

ORIGINAL

FILED
LOS ANGELES SUPERIOR COURT

SEP 02 2010

JOHN A. JARRELL, CLERK
Betzaida F. Mendez
BY BETZAIDA F. MENDEZ, DEPUTY

Joel E. Boxer (SBN 50169)
Bonita D. Moore (SBN 221479)
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Attorneys for James P. Spears and Andrew
M. Wallet, Co-Conservators of the Estate

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

In re the Conservatorship of the Person and
the Estate of

BRITNEY JEAN SPEARS,

Conservatee

CASE NO. BP 108870

NOTICE OF ENTRY OF JUDGMENT

Assigned to Hon. Reva Goetz,
Dept. 9

PLEASE TAKE NOTICE that on July 28, 2010, the Court filed and entered the
Judgment attached as Exhibit 1

DATED August 4, 2010

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

By *Bonita D. Moore*
Bonita D. Moore
Attorneys for Plaintiffs/Respondents
Co-Conservators



1 Joel E. Boxer (SBN 50169)
 Bonita D. Moore (SBN 221479)
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 3 1875 Century Park East, 23rd Floor
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5 Attorneys for James P. Spears and Andrew
 M. Wallet, Co-Conservators of the Estate
 6
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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 10 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
 11

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

13 **BRITNEY JEAN SPEARS,**
 14 **Conservatee.**
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CASE NO BP 108870

~~PROPOSED~~ JUDGMENT OF COSTS

Assigned to Hon. Reva Goetz,
 Dept. 9

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EXHIBIT 1

1 On January 19, 2010, in the matter of the Conservatorship of the Person and Estate
2 of Britney J Spears, the Court of Appeal, Second Appellate District, Case No B214749,
3 issued an order, attached hereto as Exhibit A, dismissing as moot the appeal of appellant
4 Jon Eardley ("Eardley") of the Temporary Restraining Order issued by this Court on
5 January 30, 2009 On March 16, 2010, the Court of Appeal ordered Eardley to pay
6 sanctions to respondents in the amount of \$5,154 06 for maintaining a frivolous appeal,
7 attached hereto as Exhibit B. On March 26, 2010, the remittitur issued awarding costs on
8 appeal to respondents, attached hereto as Exhibit C

9 On June 18, 2010, plaintiffs/respondents James P Spears, Conservator of the
10 Person and Co-Conservator of the Estate of Britney Jean Spears, and Andrew Wallet, Co-
11 Conservator of the Estate of Britney Jean Spears (collectively, "Co-Conservators"), filed
12 and served a Memorandum of Costs to recover the statutorily authorized costs they
13 incurred on appeal and the awarded sanctions, attached hereto as Exhibit D On July 8,
14 2010, the time expired for Eardley to oppose this memorandum by bringing a motion to tax
15 costs

16 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that


17 The Co-Conservators shall recover their costs on appeal, including sanctions
18 awarded, in the total amount of \$5,291 52 from Eardley

19
20 DATED July ²⁸~~15~~, 2010
_{cm}

21
22 REVA G GOETZ, Judge

23 Hon Reva Goetz
24 JUDGE OF THE SUPERIOR COURT

25 Respectfully submitted by

26
27 By 
Bonita D Moore
28 Attorneys for plaintiffs/respondents Co-Conservators

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the County of Los Angeles, State of California I am over the age
4 of 18 and not a party to the within action, my business address is 1875 Century Park East,
23rd Floor, Los Angeles, California 90067-2561

5 On July 19, 2010, I served the following document(s) described as **[PROPOSED]**
6 **JUDGMENT ON COSTS** on the interested parties in this action as follows

7 **BY MAIL:** By placing a true copy thereof in sealed envelopes addressed to the
parties listed on the attached Service List and causing them to be deposited in the mail at
8 Los Angeles, California The envelopes were mailed with postage thereon fully prepaid I
am readily familiar with our firm's practice of collection and processing correspondence
9 for mailing It is 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
10 if postal cancellation date or postage meter date is more than one day after date of deposit
for mailing affidavit

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

13 Executed on July 19, 2010, at Los Angeles, California

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15 Beth Martin
16 Beth Martin
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SERVICE LIST
Conservatorship of Britney Jean Spears
Case No. BP 108870

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Conservator of the Estate

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In pro per (per 4/9/10 COA order)

Jon Jay Eardley, Esq.
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Whittier, CA 90603
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Facsimile (562) 371-5007

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

Conservatorship of the Person and Estate
of BRITNEY J. SPEARS.

JAMES P. SPEARS,

as Conservator, etc.,
Petitioner and Respondent,

v

JON EARDLEY et al.,

Objector and Appellant

B214749

(Los Angeles County
Super. Ct No. BP108870)

ORDER

COURT OF APPEAL - SECOND DIS
FILED
JAN 19 2010
JOSEPH A. LANE
J. HATTER
Clerk
Deputy Clerk

Conservatorship of the Person and Estate
of BRITNEY J. SPEARS.

JAMES P. SPEARS,

as Conservator, etc.,
Petitioner and Respondent,

v.

JON EARDLEY,

Objector and Appellant.

B217226

(Los Angeles County
Super. Ct. No. BP108870)

ORDER

EXHIBIT A

09/03/2010
09/07/2010

THE COURT.

Jon Eardley, appellant in each of the above appeals, has filed a motion to consolidate the appeals.

Respondents James P. Spears and Andrew M. Wallet, co-conservators, have moved to dismiss appellant Eardley's appeal from the issuance of a temporary restraining order in case No. B214749 on the ground that it is moot following the trial court's issuance of a three-year restraining order. Respondents move for sanctions for appellant Eardley's failure to voluntarily dismiss the appeal.

Appellant Eardley's appeal from the temporary restraining order has been rendered moot by the issuance of a three-year restraining order, and that portion of the appeal in which appellant Eardley challenges the temporary restraining order in case No. B214749 is hereby DISMISSED. (*O'Kane v Irvine* (1996) 47 Cal.App.4th 207, 210, fn. 4.) Accordingly, the only appeal remaining in case No. B214749 is that of appellant Osama (Sam) Lutfi from the issuance of a three-year restraining order in the same matter.

The motion to consolidate appellant Lutfi's appeal in case No. B214749 from issuance of a three-year restraining order and appellant Eardley's appeal in case No. B217226 from issuance of a three-year restraining order, both orders arising from the same superior court matter, is GRANTED. All future documents to be filed in B214749.

Sanctions are warranted where an appellant fails to dismiss an appeal after subsequent events, here the issuance of the three-year restraining order, have rendered an appeal from a temporary restraining order moot and therefore frivolous. (*In re Guardianship of Melissa W.* (2002) 96 Cal.App.4th 1293, 1301; *Wax v. Infante* (1983) 145 Cal.App.3d 1029 1031.) Appellant Eardley was informed by respondents of his obligation to dismiss the appeal from the temporary restraining order and has failed to do so. This court is considering imposing sanctions against appellant Eardley in the amount of \$5,154.06, the costs and fees associated with the preparation and filing of respondents' motion to dismiss. Appellant Eardley is ordered to appear before this Court at 300 South

Spring Street in Los Angeles, California, on February 25, 2010, at 12:45 p.m., to show cause why sanctions in that amount should not be imposed. At the hearing, each side may have 10 minutes to argue. Appellant Eardley may file a letter brief on the issue of sanctions within 10 days of the date of this order.

Bore

D. Todd

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

Conservatorship of the Person and Estate of
BRITNEY J. SPEARS.

B214749

(Los Angeles County
Super. Ct. No. BP108870)

JAMES P. SPEARS et al.,

ORDER in re SANCTIONS

Petitioners and Respondentss,

COURT OF APPEAL - SECOND DIS

v.

FILED

MAR 16 2010

JON EARDLEY et al.,

JOSEPH A. LANE

Clerk

Objectors and Appellants.

Deputy Clerk

Appellant Jon Eardley filed notices of appeal on March 6, 2009 (the first appeal) and on June 29, 2009 (the second appeal). In the first appeal, Eardley purported to appeal the trial court's granting of the orders of permanent conservatorship over the person and estate of Britney J. Spears, letters of conservatorship over the person and estate of Britney J. Spears, and a temporary restraining order (TRO) against Eardley. The second appeal is from the three-year (or permanent) restraining order issued by the trial court against him on April 28, 2009 (Appellant Osama ("Sam") Lutfi also appealed from the April 28, 2009, restraining order. His appeal, together with Eardley's of the same order, is currently underway.)

This Court on May 14, 2009, dismissed the portions of the appeal dealing with the permanent conservatorship and letters of conservatorship because Eardley lacked "authority to initiate an appeal from the orders of permanent conservatorship over the

EXHIBIT B ✓

person and the estate of Britney Spears and the letters of conservatorship over the person and the estate of Britney Spears.” On January 19, 2010, this Court also granted respondents’ motion to dismiss and dismissed as moot the third (and last) portion of the appeal Eardley filed on March 6, 2009--the portion dealing with the TRO. As the motion pointed out, respondents had given Eardley clear notice that an appeal of a TRO was moot once a permanent injunction took its place. Respondents had provided Eardley with sound case authorities on the subject. Despite such solid authority, Eardley refused to abandon that part of his appeals. Thus, because respondents had to move to dismiss that appeal and asked for sanctions for having to bring the motion, the matter was set for a Order to Show Cause hearing on February 25, 2010.

Prior to the hearing on February 25, 2010, Eardley filed a brief claiming he had good cause for not asking this Court for a voluntary dismissal of the TRO appeal. He also appeared at the hearing and offered no further excuse for not voluntarily dismissing the appeal of the TRO. He also did not challenge the amount of sanctions requested by respondents. We find that it is well-established that a TRO becomes a moot issue once a restraining order is issued, and it is also then nonappealable. We do not find that Eardley has presented a cogent reason for making an exception here. Nor do we find that he sincerely believed that the TRO was still a substantial issue and appealable once the trial court had issued a three-year restraining order against him. Thus, we determine that the appeal of the TRO was frivolous and that sanctions are appropriate. (Eisenberg et al., Cal. Practice Guide: Civil Appeals and Writs (The Rutter Group 2009) ¶ 5:36, p. 5-16.)

If an appeal is rendered moot, it is subject to dismissal. (*City of Hollister v. Monterey Ins. Co.* (2008) 165 Cal.App.4th 455, 479-480.) An appeal of a TRO is rendered moot and should then be dismissed. (*O’Kane v. Irvine* (1966) 47 Cal.App.4th 207, 210 fn. 4; see also Eisenberg et al., Cal. Practice Guide: Civil Appeals and Writs, *supra*, at ¶ 5:26.1, p. 5-8.) When an appeal is rendered moot, an appellant has a duty to have the appeal dismissed. Maintenance of a lawsuit in the face of such mootness renders the appeal a frivolous one and subject to the imposition of sanctions on the

appellant. (*In re Guardianship of Melissa W* (2002) 96 Cal.App.4th 1293, 1301; *Wax v Infante* (1983) 145 Cal.App.3d 1029, 1031.)

Respondents requested sanctions in the amount of \$5,154.06. That amount is reasonable, and Eardley does not challenge the amount. The Court therefore **ORDERS** that Eardley pay to respondents within 90 days the amount of \$5,154.06 for maintaining this frivolous appeal.

BOREN, P.J

ASHMANN-GERST, J

CHAVEZ, J.

Joel Boxer
Bird, Manella et al
1875 Century Park East
23rd Floor
Los Angeles, CA 90067-2561

Case Number B214749
Division 2
CONSERVATORSHIP OF THE PERSON/ESTATE OF BRITNEY J SPEARS

P SPEARS et al ,
Plaintiffs and Respondents,
v
JON EARDLEY,
Intervener and Appellant,
OSAMA (SAM) LUFTI,
Objector and Appellant.

*** NOTICE ***

Enclosed is a copy of the remittitur that has issued in the above-entitled cause. This notice is sent as required pursuant to Calif. Rule of Court 8 272(d).

A copy of this court's order, opinion or decision which was mailed to you upon its filing *is not* enclosed with this mailing

EXHIBIT C

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
JOSEPH A. LANE, CLERK

DIVISION 2

Los Angeles County Superior Court
111 North Hill Street
Los Angeles, CA 90012

CONSERVATORSHIP OF THE PERSON/ESTATE OF BRITNEY J. SPEARS

P. SPEARS et al.,
Plaintiffs and Respondents,
v
JON EARDLEY,
Intervener and Appellant,
OSAMA (SAM) LUFTI,
Objector and Appellant.
B214749
Los Angeles County No. BP108870

*** REMITTITUR ***

I, Joseph A. Lane, Clerk of the Court of Appeal of the State of California, for the Second Appellate District, do hereby certify that the attached is a true and correct copy of the original order, opinion or decision entered in the above-entitled cause on January 19, 2010 [N/A 3/6/09] and that this order, opinion or decision has now become final.

Respondent(s) to recover costs.

Witness my hand and the seal of the Court
affixed at my office this

MAR 26 2010

Joseph A. Lane, Clerk

by J. Hatter,
Deputy Clerk

cc: All Counsel (w/out attachment)
File

0102/2010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number and address) Joel E. Boxer - SBN 50169/Bonita D. Moore - SBN 221479 Bird, Marella, Wolpert, Nessim, Drooks & Lincenberg, P C 1875 Century Park East, 23rd Floor Los Angeles, California, 90067-2561 TELEPHONE NO 310-201-2100 FAX NO (Optional) 310-201-2110 E-MAIL ADDRESS (Optional) ATTORNEY FOR (Name) Wallet, Andrew and Spears, James P (Conservators)		<div style="text-align: right;"> CONFIRMED COPY OF ORIGINAL FILED Los Angeles Superior Court JUN 18 2010 John A. Clarke, Executive Officer/Clerk By <u>R. Garcia</u> Deputy </div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS 111 North Hill Street MAILING ADDRESS 111 North Hill Street, Dept 11 CITY AND ZIP CODE Los Angeles, Ca 90012 BRANCH NAME Central District		
PLAINTIFF Conservatorship - Britney Jean Spears DEFENDANT Jon Eardley, Esq		
MEMORANDUM OF COSTS ON APPEAL		
		CASE NUMBER BP108870 / B214749

Prevailing party (name) Conservatorship - Britney Jean Spears
 claims from (name) Jon Eardley, Esq
 the following costs on appeal

	TOTALS
1 Filing fees	1 \$ 0
2 Preparation of clerk's transcript	2 \$ 0
3 Preparation of reporter's transcript	3 \$ 0
4 Printing of briefs	4 \$ 54 60
5 Production of additional evidence	5 \$ 0
6 Notary fees	6 \$ 0
7 Expenses of service	7 \$ 37 86
8 Transmission and filing of record, briefs, and other papers	8 \$ 45 00
9 Premium on any surety bond on appeal	9 \$ 0
10 Other expenses reasonably necessary to secure surety bond	10 \$ 0
11 Other 5154 06 (specify authority) 3/16/2010 sanctions order	11 \$ 5154 06

TOTAL COSTS	\$ 5291 52
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I am ☐ the party ☒ counsel for the party ☐ agent for the party who claims the costs listed above To the best of my knowledge, the items of cost are correct and were necessarily incurred in this case on appeal

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

Bonita D Moore

(TYPE OR PRINT NAME)


 (SIGNATURE OF DECLARANT)

Page 1 of 2

Form Adopted for Mandatory Use
 Judicial Council of California
 MC-013 (Rev January 1 2007)

MEMORANDUM OF COSTS ON APPEAL

Code of Civil Procedure § 1034(b)
 Cal Rules of Court, rule 8.272
www.courtinfo.ca.gov

American LegalNet, Inc.
www.FormsWorkflow.com

EXHIBIT D

SHORT TITLE	CASE NUMBER
Conservatorship - Britney Jean Spears	BP108870 / B214749

PROOF OF SERVICE

☒ Mail ☐ Personal Service

- 1 At the time of service I was at least 18 years of age and not a party to this legal action
- 2 My residence or business address is (specify) 1875 Century Park East, 23rd Floor, Los Angeles, CA 90067
- 3 I mailed or personally delivered a copy of the *Memorandum of Costs on Appeal* as follows (complete either a or b).
- a ☒ Mail I am a resident of or employed in the county where the mailing occurred
- (1) I enclosed a copy in an envelope and
- (a) ☒ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid
- (b) ☐ placed the envelope for collection and mailing on the date and at the place shown in items below, following our ordinary business practices I am readily familiar with this business's practice for collecting and processing correspondence for mailing On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid
- (2) The envelope was addressed and mailed as follows
- (a) Name of person served SEE ATTACHED LIST
- (b) Address on envelope
- (c) Date of mailing June 18, 2010
- (d) Place of mailing (city and state) Los Angeles, CA
- b ☐ Personal delivery I personally delivered a copy as follows
- (1) Name of person served
- (2) Address where delivered
- (3) Date delivered
- (4) Time delivered

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

Date June 18, 2010

Beth Martin

(TYPE OR PRINT NAME)



Beth Martin

(SIGNATURE OF DECLARANT)

SERVICE LIST

**In Re The Conservatorship of the Person and the Estate of Britney Jean Spears
Jon Eardley v. James P. Spears, Co-Conservator of the Estate and Andrew W.
Wallet, Co-Conservator of the Estate
2nd Civil Case No. B214749**

Jon Eardley Law Offices of Jon Eardley 16020 Puesta Del Sol Drive Whittier, CA 90603 Telephone (760) 832-8756 Facsimile (562) 371-5007	Geraldine Wyle Hoffman Sabban & Watenmaker 10880 Wilshire Blvd , Suite 2200 Los Angeles, CA 90024 Telephone. (310) 470-6010 Facsimile (310) 470-6735
Andrew M Wallet Hinojosa & Wallet 2215 Colby Avenue Los Angeles, CA 90064-1504 Telephone (310) 473-7000 Facsimile: (310) 473-1730	

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the County of Los Angeles, State of California. I am over the age
4 of 18 and not a party to the within action, my business address is 1875 Century Park East,
23rd Floor, Los Angeles, California 90067-2561

5 On September 1, 2010, I served the following document(s) described as **NOTICE**
6 **OF ENTRY OF JUDGMENT** on the interested parties in this action as follows

7 **BY MAIL:** By placing a true copy thereof in sealed envelopes addressed to the
8 parties listed on the attached Service List and causing them to be deposited in the mail at
Los Angeles, California. The envelopes were mailed with postage thereon fully prepaid. I
9 am readily familiar with our firm's practice of collection and processing correspondence
for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary
10 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 one day after date of deposit
for mailing affidavit

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

13 Executed on September 1, 2010, at Los Angeles, California

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15 Beth Martin
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SERVICE LIST
Conservatorship of Britney Jean Spears
Case No. BP 108870

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Conservator of the Estate

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05/19/2010