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Co-Conservator of the Estate

FILED
Superior Court of California
County of Los Angeles

NOV 04 2016

Sherri R. Carter, Executive Officer/Clerk

By William Adamo, Deputy

DATE OF HEARING:

12/2/16
Times: 10:00A Dept.: 99

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

In re the Conservatorship of the Person and
Estate of

BRITNEY JEAN SPEARS,

Conservatee.

Case No. BP 108870

**NOTICE OF MOTION AND MOTION
TO SEAL PLEADINGS RELATING TO
PETITION BY CONSERVATORS FOR
ORDERS ALLOWING AND
APPROVING PAYMENT OF:
1) COMPENSATION TO
CONSERVATOR AND ATTORNEYS
FOR CONSERVATORS; AND
2) REIMBURSEMENT OF COSTS AND
SUPPORTING DOCUMENTS;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
GERALDINE A. WYLE IN SUPPORT**

Date: December 2, 2016 [RESERVED]

Time: 10:00 a.m.

Dept.: 99

Judge: Hon. Brenda Penny, Judge Pro Tem

1 TO ALL INTERESTED PARTIES AND TO THEIR RESPECTIVE ATTORNEYS OF
2 RECORD:

3 YOU ARE HEREBY NOTIFIED THAT on December 2, 2016, at 10:00 a.m., in
4 Department 99 of this Court located at 111 North Hill Street Los Angeles, CA 90012, California,
5 James P. Spears, Conservator of the Person and Co-Conservator of the Estate of Britney Jean
6 Spears, by and through his attorneys of record, and Andrew M. Wallet, Co-Conservator of the
7 Estate of Britney Jean Spears (jointly, the "Conservators"), shall move the Court for an Order to
8 seal portions of the pleadings including and relating to the petition filed by the Conservators for
9 orders allowing and approving payment of: 1) compensation to Conservator and attorneys for
10 Conservators; and 2) reimbursement of costs (the "Fee Petition") and the supporting documents to
11 the Fee Petition filed conditionally under seal concurrently with or following the filing of this
12 Motion to Seal (the "Fee Petition Pleadings").

13 The Fee Petition Pleadings contain information that relate to or reveal trade secrets,
14 proprietary information, attorney-client communications, and medical and personal information
15 relating to Ms. Spears and her minor children. This Motion seeks an order to file trade secret,
16 proprietary information, information regarding confidential settlement agreements, estate
17 planning, attorney-client communications, and sensitive information of a personal nature relating
18 to Ms. Spears and her minor children contained in the Fee Petition Pleadings in a sealed form.

19 The public's interest in access is satisfied here because the public has had and will have
20 access to the unredacted portions of the Fee Petition, the Fee Petition Pleadings and to the Court's
21 file relating to the proceedings in this matter, including the redacted Accountings filed in this
22 Estate and the numerous pleadings filed with this Court which provide sufficient insight into the
23 Co-Conservators' performance of their duties.

24 This Motion is brought on the grounds that 1) there is no constitutional right to public
25 access of conservatorship proceedings; 2) the Conservatee's right to attorney-client
26 communications, regarding confidential settlement agreements, estate planning, and to medical
27 privacy are per se confidential in nature, and the courts must keep medical information

1 confidential in a myriad of situations as a matter of law, therefore, Rules of Court, Rules 2.550 and
2 2.551 do not apply; and 3) the overriding interest of the Conservatee's right to privacy regarding
3 her trade secret, proprietary information and sensitive information of a personal nature relating to
4 Ms. Spears and her minor children vastly outweighs the right of the public's access to the records;
5 4) the overriding interest supports the Court's Sealing Order; 5) it is a virtual certainty that the
6 Conservatee's overriding interest will be prejudiced if the records in question here are not sealed;
7 and 6) there are no less restrictive means to protect the Conservatee's overriding interest.

8 The only conclusion under current statutory and case authority, the California Rules of
9 Court, Rule 2.550(d), *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal. 4th
10 1178, is that Ms. Spears' trade secrets, proprietary information, attorney-client communications,
11 estate planning, information regarding confidential settlement agreements, personal and/or
12 medical information, and information pertaining to Ms. Spears' minor children contained in the
13 Fee Petition Pleadings should be ordered sealed as filed.

14 This Motion is based on this Notice of Motion and Motion, the attached Memorandum of
15 Points and Authorities and the Declaration of Geraldine A. Wyle in support of this Motion, as well
16 as all papers, pleadings and documents on file in this case, and on such oral testimony and
17 argument as may be offered at the time of the hearing on this Motion.

18 DATED: November 2, 2016

Respectfully submitted,

Andrew M. Wallet,
Attorney at Law

HOFFMAN, SABBAN & WATENMAKER, APC
Geraldine A. Wyle
Jeryll S. Cohen
Rebekah E. Swan

By: 

Geraldine A. Wyle
Attorneys for James P. Spears, Co-Conservator of the
Estate and Conservator of the Person

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

By this Motion, James P. Spears, Conservator of the Person and Co-Conservator of the Estate of Britney Jean Spears, and Andrew M. Wallet, Co-Conservator of the Estate of Britney Jean Spears (jointly, the "Conservators"), respectfully request that the Court issue an order sealing portions of the pleadings relating to the Petition By Conservators for Orders Allowing And Approving Payment of: 1) Compensation To Conservator and Attorneys For Conservators; and 2) Reimbursement of Costs ("the Fee Petition") and the supporting documents filed concurrently with the filing of this Motion to Seal set for hearing on December 2, 2016, (the "Fee Petition Pleadings"). The Fee Petition Pleadings contain personal and medical information relating to Conservatee Britney Jean Spears ("Ms. Spears") and her minor children, as well as trade secrets, attorney-client communications, and proprietary information of Ms. Spears.

II. BACKGROUND

Temporary Letters of Conservatorship evidencing the appointment of the Conservators of Ms. Spears' Estate and Person were issued on February 1, 2008 and were extended several times until the Conservators' appointment as Permanent Conservators of her Person and Estate on October 28, 2008. Permanent Letters of Conservatorship were issued on January 9, 2009.

The public has had and will have access to unredacted portions of the Fee Petition Pleadings filed in support of the Fee Petition, as well as the redacted Accountings filed in this Estate, and the numerous pleadings filed by the Conservators which provide direct insight into the Co-Conservators' performance of their duties. The redacted information contained in the Fee Petition Pleadings relates to or reveals proprietary, financial, personal information, and attorney-client communications, as well as personal or medical information relating to Ms. Spears, and information pertaining to Ms. Spears' minor children (the "Confidential Terms" or the "Confidential Information"). The Conservators request that the redacted portions of the Fee Petition Pleadings be filed in a sealed form to protect the Confidential Terms. Declaration of Geraldine A. Wyle ("Wyle Declaration"), ¶¶4, 7)

III. LEGAL ARGUMENT

A. THERE IS NO CONSTITUTIONAL RIGHT OF PUBLIC ACCESS TO CONSERVATORSHIP PROCEEDINGS

The public has no constitutional right of access to conservatorship proceedings. In *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal. 4th 1178 (*NBC Subsidiary (KNBC-TV)*), the California Supreme Court held that “in general, the First Amendment provides a right of access to ordinary civil trials and proceedings,” but it acknowledged that its opinion “address[ed] . . . the right of access to ordinary civil proceedings in general, and not any right of access to particular proceedings governed by specific statutes.” *Id.* at 1212 & n.30.

NBC Subsidiary (KNBC-TV) recognized that, as a matter of United States Supreme Court authority, the determination whether “proceedings are sufficiently different from ‘ordinary civil trials and proceedings’ to justify a different conclusion on the right of access” requires consideration of whether open proceedings (1) are supported by historical tradition and (2) would promote utilitarian considerations. *In re Marriage of Burkle* (2006) 135 Cal.App.4th 1045, 1054-57. Stated otherwise, “[i]n determining whether the Constitutional right of access attaches to a particular proceeding, the United States Supreme Court has set forth two related considerations: first, whether the place and process historically have been open to the public and, second, whether public access plays a significant positive role in the particular process.” *People v. Dixon* (2007) 148 Cal. App. 4th 414, 425 (citing *Press-Enterprise Co. v. Superior Court* (1986) 478 U.S. 1, 8 (“*Press-Enterprise II*”). Consideration of these two factors demonstrates that there is no First Amendment right of public access to the redacted portions of the Fee Petition Pleadings at issue here.

In the *Sorenson v. Superior Court* (2013) 219 Cal.App.4th 409, 430, the court determined that the reasoning relied upon by the high court in *NBC Subsidiary (KNBC-TV)* does not apply to an LPS (Lantermann Petris Short) proceeding:

Our high court did not define “ordinary” in the context of its application of the right of access to “ordinary civil proceedings.” (*NBC Subsidiary, supra*, 20 Cal.4th at p. 1212, fn. 30, 86 Cal.Rptr.2d 778, 980 P.2d 337.) But it appears that a trial to determine whether a

1 person is gravely disabled and thus warrants the person's commitment under the LPS Act
2 is a "special proceeding" that is a creature of statute, rather than an "ordinary civil
3 proceeding[]...." [S]ee also *Bagrati v. Superior Court* (2003) 110 Cal.App.4th 1677,
1685, fn. 7, 3 Cal.Rptr.3d 292 [LPS Act conservatorship proceedings for gravely disabled
persons are special proceedings].)"

4 The *Sorenson* court cited to *Tide Water Assoc. Oil Co. v. Superior Court* (1955) 43 Cal.2d
5 815, 822, in its footnote 18, p. 432:

6 As a general rule, a special proceeding is confined to the type of case which
7 was not, under the common law or equity practice, either an action at law or a
suit in equity."

8 The instant matter, like an LPS proceeding, is neither a suit under the common law nor in
9 equity, but instead is a creature of statute. The Fee Petition Pleadings, which disclose Ms. Spears'
10 financial information, material contractual information and strategies, as well as personal or
11 medical information relating to Ms. Spears, and Ms. Spears' minor children, is brought in a
12 conservatorship proceeding governed by Probate Code § 1800 et seq. Those portions of the Fee
13 Petition Pleadings that contain information relating to or revealing very personal medical and
14 confidential matters, have a long history of Constitutional protection, as more fully discussed
15 below.

16 The Fee Petition Pleadings, which disclose Ms. Spears' financial information, material
17 contractual information and strategies, as well as personal and medical information relating to Ms.
18 Spears, and Ms. Spears' minor children, is brought in a conservatorship proceeding governed by
19 Probate Code §1800 et seq. (Wyle Declaration, ¶4) Those portions of the Fee Petition Pleadings
20 that contain information relating to or revealing very personal medical and confidential matters,
21 has a long history of Constitutional protection, as more fully discussed below.

22 Turning to the second factor, public access to the redacted portions of the Fee Petition
23 Pleadings would undermine the goal of proceedings in a conservatorship regarding the
24 conservatee's personal medical and confidential information. As the *Dixon* court recently noted:

25 ...[I]nvoluntary civil commitment proceedings typically are closed proceedings.
26 Because such proceedings...involve primarily personal and confidential
27 matters. As with juvenile dependency proceedings, while openness would
expose any deficiencies and allow for improvements in the process, it would
seriously undermine the goals involved in these cases.

1 *Dixon, supra*, 148 Cal. App. 4th at 427-28 (emphasis added).

2 The Court in *Dixon* noted that there is no right of the public to attend juvenile dependency
3 proceedings. Based upon this same analysis, the *Dixon* court found that “[t]he two considerations
4 . . . set forth in *Press-Enterprise II* . . . appear to weigh against extending public right of access to
5 involuntary civil commitment proceedings.” *Id.* at 428. The reasoning of the *Dixon* court is
6 directly applicable here, as the Conservatee’s personal and confidential information is being
7 provided to the Court to provide added context to the Fee Petitions.

8 Denial of public access to the redacted portions of the Fee Petition Pleadings is supported
9 by the fact that such access would impede the willingness of the Co-Conservators, the attorneys
10 and the medical professionals to provide their services. Furthermore, the Conservatee has a full
11 expectation of and a Constitutional right to privacy with respect to her health and medical records
12 and information, notwithstanding the existence of the Conservatorship. The incursion on her
13 Constitutional right to privacy must be narrowly tailored to the purpose of the Conservatorship, to
14 protect and ensure the health and well-being of the Conservatee. Further, the Co-Conservators are
15 not providing the Fee Petition Pleadings to support any request for relief from the Court relating to
16 the Conservatee’s health.

17 The dissemination of the Confidential Terms to the public at large would violate Ms.
18 Spears’, as well as her minor children’s privacy. Our Supreme Court has held that the:

19 “[l]egally recognized privacy interests are generally of two classes: (1)
20 interests in precluding the dissemination or misuse of sensitive and
21 confidential information (‘informational privacy’); and (2) interests in
22 making intimate personal decisions or conducting personal activities without
23 observation, intrusion, or interference (‘autonomy privacy’). ”

24 Informational privacy is the core value furthered by the Privacy Initiative.
25 (*White v. Davis, supra*, 13 Cal.3d at p. 774.) A particular class of information
is private when well-established social norms recognize the need to maximize
individual control over its dissemination and use to prevent unjustified
embarrassment or indignity. Such norms create a threshold reasonable
expectation of privacy in the data at issue

26 *Hill v. National Collegiate Athletic Assn.* (1994) 7 Cal.4th 1, 35.

27 Additionally, the California courts have recognized the following zones of privacy, among
28

1 others, deserving protection against discovery, to which persons wholly unrelated to the
2 Confidential Terms, as well as Ms. Spears and her minor children, are entitled:

3 • Confidential settlement agreements (“The privacy of a settlement is generally
4 understood and accepted in our legal system, which favors settlement and therefore supports
5 attendant needs for confidentiality.” *Hinshaw, Winkler, Draa, Marsh & Still v. Superior Court*
(1996) 51 Cal.App.4th 233, 241);

6 • Estate planning (Appellants contended “that [living] stepmother’s will and
7 testamentary documents were discoverable to show an agreement to transmute property. The trial
8 court correctly ruled that the documents “are protected from discovery based upon the broad right
of privacy set forth in the Constitution.” *Estate of Gallio* (1995) 33 Cal.App.4th 592, 597);

9 • Tax return information (CA Govt. Code, §§7460-7493, 26 U.S. Code §6103); and

10 • Minors (See Family Code §1818).

11 For these reasons, the Court should find that there is no First Amendment right of public
12 access to the redacted portions of the Fee Petition Pleadings, and on this basis alone, should order
13 portions of the Fee Petition Pleadings sealed without the need to consider the factors set forth in
14 California Rules of Court 2.550(d).

15 B. ATTORNEY-CLIENT COMMUNICATIONS AND MEDICAL INFORMATION
16 ARE CONFIDENTIAL BY LAW

17 Rules of Court, Rule 2.550(2) states: “These rules do not apply to records that are required
18 to be kept confidential by law.” Attorney-client communications and medical information are
19 precisely the types of confidential records which are required by law in numerous contexts to be
20 kept confidential.

21 The Conservatee’s right to maintain her medical information in confidence is protected
22 under the Confidentiality of Medical Information Act (the “CMIA”), California Civil Code §§ 56
23 *et seq.* Ms. Spears’ privacy interest in information concerning her medical information is further
24 evidenced by the fact that under HIPAA, the Health Insurance Portability and Accountability Act
25 of 1996, medical personnel are prohibited from releasing such information. *See* 42 U.S.C. §
26 1320d-6. While that Act’s disclosure restrictions are directed at “health care providers,” *see* Cal.
27 Civ. Code § 56.10(a), the privacy protections afforded by the Act are relevant to the Court’s
28 determination whether to seal these proceedings. Certain redacted portions of the Fee Petition

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Pleadings include or relate to the Conservatee's confidential medical information, the type of information that is protected from disclosure by the CMIA. Wyle Declaration, ¶4. The Court of Appeal in *People v. Dixon* (2007) 148 Cal.App.4th 414 states that "the court cannot serve as a conduit through which confidential information is transmitted to other members of the public." *Id.* at 429. The Court in *Dixon* held that in a civil commitment proceeding, while psychological reports (which were not provided by a treating physician, but rather by two practicing physicians who were retained specifically for the purpose of making evaluation reports for the court and the parties) can be used during the proceedings, they nonetheless retain their confidential nature and should not be made available to the public." *Id.*

In an analogous situation, conservatorships under the Lanterman Petris Short ("LPS") Act (Welf. and Inst. Code, §5000, *et seq.*) are not public unless the parties request otherwise. By their nature, the LPS Conservatorship proceedings involve highly confidential medical information, including, without limitation, psychiatric information, under consideration by the Court. Those proceedings involve individuals who are not likely legally capable of making informed waivers. Similarly, in conservatorship proceedings pursuant to Probate Code section 1800, *et seq.*, Probate Code section 1826(n) makes confidential the Court Investigator's Report, which is analogous to a report by a court-appointed expert under Evidence Code section 730. In fact, Probate Code section 1826(l) provides that the Court Investigator's Report is served only on those persons prescribed in that section. Importantly, under Probate Code section 1851(b)(2), confidential medical information obtained and reported by the court investigator is not even permitted to be provided to the conservatee's spouse or registered domestic partner or the conservatee's relatives. This kind of private medical information, which is not even permitted by law to be disseminated to a conservatee's relatives or spouse, simply cannot be available by right to the public, most particularly because a conservatee – under a protective proceeding – is adjudged unable to make an informed decision waiving his or her right to privacy relating to the public dissemination of medical information.

Federal law also dictates that the Conservatee has the right to maintain the confidentiality

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1 of his or her medical information. See 42 U.S.C. §1320d-6 (HIPAA), which makes it an offense
2 to sell, transfer or use individually identifiable health information for commercial advantage,
3 personal gain, or malicious harm, punishable to fines up to \$250,000 and/or imprisonment of up to
4 five years. See also, *Sorenson*, *supra*, at footnote 30, p. 446.

5 The California Constitution, Article I, declares, in pertinent part, that “[a]ll people ... have
6 inalienable rights. Among these are ... pursuing and obtaining ... privacy.” California legislators
7 have placed much of their focus in the enactment of privacy legislation relating to medical
8 information. “A person’s medical history undoubtedly falls within the recognized zones of
9 privacy.” *Johnson v. Superior Court* (2000) 80 Cal. App. 4th 1050, 1068. *Pettus v. Cole* (1996)
10 49 Cal. App. 4th 402, 440-41 (“[i]t is well settled that the zone of privacy created by [the
11 California Constitution] extend[s] to the details of a patient’s medical ... history”); *Board of*
12 *Medical Quality Assurance v. Gheradini* (1979) 93 Cal. App. 3d 669, 678 (“[a] person’s medical
13 profile is an area of privacy infinitely more intimate, more personal in quality and nature than
14 many areas already judicially recognized and protected”). In order to protect the right of privacy,
15 “it is appropriate to seal certain records when those particular records contain highly sensitive ...
16 personal information about individuals.” *People v. Jackson* (2005) 128 Cal. App. 4th 1009, 1024.
17 The *Sorenson* court reaffirmed that

18 “[G]rave disability proceedings carry special threats to reputation. A finding
19 of grave disability is equivalent to a finding that a person is unable to feed,
20 clothe or house himself [or herself] because of a mental disorder. (§ 5008,
subd. (h)(1).)” (*Conservatorship of Roulet* [(1979)] 23 Cal.3d [219] at p. 229,
152 Cal.Rptr. 425, 590 P.2d 1.)

21 *Sorenson*, *supra*, at 448.

22 Similarly, the Co-Conservators’ right to maintain in confidence their attorney-client
23 communications, including without limitation communications relating to litigation strategy, to the
24 extent any filed information reveals attorney-client communication is protected by the attorney-
25 client privilege as specifically codified in Evidence Code §§950-962. In substance, the Code
26 authorizes a client to refuse to disclose, and to prevent others from disclosing, confidential
27 communications between the attorney and the client unless the client waives the privilege. See *De*

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1 *Los Santos v. Superior Court* (1980) 27 Cal.3d 677; *People v. Lines* (1975) 13 Cal.3d 500, 509.

2 Except as otherwise set forth in the Evidence Code, the privilege is absolute, and production may
3 not be ordered based on relevance or particular facts of a case. *2,022 Ranch, LLC v. Superior*
4 *Court* (2003) 113 Cal.App.4th 1377, 1388.

5 C. THE COURT SHOULD ORDER THE FEE PETITION PLEADINGS TO BE FILED
6 UNDER SEAL UNDER CALIFORNIA RULES OF COURT 2.550 AND 2.551

7 Assuming *arguendo* that the public has a First Amendment right of access to
8 conservatorship proceedings – which it does not – and that Rules of Court, Rules 2.550 and 2.551
9 even apply – which they do not – this Court’s decision whether to seal all of the Fee Petition
10 Pleadings is subject to the standards and procedures set forth in California Rules of Court 2.550
11 and 2.551. Under California Rule of Court 2.550(d), which is based on the standards enunciated
12 by the California Supreme Court in *NBC Subsidiary (KNBC-TV)* (1999) 20 Cal. 4th at 1178, a
13 court may seal the record “if it expressly finds facts that establish”:

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

21 *Id.*; See also Advisory Committee Comment to Cal. R. Court 2.550 (“Courts have found that,
22 under appropriate circumstances, various statutory privileges, trade secrets, and privacy interests,
23 when properly asserted and not waived, may constitute ‘overriding interests’”).

24 All five factors are present here.

25 1. The California Constitution Guarantees the Right to Privacy.

26 The California Constitution guarantees Ms. Spears and her minor children a right to
27 privacy, and Ms. Spears’ and her minor children’s interest in their right to privacy overcomes the

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public's general right of access. *See* Cal. Const., Art. I, §1 ("All people are by nature free and independent and have inalienable rights. Among these are . . . pursuing and obtaining safety, happiness and privacy."). For that reason, the Conservators seek to seal the trade secrets and proprietary information, any confidential settlement agreements, any estate planning, personal and medical information, and personal information regarding Ms. Spears' minor children that are directly or indirectly revealed or referenced in the redacted portions of the Fee Petition Pleadings.

Personal Affairs. Ms. Spears has a right of privacy with respect to her personal and medical information and personal information regarding her minor children. The California Constitution guarantees Ms. Spears' and her minor children's right to privacy as to such information. In addition, California law recognizes that an individual has a privacy right to personal information. *See* Cal. Rule of Court 2.550.

Even if there were a First Amendment right of public access to medical information in conservatorship proceedings -- which there is not -- the right of public access may be overcome where there "exists an overriding interest that overcomes the right of access to the record." Cal. R. Court 2.550(d). *See NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal. 4th 1178.

Here, the redacted portions of the Fee Petition Pleadings reveal information regarding Ms. Spears' personal life, including, without limitation, certain medical information and medical information pertaining to her minor children and their activities -- information which, in light of the unprecedented media attention given to Ms. Spears, will be widely disseminated if filed publicly. Ms. Spears has an overriding interest in maintaining the confidentiality of her personal information and that of her minor children and, for that reason, the Conservators seek to seal Ms. Spears' personal information, including medical information, information regarding her family's activities and information regarding Ms. Spears' minor children, that is revealed in the redacted portions of the Fee Petition Pleadings. Wyle Declaration, ¶¶4, 6, 7.

The Court of Appeal, Second District held in *People v. Jackson*, (2005) 128 Cal.App.4th 1009, 1024, that sealing documents containing sensitive personal information was proper, citing *Doe v. Blue Cross & Blue Shield United of Wisconsin* (7th Cir. 1997) 112 F.3d 869, 872,

1 “[‘acknowledging that it may have been appropriate for the district court to seal psychiatric
2 records that though pertinent to the suit would have been “highly embarrassing to the average
3 person.’].” *Id.* As in *People v. Jackson*, in balancing the constitutional right to privacy against the
4 public’s right of access to court proceedings, the balance lies heavily on the side of protecting the
5 Conservatee’s privacy rights in this case relating to her medical information.

6 Additionally, there is no legitimate reason for the public to have access to any information
7 about the Conservatee’s personal and medical information. Such information would undoubtedly
8 fuel widespread publicity and the ability to obtain access to her or her children, as evidenced by
9 the publicity surrounding this conservatorship since its inception and numerous instances of
10 harassment. That publicity would be highly injurious to the Conservatee’s health and well-being.

11 Ms. Spears has two overriding interests, any of which, by itself, is sufficient to support the
12 sealing of these proceedings: (1) Ms. Spears’ right of privacy with regard to her personal and
13 private information, as well as her medical information and (2) the detrimental affect the public
14 disclosure of personal and medical information is likely to have on Ms. Spears. *See* Cal. R. Court
15 2.550(d)(1); *People v. Jackson* (2005) 128 Cal.App.4th 1009, 1024. Ms. Spears has a right to
16 privacy that overcomes the public’s right of general access. Here, the redacted portions of the Fee
17 Petition Pleadings reveal the Conservatee’s medical and personal information, which, in light of
18 the unprecedented media attention given to the Conservatee, would be widely disseminated if filed
19 publicly and put the Conservatee and her children at risk. The Conservatee has an overriding
20 interest in maintaining the absolute confidentiality of this information. Wyle Declaration, ¶¶4, 6.
21 *See People v. Jackson* (2005) 128 Cal.App.4th 1009, 1024 and *Doe v. Blue Cross & Blue Shield*
22 *United of Wisconsin* (7th Cir. 1997) 112 F.3d 869, 872, in which the courts approved the sealing
23 of medical records on the basis that they would have been highly embarrassing to the average
24 person.

25 Ms. Spears’ minor children also have a right of privacy relating to their personal affairs.
26 Here, the Fee Petition Pleadings that may be conditionally filed under seal will necessarily reveal
27 information relating to the minor children’s personal life, which, again, will be widely

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1 disseminated if filed publicly due to the unprecedented media attention given to this
2 Conservatorship matter even though the minor children are not the subjects of this proceeding.
3 Further, sealing of the record is required in family conciliation court pursuant to Family Code
4 section 1818(b). While the Probate Court is not family conciliation court, jurisdiction of the
5 family conciliation court exists in custody matters under Family Code section 1830(a). Any issue
6 relating to custody raised in the Family Court pursuant to Family Code section 1818(b) must
7 remain sealed in all subsequently filed documents, as set forth in California Rule of Court
8 2.551(e)(4).

9 Confidential Settlement Agreements & Estate Planning. As discussed above, Ms. Spears
10 and her Estate have an overriding interest in maintaining the confidentiality of the terms of any
11 confidential settlement agreements that may have been entered into and any estate planning. Such
12 documents are within the protected “zone of privacy” recognized by California courts. Thus, the
13 Conservators seek to seal information relating to terms of any confidential settlement agreements
14 that may be directly or indirectly revealed in the Fee Petition Pleadings. Such documents are
15 “protected from discovery based upon the broad right of privacy set forth in the Constitution.”
16 *See Hinshaw, Winkler, Draa, Marsh & Still v. Superior Court, supra*, 51 Cal.App.4th at 241;
17 *Estate of Gallio, supra*, 33 Cal.App.4th at 597. Unless the unredacted portions of the Fee Petition
18 Pleadings are sealed, details relating to the terms of any confidential settlement agreements or any
19 estate planning that may be directly or indirectly revealed in the Fee Petition Pleadings would
20 undoubtedly be widely disseminated and would violate Ms. Spears’ absolute right to privacy in
21 such information.

22 Trade Secrets and Proprietary Information. Ms. Spears and her Estate have an overriding
23 interest in maintaining the confidentiality of trade secrets and proprietary information. Thus, the
24 Conservators seek to seal the trade secrets and proprietary information revealed in the Fee Petition
25 Pleadings. The insight that the Confidential Terms reveal in the redacted portions of the Fee
26 Petition Pleadings may provide to third parties that would be detrimental to Ms. Spears’ interests.
27 Wyle Declaration, ¶8. Among other things, Ms. Spears’ and her Estate’s bargaining positions and
28

1 potential bottom lines may have economic value to Ms. Spears, her Estate and to third parties,
2 which would be lost should the Confidential Terms be generally known to the public. *Id.* In
3 addition, Ms. Spears and her Estate have a proprietary interest in controlling the release of
4 information concerning Ms. Spears' musical, artistic, works and ideas.

5 California law recognizes that the protection of trade secrets is an overriding interest that is
6 a valid reason for restricting public access to documents. *NBC Subsidiary (KNBC TV), supra*, 20
7 Cal. 4th at 1222 n.46. By statute, a "trade secret" is "information" that (1) "[d]erives independent
8 economic value, actual or potential, from not being generally known to the public or to the other
9 persons who can obtain economic value from its disclosure or use" and (2) "[i]s the subject of
10 efforts that are reasonable under the circumstances to maintain its secrecy." Cal. Civ. Code §
11 3426.1(d).

12 The Fee Petition Pleadings reveal information regarding the proprietary, competitive
13 information and musical, artistic works and ideas, the disclosure of which would be harmful to
14 Ms. Spears and her business and musical activities. Knowledge of these Confidential Terms
15 would allow others to leverage that information in future negotiations and could potentially reduce
16 the value or potential value for Ms. Spears of her artistic and musical works. Wyle Declaration,
17 ¶¶4, 8.

18 Disclosure of Ms. Spears' and her Estate's trade secrets (*i.e.*, its negotiating strategy,
19 material terms of its business agreements, and information from which those material terms could
20 be substantially deduced, including certain information regarding assets and liabilities) would
21 damage Ms. Spears' and her Estate's negotiating ability in future business dealings with third
22 parties. For example, assume it is revealed to the public that the Conservators entered an
23 agreement with the Widget Corporation ("Widget") for a license to produce Britney Spears
24 widgets for "x number of dollars," with an advance of "y number of dollars," for a term of "z
25 years," limited to the United States territory. Later, the Conservators begin negotiations for a
26 similar license with the Gadget Corporation ("Gadget"). Gadget knows all of the terms of the
27 license agreement the Conservators entered into with the Widget Corporation because those terms

1 were made public. With this knowledge, the Gadget has a superior bargaining position to the
2 Conservators because it knows the terms that the Conservator accepted in Widget agreement.
3 Gadget will use the "x" and "y" figures used in the Widget deal as the ceiling for the amount that
4 it will be willing to spend to obtain a similar license from Ms. Spears or her Estate, and it will use
5 the "z" number of years as a floor from which to negotiate the term of the contract, all to the
6 detriment of Ms. Spears and her Estate. Ms. Spears would thereby be disadvantaged in relation to
7 her competitors.

8 In addition, the uncertainty as to whether material negotiable terms of third parties'
9 contracts with Ms. Spears or her Estate would be made public by the Court would deter parties
10 from contracting with the Conservators and/or from offering the Conservators favorable terms
11 they might otherwise be willing to offer if kept private. For example, the Widget Corporation's
12 trade secrets (*i.e.*, its negotiating position and what it is willing to pay for a particular right or
13 product and the terms it is willing to give under such arrangement) would be known to its potential
14 contracting parties and its competitors, as well as its current business partners. Competitors would
15 therefore have the knowledge and opportunity to adjust their proposals and negotiations with the
16 Widget Corporation's current and potential future business partners in order to improve their
17 bargaining position and possibly take business away from the Widget Corporation. Existing
18 business partners could become dissatisfied if their terms are less favorable than those of Ms.
19 Spears or her Estate.

20 Where negotiations are ongoing, Ms. Spears' interested would immediately be placed at a
21 tactical disadvantage by public disclosure. For these reasons, if the Conservators were unable to
22 obtain an order sealing the material terms of this agreement, contracting parties, Ms. Spears'
23 competitors and other potential parties to agreements could well determine that it would be
24 economically risky, or even detrimental, to enter into negotiations with the Conservators, and such
25 a ruling would have a significant chilling effect on the Conservators' ability to negotiate favorable
26 terms for Ms. Spears or her Estate in a wide range of transactions.

27 In summary, disclosure of the information of the redacted portions of the Fee Petition

Pleadings relating to Ms. Spears' trade secrets and business dealings would effectively disclose to the public Ms. Spears', her Estate's, and their contracting parties' trade secrets and proprietary and competitive information, which would be harmful to Ms. Spears and her Estate. Wyle Declaration, ¶8. Disclosure of this information would give third parties an unfair competitive advantage over Ms. Spears and her Estate in future business dealings and would deter potential parties from contracting with them. This is particularly important in the instant matter, as Ms. Spears looks forward to a long and productive career. If these redacted portions of the Fee Petition Pleadings were made public, revelations of a public nature could have a long-term, deleterious impact.

Unless the redacted portions of the Fee Petition Pleadings are sealed, the confidential, proprietary information contained in the Fee Petition Pleadings will undoubtedly be widely disseminated, harming Ms. Spears by revealing trade secrets, impinging on her right to privacy, and interfering with her ability to effectively transact future business.

2. The Overriding Interests Support Sealing the Record.

There are "overriding interests" in maintaining the confidentiality of the Confidential Terms revealed in the redacted portions of the Fee Petition Pleadings that overcome the public's general right of access to the record, and a sealing order is necessary to protect these overriding interests. *See* Cal. R. Court 2.550(d). The business affairs of Ms. Spears and her Estate would be compromised by public disclosure of the Confidential Terms. Furthermore, Ms. Spears' privacy and safety, and the privacy and safety of her minor children will be jeopardized if her personal information and the personal information regarding her minor children are disclosed to the public without a sealing order. Filing the Fee Petition Pleadings in a sealed form is the only way to ensure the confidentiality of the trade secrets and proprietary information, any confidential settlement information, any estate planning, attorney-client communications, personal and medical information, and personal information regarding Ms. Spears' minor children that are directly or indirectly revealed or referenced in the Fee Petition Pleadings. Otherwise, Ms. Spears and her Estate would suffer a competitive disadvantage, and Ms. Spears' and her minor children's privacy and safety would suffer.

1 3. There Is a Substantial Probability That the Overriding Interests Will Be Prejudiced
2 If the Record Is Not Sealed.

3 As illustrated above, given the unprecedented media attention given to this matter, Ms.
4 Spears' interests will be prejudiced if the record is not sealed in the manner requested. *See* Cal. R.
5 Court 2.550(d)(2), (3). It is virtually certain that, in the absence of a sealing order, the confidential
6 information in the redacted portions of the Fee Petition Pleadings would be disseminated, thereby
7 revealing the trade secrets and proprietary information, the terms of any confidential settlement
8 agreements, details relating to any estate planning of Ms. Spears, attorney-client communications,
9 and personal, private information regarding Ms. Spears and her minor children to their prejudice.
10 Wyle Declaration, ¶¶ 6, 7.

11 4. The Proposed Sealing Is as Narrowly Tailored as Possible, and No Less Restrictive
12 Means Exist to Achieve the Overriding Interests.

13 The proposed sealing is as narrowly tailored as possible, and no less restrictive means exist
14 to achieve the overriding interest. *See* Cal. R. Court 2.550(d)(4), (5). Information has been
15 publicly filed that discloses all but the most confidential information relating to Ms. Spears'
16 finances and career, her personal information and the personal information of her minor children.
17 (*See* the public court file). The Conservators redacted the minimum information necessary from
18 these documents to protect attorney-client communications, as well as Ms. Spears' trade secrets
19 and proprietary information, terms of any confidential settlements or any estate planning, and
20 personal information regarding Ms. Spears and her minor children, thus accommodating the
21 public's interest in access to these records.

22 The redacted portions of the Fee Petition Pleadings have relatively minimal value to the
23 public, but could be used by third parties to Ms. Spears' great disadvantage. Accordingly, Rules
24 2.550 and 2.551 authorize sealing the Fee Petition Pleadings. For the reasons discussed above,
25 Ms. Spears' privacy interest in maintaining the confidentiality of information concerning her or
26 her Estate's business dealings, including any confidential settlement agreements, attorney-client
27 communications, trade secrets and proprietary information, as well as personal, estate planning,
28 and medical information regarding Ms. Spears and her minor children, may be protected only by

filing pleadings that contain the Confidential Terms under seal.

IV. CONCLUSION

For the foregoing reasons, the Conservators respectfully request that the Court issue an Order allowing the redacted portions of the Fee Petition Pleadings to be filed under seal. The Fee Petition Pleadings disclose and relate to Ms. Spears' and her Estate's trade secrets and proprietary information, information referring to any confidential settlement agreements, any estate planning details, attorney-client communications, and personal and medical information regarding Ms. Spears and her minor children and, on that basis, filing the redacted portions of the Fee Petition Pleadings under seal is appropriate.

DATED: November 3, 2016

Respectfully submitted,

Andrew M. Wallet
Attorney at Law

HOFFMAN, SABBAN & WATENMAKER, APC
Geraldine A. Wyle
Jeryll S. Cohen
Rebekah E. Swan

By: _____

Geraldine A. Wyle
Attorneys for James P. Spears, Co-Conservator of the
Estate and Conservator of the Person

11/07/16

DECLARATION OF GERALDINE A. WYLE

I, GERALDINE A. WYLE, declare:

1. I am an attorney licensed to practice law in the State of California and am an attorney at the law firm Hoffman, Sabban & Watenmaker, APC, counsel of record for James P. Spears ("Mr. Spears"), conservator of the person and co-conservator of the estate.

2. Andrew M. Wallet, Esq. ("Mr. Wallet"), is the other co-conservator of the estate. Collectively, Mr. Spears and Mr. Wallet may be referred to as the "Conservators." Except as otherwise stated, the statements contained herein are based on my personal knowledge and experience. If called as a witness, I could and would testify competently to those facts.

3. In connection with the Petition By Conservators For Orders Allowing And Approving Payment of: 1) Compensation To Conservator and Attorneys For Conservators; And 2) Reimbursement of Costs and Supporting Documents, the Conservators may be lodging or filing additional documents or records conditionally under seal (collectively, the "Fee Petition Pleadings").

4. The Conservators will file portions of the Fee Petition Pleadings conditionally under seal because portions of the Fee Petition Pleadings relate to or reveal or tend to reveal medical and personal information, any confidential settlement agreements or information relating to any estate planning, attorney-client communications and sensitive information of a personal nature relating to the Conservatee and her minor children contained in the sealed portions of the Fee Petition Pleadings. As well, the Fee Petition Pleadings relate to or reveal or tend to reveal private tax return information that is confidential under the Internal Revenue Code; information regarding litigation; operation and information of the Conservatee's business and potential business development and plans that are protected trade secrets or proprietary information; the terms of any confidential settlement agreements; details relating to any estate planning of Ms. Spears; attorney-client communications; and personal and medical information regarding Ms. Spears and her minor children (the "Confidential Terms" or "Confidential Information"). With regard to the Confidential Terms relating to the Conservatee's business, the sealed information

1 contains proprietary and competitive information.

2 5. The Conservators and their counsel take extraordinary efforts to maintain the
3 confidentiality of information relating to the Conservatorship Estate and the Conservatee's
4 business. The Conservators require the execution of confidentiality agreements by agents,
5 employees, service providers, vendors and other people who might come into contact with
6 Confidential Information. Measures are taken to store Confidential Information in manner that
7 protects it from disclosure.

8 6. The Conservatorship Estate has an overriding interest in maintaining the
9 confidentiality of the medical and personal information relating to the Conservatee and her minor
10 children, as well as the attorney client communications, attorney work product, trade secrets,
11 proprietary information and litigation strategy, any confidential settlement agreement or details
12 relating to any estate planning which are directly or indirectly revealed in the Fee Petition
Pleadings.

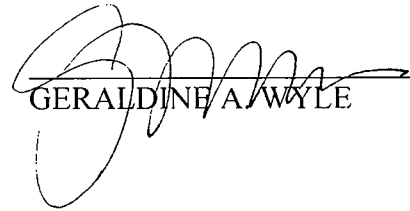
13 7. Given the unprecedented attention given to the Conservatee and the
14 Conservatorship Estate by the media and fans, it is virtually certain that the Confidential
15 Information would be widely disseminated if the Confidential Information in the Fee Petition
16 Pleadings were filed publicly.

17 8. The proposed sealing set forth in the redacted pleadings filed concurrently with this
18 Motion to Seal is as narrowly tailored as possible, and no less restrictive means exist to protect the
19 Estate's overriding interests adequately. The Conservators have filed the Fee Petition Pleadings
20 without redaction and have lodged and filed conditionally under seal, the minimum information
21 necessary to protect the Estate's Confidential Information. The Fee Petition Pleadings will make
22 available to the public all but the most confidential information. Among other things, the Petition
23 discloses the amount of compensation sought by the lawyers, the identity of the attorneys involved
24 and the general nature of the services for which compensation is sought. The detailed information
25 that will be lodged and filed conditionally under seal, is of relatively minimal value to the public,
26 but could be used by third parties to the Estate's disadvantage. The public's interest in access to
27 these proceedings will be satisfied if the Court grants this Motion because the Fee Petition
28 Pleadings will be completely available to the public, as will the Court's Order on the Fee Petition

11/07/16

1 Pleadings.

2 I declare under penalty of perjury of the laws of the State of California that the
3 foregoing is true and correct. Executed on November 3, 2016, at Los Angeles, California.

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5 GERALDINE A. WYLE
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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, 10880 Wilshire Boulevard, Suite 2200, Los Angeles, California 90024.

On November 4, 2016, I served the document(s) described as: **NOTICE OF MOTION AND MOTION TO SEAL PLEADINGS RELATING TO PETITION BY CONSERVATORS FOR ORDERS ALLOWING AND APPROVING PAYMENT OF: 1) COMPENSATION TO CONSERVATOR AND ATTORNEYS FOR CONSERVATORS; AND 2) REIMBURSEMENT OF COSTS AND SUPPORTING DOCUMENTS; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF GERALDINE A. WYLE IN SUPPORT** on the interested parties in this action by placing:

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

Samuel D. Ingham, III
444 South Flower Street, Suite 4260
Los Angeles, CA 90071-2966

Britney J. Spears
c/o Samuel D. Ingham, III
444 South Flower Street, Suite 4260
Los Angeles, CA 90071-2966

Clark R. Byam
Hahn & Hahn
301 E. Colorado Boulevard, Ninth Floor
Pasadena, CA 91101

Courtesy copy to:
Andrew M. Wallet
Attorney at Law
P.O. Box 351237
Los Angeles, CA 90035

☒ **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 November 4, 2016, at Los Angeles, California.



Vicki T. Calderhead