) the attached Memorandum of Points and Authorities; and
25 (3) the attached Declaration of SAMUEL D. INGHAM III, as well as
26 all papers, pleadings and documents on file in this case, and on
27 such oral testimony as may be offered at the time of the hearing on
28 this Motion.

1 Dated: November 13, 2012

2 Respectfully submitted,

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6 SAMUEL D. INGHAM III
7 Moving Party
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1 MEMORANDUM OF POINTS AND AUTHORITIES

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3 Moving Party offers the following points and authorities
4 in support of this "Motion to Seal Declaration in Support of Fees":
5

6 1. Introduction

7 By this Motion, Moving Party as court-appointed counsel
8 for the conservatee requests that the Court make an order sealing
9 the Privileged Declaration. Sealing the Privileged Declaration is
10 warranted pursuant to California Rule of Court 2.550 because it
11 relates to or reveals trade secrets, proprietary information,
12 medical information and sensitive information of a personal nature
13 relating to the conservatee and her minor children.

14 Public disclosure of any of this information would be
15 highly injurious to the conservatee both personally and profession-
16 ally. It would therefore have the unintended effect of turning this
17 conservatorship into a destructive influence rather than a
18 protective proceeding as contemplated by law.

19 The conservatee has an overriding interest in sealing
20 this confidential information to avoid such detrimental public
21 disclosure. There is simply no legitimate reason for the public to
22 have access to this confidential information.
23

24 2. Background

25 By Order dated February 1, 2008 in this proceeding,
26 Moving Party was appointed to serve as counsel for the conservatee.
27 Moving Party has not been discharged and presently serves in that
28 capacity.

1 By Order dated February 1, 2008, JAMES P. SPEARS was
2 appointed temporary conservator of the conservatee's person for an
3 initial period expiring February 4, 2008. By various orders, his
4 letters of temporary conservatorship have been extended. By minute
5 order dated October 28, 2008, JAMES P. SPEARS was appointed
6 permanent conservator of the conservatee's person and he continues
7 to serve in that capacity. Letters of conservatorship of the person
8 were issued to JAMES P. SPEARS on January 9, 2009 and he continues
9 to serve in that capacity. At the hearing on April 25, 2012, JASON
10 TRAWICK was appointed co-conservator of the person to serve with
11 JAMES P. SPEARS.

12 By Order dated February 1, 2008, JAMES P. SPEARS and
13 ANDREW M. WALLET were appointed temporary co-conservators of the
14 conservatee's estate for an initial period expiring February 4,
15 2008. By various orders, their letters of temporary conservatorship
16 have been extended. By minute order dated October 28, 2008, JAMES
17 P. SPEARS and ANDREW M. WALLET were appointed permanent co-
18 conservators of the conservatee's estate and they continue to serve
19 in that capacity.

20 Moving Party has been ordered by this Court to file
21 concurrently: (1) "Petition For Approval Of Court-Appointed
22 Attorney's Fees" for hearing on December 7, 2012 at 1:30 p.m.; and
23 (2) the Privileged Declaration conditionally under seal, subject to
24 the within Motion. The Privileged Declaration relates to or reveals
25 proprietary and personal information, including without limitation,
26 the conservatee's litigation strategy, trade secrets, financial
27 information, material contractual terms, artistic works and ideas,
28 as well as personal and medical information relating to the

1 conservatee and to the conservatee's minor children (collectively,
2 the "Confidential Information"). Moving Party seeks to have the
3 Privileged Declaration filed under seal to protect the Confidential
4 Information.

5
6 3. Legal Argument

7 Sealing the Privileged Declaration is warranted under
8 California Rule of Court 2.550. This court may seal a record
9 pursuant to California Rule of Court 2.550(d), which is based on
10 the standards enunciated by the California Supreme Court in *NBC*
11 *Subsidiary (KNBC-TV), Inc. v. Superior Court (Locke)* (1999) 20
12 Cal.4th 1178, 86 Cal.Rptr.2d 778; 980 P.2d 337:

13 If it expressly finds facts that establish:

- 14 (1) There exists an overriding interest that
15 overcomes the right of public access to the
16 records;
17 (2) The overriding interest supports sealing the
18 record;
19 (3) A substantial probability exists that the
20 overriding interest will be prejudiced if the
21 record is not sealed;
22 (4) The proposed sealing is narrowly tailored;
23 and
24 (5) No less restrictive means exist to achieve the
25 overriding interest.

26 Cal. R. Ct. 2.550(d); see also Advisory Comm. Comment to Cal. R.
27 Ct. 2.550 ("Courts have found that, under appropriate circum-
28 stances, various statutory privileges, trade secrets, and privacy
interests, when properly asserted and not waived, may constitute
'overriding interests.'")

///
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1 All five of these factors are present here:

2 a. The conservatee and Her Minor Children Have
3 Overriding Interests That Overcome the Right of Public Access and
4 Support Sealing the Privileged Declaration

5 The conservatee has three overriding interests,
6 any one of which, by itself, is sufficient to support sealing the
7 Privileged Declaration: (1) The constitutional right of the
8 conservatee and her minor children to privacy with respect to their
9 sensitive personal and medical information; (2) the conservatee's
10 right to privacy with respect to her and her Conservators'
11 litigation strategy; and (3) the conservatee's right to privacy
12 with respect to her trade secrets and proprietary information. See
13 Cal. R. Ct. 2.550(d)(1) and (2).

14 The Privileged Declaration reveals details of
15 the personal lives of the conservatee and her minor children,
16 including, without limitation, medical information, personal
17 affairs and other sensitive, private information. This is informa-
18 tion to which the conservatee and her minor children have a
19 constitutional right to privacy. See California Constitution, Art.
20 I, § 1 ("All people are by nature free and independent and have
21 inalienable rights. Among these are . . . pursuing and obtaining
22 safety, happiness and privacy."). This constitutional right to
23 privacy is an overriding interest.

24 The conservatee also has an overriding interest
25 in maintaining the confidentiality of her and the Conservators'
26 litigation strategy. Public disclosure of the Privileged Declara-
27 tion would reveal to third parties, including potential claimants
28 and opposing parties in litigation, the conservatee's and the

1 conservators' litigation strategy, assessment of the weaknesses and
2 strengths in their positions and their negotiating posture. Sealing
3 the Privileged Declaration is the only way to protect the conserva-
4 tee's overriding interest in maintaining the confidentiality of her
5 and her conservators' litigation strategy.

6 The Privileged Declaration also relates to or
7 reveals the conservatee's trade secrets and proprietary informa-
8 tion, including financial information and information regarding The
9 conservatee's professional contracts and business dealings. The
10 conservatee has an overriding interest in maintaining the confiden-
11 tiality of this information as well. See Evidence Code §1060 et
12 seq. (providing protection from disclosure for "trade secrets" and
13 proprietary information); *NBC Subsidiary*, 20 Cal.4th at 1222 n.46
14 (noting protection of trade secrets has been recognized as an
15 overriding interest that supports restricting public access).
16 Similarly, Civil Code §3426.1(d) defines "trade secret" as
17 "information" that:

- 18 (1) derives independent economic value, ac-
19 tual or potential, from not being gener-
20 ally known to the public or to other
 persons who can obtain economic value
 from its disclosure or use" and
- 21 (2) is the subject of efforts that are rea-
22 sonable under the circumstances to main-
 tain its secrecy.").

23 Each one of the overriding interests set forth
24 above overcomes the public's interest in access to these proceed-
25 ings and supports sealing the Privileged Declaration. See *NBC*
26 *Subsidiary*, 20 Cal.4th at 1219 ("Public access to civil proceedings
27 serves to (I) demonstrate that justice is meted out fairly, thereby
28 promoting public confidence in such governmental proceedings; (ii)

1 provide a means by which citizens scrutinize and check the use and
2 possible abuse of judicial power; and (iii) enhance the truthfin-
3 ding function of the proceeding.").

4 Given the nature of the Confidential Informa-
5 tion and the unprecedented media attention given to the conservatee
6 and to this conservatorship, the Confidential Information,
7 including the conservatee's personal and private information,
8 litigation strategy, and trade secrets and proprietary information
9 would be widely disseminated and dissected in the media if filed
10 publicly. This, in turn, would have a detrimental effect on the
11 conservatee's business activities and her and her minor children's
12 safety and personal well-being. The conservatee's overriding
13 interest in her right to privacy as to her and her minor children's
14 personal and private information, her and her Conservators'
15 litigation strategy, and her trade secrets and proprietary
16 information therefore overcomes the right of public access and
17 supports sealing the Privileged Declaration. See Cal. R. Ct.
18 2.550(d)(1), (2); *People v. Jackson*, (2005) 128 Cal. App. 4th 1009,
19 1024 ("It is appropriate to seal certain records when those
20 particular records contain highly sensitive . . . personal
21 information about individuals.").

22
23 b. There Is a Substantial Probability That
24 the Overriding Interests Will Be Prejudiced If the Privileged
25 Declaration are Not Sealed

26 A Google search for the conservatee's name
27 yields nearly 300 million hits. Any news about the conservatee
28 generates a media frenzy. The conservatee is constantly swarmed by

1 photographers, and members of the media vie for news about her.
2 Photographs and personal information, particularly information of
3 a highly confidential nature such as the information at issue here,
4 can potentially reap thousands, if not millions, of dollars. Given
5 the extensive media interest in the conservatee, her confidential,
6 proprietary and personal information in the Privileged Declaration
7 would undoubtedly be widely disseminated if these documents were
8 filed publicly, thereby prejudicing the interests of the conserva-
9 tee and her Estate. A sealing order is the only way to protect the
10 conservatee's business and litigation interests, preserve the
11 confidentiality of the conservatee's and her minor children's
12 private and personal information and ensure that The conservatee'
13 and her minor children's safety and personal well-being is
14 protected. See Cal. R. Ct. 2.550(d)(3).

15
16 c. The Proposed Sealing Is as Narrowly Tailored as
17 Possible, and No Less Restrictive Means Exist to Achieve the
18 Overriding Interests

19 The proposed sealing of the Privileged
20 Declaration in entirety is as narrowly tailored as possible, and no
21 less restrictive means exist to protect the conservatee's and her
22 minor children's overriding interests because benign information in
23 these documents is inextricably intertwined with confidential
24 information, rendering it impracticable for the Conservators to
25 redact only the confidential information. See Cal. R. Court
26 2.550(d)(4) and (5). Indeed, attempting to redact the confidential
27 information from the Privileged Declaration would serve little
28 purpose as it would leave these documents with little more than

1 isolated phrases and words, without any substantial meaning being
2 imparted to the public.

3 Moreover, Moving Party and the Conservators
4 have previously filed other documents publicly that disclose all
5 but the most confidential information relating to the conservatee's
6 finances, career, personal and medical information, and minor
7 children. (See, e.g., First Account Current, filed on March 23,
8 2009 in this matter and Second Account Current, filed on June 15,
9 2010 in this matter.)

10 Most importantly, Moving Party has publicly
11 filed his "Petition For Fees To Court-Appointed Attorney" which
12 sets forth the time expended and the amount of compensation sought
13 by Moving Party. It includes a verified declaration describing the
14 legal services rendered by Moving Party to the conservatee. The
15 Court's order on the fee petition will also be public. Therefore,
16 the public's interest in access to these proceedings has been fully
17 satisfied.

18 The Privileged Declaration is of minimal value
19 to the public, especially given the extensive information in the
20 Court's record that is already publicly available. However, the
21 Privileged Declaration could be used by third parties to the
22 conservatee's and her Estate's significant detriment. The only way
23 to protect the conservatee's and her minor children's overriding
24 interests is to seal the Privileged Declaration in its entirety.

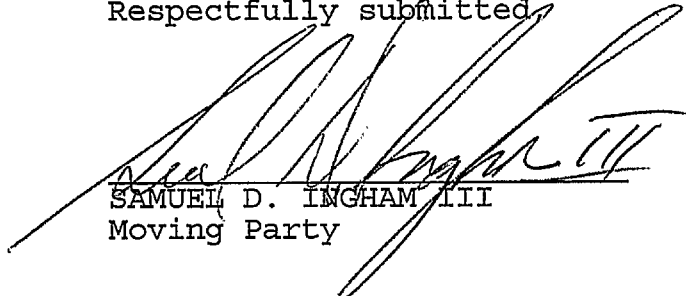
25
26 4. Conclusion

27 Unless the Privileged Declaration is sealed in its
28 entirety, the confidential, sensitive and proprietary information

1 it contains will unquestionably be disseminated widely throughout
2 the world, harming the conservatee by revealing her trade secrets,
3 proprietary information and litigation strategies, impinging on her
4 and her minor children's right to privacy, and interfering with her
5 ability to transact future business effectively. Moving Party
6 therefore respectfully requests that this Court issue an order
7 sealing the Privileged Declaration in its entirety to protect the
8 conservatee's and the Estate's trade secrets and proprietary
9 information, litigation strategy, and personal and medical
10 information regarding the conservatee and her minor children.

11 Dated: November 13 2012

12 Respectfully submitted,

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16 SAMUEL D. INGHAM III
17 Moving Party
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1 DECLARATION OF SAMUEL D. INGHAM III

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3 SAMUEL D. INGHAM III declares:

4 1. I am an attorney admitted to practice law in the State
5 of California. Except as otherwise stated, the statements contained
6 in this declaration are based on my personal knowledge and
7 experience. If called as a witness, I could and would testify
8 competently to those facts.

9 2. By Order dated February 1, 2008 in this proceeding, I
10 was appointed to serve as counsel for the conservatee. I have not
11 been discharged and presently serve in that capacity.

12 3. By Order dated February 1, 2008, JAMES P. SPEARS was
13 appointed temporary conservator of the conservatee's person for an
14 initial period expiring February 4, 2008. By various orders, his
15 letters of temporary conservatorship have been extended. By minute
16 order dated October 28, 2008, JAMES P. SPEARS was appointed
17 permanent conservator of the conservatee's person and he continues
18 to serve in that capacity. Letters of conservatorship of the person
19 were issued to JAMES P. SPEARS on January 9, 2009 and he continues
20 to serve in that capacity. At the hearing on April 25, 2012, JASON
21 TRAWICK was appointed co-conservator of the person to serve with
22 JAMES P. SPEARS.

23 4. By Order dated February 1, 2008, JAMES P. SPEARS and
24 ANDREW M. WALLET were appointed temporary co-conservators of the
25 conservatee's estate for an initial period expiring February 4,
26 2008. By various orders, their letters of temporary conservatorship
27 have been extended. By minute order dated October 28, 2008, JAMES
28 P. SPEARS and ANDREW M. WALLET were appointed permanent co-

1 conservators of the conservatee's estate and they continue to serve
2 in that capacity.

3 5. In my capacity as the conservatee's attorney in this
4 matter, I have extensive knowledge of every aspect of the conserva-
5 torship of my client's person and estate. My responsibilities as
6 the conservatee's attorney have included working closely with the
7 conservators and their attorneys, the Estate's business advisors,
8 the conservatee's doctors, reviewing every pleading filed in this
9 matter and appearing at every court hearing, attending to litiga-
10 tion involving the conservatee or her Estate, and assisting the
11 conservatee in addressing personal issues relating to the conserva-
12 tee and her children.

13 6. The Privileged Declaration relates to or reveals the
14 conservatee's trade secrets, proprietary information, personal
15 information, information regarding her professional contracts and
16 business dealings, her litigation strategy and sensitive, personal
17 and private information regarding the conservatee and her minor
18 children, including medical information.

19 7. If the conservatee's trade secrets and proprietary
20 information are made public, there would be an adverse impact on
21 the conservatee's business activities. Not only would the conserva-
22 tee's and her Estate's future negotiating powers be prejudiced if
23 information regarding her professional contracts and business
24 dealings were disclosed, but also third parties might be unwilling
25 to do business with the conservatee or her Estate in the future for
26 fear that the sensitive terms of their agreements would also be
27 made public. Indeed, confidentiality is generally of critical
28 importance to contracting parties in the entertainment business.

1 The conservators use reasonable efforts to maintain the secrecy of
2 the information, including requiring all persons having access to
3 the information to sign confidentiality agreements, which enhances
4 the Conservators' negotiating power. It is my opinion that the
5 conservatee and her Estate would suffer significant economic harm
6 if the conservators are unable to assure the confidentiality of
7 material terms of contracts.

8 8. Furthermore, if the litigation strategy contained in
9 the Privileged Declaration were disclosed publicly, potential
10 claimants and opposing parties will have access to invaluable
11 information, including, for examples, areas and issues researched,
12 negotiations pursued, witnesses interviewed, matters investigated,
13 business strategy, plans in development, and assessments of
14 weaknesses and strengths in the conservatee's and the Estate's
15 litigation positions, all to the conservatee's and her Estate's
16 prejudice. I am confident that the public disclosure of this
17 information, which also reveals by implication matters not
18 investigated and issues not researched, would give parties
19 currently adverse and those persons contemplating new litigation
20 against the conservatee or her Estate an unfair advantage. Absent
21 a sealing order as to the Privileged Declaration, the conservatee's
22 and her Estate's business affairs and ability to prosecute or
23 defend against pending or future litigation would be seriously
24 compromised.

25 9. If the Privileged Declaration is not sealed, there is
26 a substantial probability that the conservatee's overriding
27 interests in her constitutional right to privacy and the right to
28 maintain the confidentiality of her proprietary information would

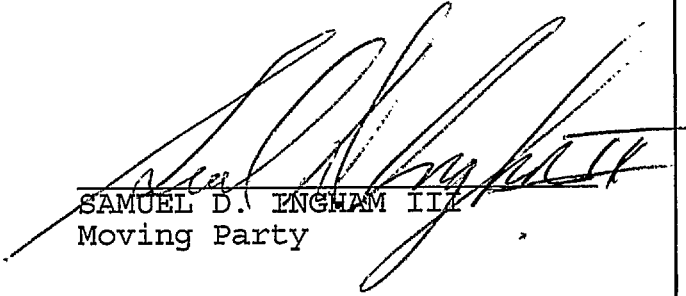
1 be prejudiced. This document would most likely be disseminated
2 widely and dissected in the media. This would have a detrimental
3 effect on The conservatee's and her minor children's overriding
4 interests set forth above.

5 10. The sealing proposed in this motion is as narrowly
6 tailored as possible, and no less restrictive means exist to
7 protect the conservatee's and her minor children's overriding
8 interests because benign information in the Privileged Declaration
9 is inextricably intertwined with confidential information,
10 rendering it impracticable for me to redact only the confidential
11 information. Indeed, attempting to redact the confidential
12 information from the Privileged Declaration would serve little
13 purpose as it would leave the document with little more than
14 isolated phrases and words, without any substantial meaning being
15 imparted to the public. Sealing the document in its entirety is the
16 only way to protect the conservatee's and her minor children's
17 overriding interests.

18 11. I have been ordered to file separately a fee petition
19 which includes as Exhibit 1 a verified declaration that discloses
20 fully the hours expended and fees requested, in addition to
21 describing the legal services I have rendered to the conservatee.
22 It includes all but the most confidential information relating to
23 the conservatee's finances, career, personal and medical informa-
24 tion, and minor children. The Court's order on the fee petition
25 will also be public. This publicly available information satisfies
26 fully the public's interest in access to these proceedings.

27 ///

1 I declare under penalty of perjury of the laws of the
2 State of California that the foregoing is true and correct and that
3 this declaration is executed on November 13, 2012 at Beverly Hills,
4 California.


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7 SAMUEL D. ENGNAM III
8 Moving Party
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