

1 Joel E Boxer (SBN 50169)
Bonita D. Moore (SBN 221479)
2 **BIRD, MARELLA, BOXER, WOLPERT,**
3 **NESSIM DROOKS & LINCENBERG P.C.**
4 [REDACTED]

FILED
Superior Court of California
County of Los Angeles

APR 19 2012

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

5 Attorneys for James P. Spears and Andrew M.
Wallet, Co-Conservators of the Estate

6 Geraldine A Wyle (SBN 89735)
7 Jeryll S Cohen (SBN 125392)
8 **HOFFMAN, SABBAN & WATENMAKER**
A Professional Corporation
9 [REDACTED]
10 [REDACTED]

11 Attorneys for James P Spears,
Co-Conservator of the Estate and
12 Conservator of the Person

13 Andrew M Wallet (SBN 93043)
14 **HINOJOSA & WALLET, LLP**
15 [REDACTED]

DATE OF HEARING

6-20-12 10:00 AM - 9

16 Co-Conservator of the Estate
17

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

20 In re the Conservatorship of the Person
and the Estate of

21 **BRITNEY JEAN SPEARS,**
22 **Conservatee**
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CASE NO BP 108870

Assigned to Hon Reva Goetz, Dept 9

**NOTICE OF RENEWED MOTION FOR
AN AWARD OF ATTORNEYS' FEES;
MEMORANDUM OF POINTS AND
AUTHORITIES**

[Declaration of Joel E Boxer, Parts I & II,
concurrently]

Date: June 20, 2012
Time: 10:00 a.m.
Dept: 9

FILED
RECEIVED
DATE PAID: 04/19/12 05:57:00 PM
FBI/DOJ
40 00

1 **TO: OSAMA ("SAM") LUTFI AND JON JAY EARDLEY, AND THEIR**
2 **COUNSEL OF RECORD AND ALL INTERESTED PARTIES:**

3 **PLEASE TAKE NOTICE THAT** at _____ on _____, 2012, or as
4 soon thereafter as the matter may be heard in Department 9 of the above-entitled court
5 located at 111 North Hill Street, Los Angeles, California, Petitioner James P Spears,
6 Conservator of the person of the estate of Britney J Spears and Co-Conservator of the
7 estate of Britney J. Spears, and Petitioner Andrew J. Wallet, Co-Conservator of the estate
8 of Britney J Spears (collectively, "Petitioners" or "Co-Conservators") will and hereby do
9 renew their motion for an order for Petitioners' reasonable costs and attorneys' fees in the
10 amount of \$114,552.90 against Respondent Osama "Sam" Lutfi, and \$121,184 71 against
11 Respondent John J Eardley, or in such other amounts as may be set by the Court

12 This Motion is based on the grounds that the Co-Conservators' motion for
13 attorneys' fees filed on May 8, 2009 ("Motion for Attorneys' Fees") was granted in part by
14 the Court on June 2, 2009, Honorable Aviva K. Bobb presiding ("Attorneys' Fee Order").
15 In the Attorneys' Fee Order, the Court ruled that the Co-Conservators were the prevailing
16 party with respect to the restraining orders granted on April 28, 2009 against Sam Lutfi,
17 John Eardley and Adnan Ghalib. The Court further awarded the Co-Conservators
18 attorneys' fees and costs in the amount of \$11,500 against Adnan Ghalib. However, the
19 Court declined to rule on the matter of attorneys' fees with respect to Lutfi and Eardley
20 until resolution of their respective appeals. As the matters on appeal have since been
21 resolved, the Co-Conservators hereby renew their Motion for Attorneys' Fees with respect
22 to Lutfi and Eardley

23 This motion is based on this Notice, the attached Memorandum of Points and
24 Authorities, the concurrently-filed declaration of Joel E. Boxer, all of the filings made in
25 connection with the Motion for Attorneys' Fees, the complete files and records of these
26 proceedings, including all pleadings, orders and transcripts therein, any oral argument
27 permitted by the Court at the time of the hearing, and such other matters as the Court
28

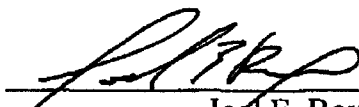
1 deems appropriate on which to base its ruling.

2
3 DATED April 17, 2012

Respectfully submitted,

4 Joel E Boxer
5 Bonita D Moore
6 BIRD, MARELLA, BOXER, WOLPERT,
7 NESSIM, DROOKS & LINCENBERG, P.C.

8 By


9 Joel E Boxer
10 Attorneys for James P Spears and Andrew M
11 Wallet, Co-Conservators of the Estate
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I**

3 **BACKGROUND**

4 On April 28, 2009, pursuant to CCP § 527 6 and W&I § 15600, *et seq* , this Court,
5 the Honorable Aviva K Bobb presiding, issued three-year restraining orders against
6 respondents Osama "Sam " Lutfi ("Lutfi"), Jon Jay Eardley ("Eardley") and Adnan Ghalib
7 ("Ghalib") Declaration of Joel E Boxer, Part I ("Boxer Decl I"), ¶ 2, Ex 1

8 On May 8, 2009, pursuant to the express authority of CCP § 527 6 and W&I §
9 15600, *et seq.*, the Co-Conservators moved the Court for an award of their reasonable
10 attorneys' fees and costs for seeking and obtaining the temporary and permanent
11 restraining orders against Lutfi, Eardley and Ghalib (Attorneys' Fee Motion").¹
12 Declaration of Joel E Boxer, Part II ("Boxer Decl II") ¶¶ 2-3, Exs. A at p 4 & B The
13 motion was made before Judge Bobb² Boxer Decl II ¶ 3. The Co-Conservators requested
14 reasonable costs and attorneys' fees in the amount of \$ 114,552 90 against Lutfi, and
15 \$121,184 71 against Respondent Eardley³

16 Although the requested fees and costs may be greater than is typically associated
17 with the grant of restraining orders, this was a complex and highly contested matter As
18 detailed in the Co-Conservators' "Combined Reply to Eardley and Lutfi's 'Objections' To
19

20 ¹ For the Court's convenience, the exhibits to the Declaration of Joel Boxer, Part II
21 comprise the moving, opposition/objection, and reply papers that were filed in conjunction
22 with the Motion for Attorneys' Fees Boxer Decl. II, ¶ 3, Exs B - J As discussed below,
the Court awarded attorneys' fees and costs against Ghalib, thus, he is not the subject of
this renewed motion

23 ² The Court's Order of April 28, 2009 ordered that the Co-Conservators submit a
24 declaration as to attorneys' fees, thus, the moving papers were in the form of a summary
25 declaration from Joel E Boxer Boxer Decl II, ¶ 2, Ex A at p 4

26 ³ This request is reflected in a supplement to the April 28, 2009 Boxer declaration filed
27 by the Co-Conservators on May 27, 2009. The supplement amended the requested
28 attorneys' fees and costs to reflect a further discount of attorneys' fees from the Luce
Forward law firm Boxer Decl. II, ¶ 3, Ex I

1 Petitioners' Evidentiary Showing" of the Attorneys' Fee Motion, filed on May 22, 2009
2 ("Reply"), the three-year restraining orders were issued by the Court after it conducted
3 extensive and lengthy evidentiary hearings. The Court held six days of hearings involving
4 the examination of eight live witnesses, the introduction of scores of exhibits into
5 evidence, and extensive oral argument, including as to issues of law as well as closing
6 arguments. Boxer Decl. II, ¶ 3, Ex G [Reply] at 1, 11

7 On June 2, 2009, Judge Bobb issued her ruling on the Attorneys' Fee Motion
8 ("Attorneys' Fee Order") Boxer Decl I, ¶ 3, Ex 2. In the Attorneys' Fee Order, the
9 Court ruled that the Co-Conservators were the prevailing party with respect to the
10 restraining orders granted on April 28, 2009 against Lutfi, Eardley and Ghalib. *Id.* The
11 Court further awarded the Co-Conservators attorneys' fees and costs in the amount of
12 \$11,500 against Ghalib.⁴ *Id.* However, the Court declined to rule on the matter of
13 attorneys' fees with respect to Lutfi and Eardley until resolution of their respective appeals
14 of the restraining orders. *Id.* As the matters on appeal have since been resolved, the Co-
15 Conservators hereby renew their Motion for Attorneys' Fees with respect to Lutfi and
16 Eardley.

17 II. 18 ARGUMENT

19 California Code of Civil Procedure section 1008 ("C.C.P. § 1008"), subd. (b)
20 provides for a party to make a renewed application for an order when an application was
21 "refused in whole or part, or granted conditionally or on terms." C.C.P. § 1008(b). There
22 is no time limit for making a renewed application. *Id.*, see also 33 Cal. Forms of Pleading
23 and Practice § 374.15[2] (Matthew Bender). However, a renewed motion does require a
24 showing of "new or different facts, circumstances or law." C.C.P. § 1008(b). In addition
25

26 ⁴ Unlike Lutfi and Eardley, Ghalib did not contest the restraining orders. In fact, he
27 never made an appearance. As the Court has ruled on the attorneys' fee award against
28 Ghalib, the Co-Conservators' renewed motion is only as to Lutfi and Eardley.

1 to, and apart from, C C P § 1008, a court has inherent discretion to entertain a renewed
2 motion. *Josephson v Superior Court (Harry Pinch)*, 219 Cal App 2d 354, 358-59 (1963)
3 (The requirements of C C P. § 1008 do not go to the jurisdiction of the court to entertain a
4 renewed motion, which decision is in the court's discretion)

5 As to the required showing under C C.P § 1008, the Court declined to rule on the
6 Co-Conservators' petition for attorneys' fees as to Lutfi and Eardley until the resolution of
7 their appeals of the restraining orders granted against them Boxer Decl I, ¶ 3, Ex 2
8 Lutfi abandoned his appeal on May 12, 2010, with the remittitur issuing on May 14, 2010.
9 Boxer Decl. I, ¶ 4, Ex 3 The Court of Appeal issued its opinion as to Eardley's appeal on
10 February 2, 2011, with the remittitur issuing on April 7, 2011 Boxer Decl I, ¶ 4, Ex 3
11 Thus, the matters on appeal have been resolved, which resolution constitutes the different
12 circumstances pursuant to which the Co-Conservators renew their Motion for Attorneys'
13 Fees Boxer Decl. I, ¶ 4. Therefore, pursuant to Code of Civil Procedure section 1008 as
14 well as the Court's inherent discretion, the Co-Conservators are entitled to and do hereby
15 renew their application for attorneys' fees and costs as to Lutfi and Eardley

16 III

17 CONCLUSION

18 The Co-Conservators respectfully request that the Court award requested reasonable
19 costs and attorneys' fees in the amount of \$ 114,552 90 against Lutfi, and \$121,184 71
20 against Eardley pursuant to their renewed Motion for Attorneys' Fees

21 DATED April 17, 2012

Respectfully submitted,

22 Joel E. Boxer
23 BIRD, MARELLA, BOXER, WOLPERT,
24 NESSIM, DROOKS & LINCENBERG, P.C.

25 By 

Joel E. Boxer

26 Attorneys for James P Spears and Andrew M
27 Wallet, Co-Conservators of the Estate
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SERVICE LIST
Conservatorship of Britney Jean Spears
Case No. BP 108870

Samuel D Ingham, III

[REDACTED]

PVP Counsel for Britney Jean Spears

Joseph D Schleimer

[REDACTED]

Jeffrey D. Wexler
Luce Forward Hamilton & Scripps LLP

[REDACTED]

Sam Lutfi

[REDACTED]

In Pro Per (per 4/9/10 COA order)

Roger J Diamond

[REDACTED]

Counsel for Jon Jay Eardley Esq.

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online.com

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PROOF OF SERVICE

I am employed in the county of Los Angeles, State of California I am over the age of eighteen years and not a party to the within action My business address and place of employment is Hoffman, Sabban & Watenmaker, A Professional Corporation, [REDACTED]

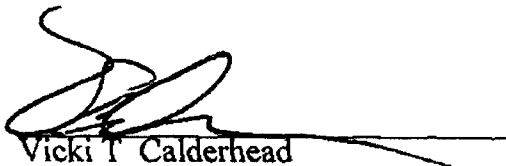
On April 19, 2012, I served the document(s) described as. **NOTICE OF RENEWED MOTION FOR AN AWARD OF ATTORNEYS' FEES; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF JOEL E. BOXER, PARTS I & II** on the interested parties in this action by placing.

☐ the original ☒ true copy(ies) thereof enclosed in sealed envelope(s) as follows:

See attached Service List.

☒ **BY MAIL, STATE OR FEDERAL:** I am readily familiar with the practice of this office for collection and processing of correspondence for mailing with the United States Postal Service Pursuant to that practice, the above-referenced documents would be deposited with the United States Postal Service, First Class, postage pre-paid, in the ordinary course of business on this date. The above-referenced document was sealed and placed for collection and mailing with this office's First Class, Prepaid Mail on this date, at my above address in accordance with ordinary office practice.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct Executed on April 19, 2012, at Los Angeles, California.


Vicki T. Calderhead