

‘Leaving Neverland’ Lawsuit: Judge Rejects Michael Jackson Estate’s Motion For Arbitration – Update



By **Dominic Patten**
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COMMENTS



HBO

UPDATED, 9:55 AM: A federal judge in the lawsuit against [HBO](#) over its documentary *Leaving Neverland* has denied the [Michael Jackson](#) estate’s motion for immediate arbitration. The family had been trying to have the case be decided by the American Arbitration Association and to have it sent back to state court, but U.S. District Court Judge George H. Wu denied both motions, giving the premium cable net an early win in the legal battle. Read details of the case below.

PREVIOUSLY, May 2: The controversial *Leaving Neverland* made its debut on March 3, but the estate of Michael Jackson and HBO are still fighting over the sex abuse documentary in a \$100 million lawsuit. Today, the premium cabler made a move to shut down a shift to arbitration by the deceased performer’s lawyers

“Optimum Productions and John Branca and John McClain, in their capacities as co-executors of the Estate of Michael Jackson, ask this Court to order arbitration of a poorly disguised and legally barred posthumous defamation claim against Home Box Office, Inc. that arises from HBO’s exercise of its First Amendment rights to exhibit an expressive work on an issue of public concern—the documentary *Leaving Neverland*,” Hollywood Kingslayers Daniel Petrocelli of O’Melveny & Myers and Theodore Boutrous of Gibson, Dunn & Crutcher said in their opposition memo on Thursday ([read it here](#)).

And, put it this way, they didn’t come to dance with the once proclaimed King of Pop’s crew.

“Petitioners’ purported basis for their claims is a single non-disparagement sentence buried in a confidentiality rider to a more than 26-year-old expired and entirely unrelated contract,” the attorneys’ note of a portion of a 1992 deal between the now decade long deceased Jackson and HBO over a concert special by the *Thriller* superstar that is being used as the legal wedge in this matter. “Petitioners’ effort to ‘publicly’ arbitrate these issues appears to be part of a transparent effort to bolster their publicity campaign against the documentary, but that undertaking is as poorly conceived as the claims themselves.

Straightforwardly put, the once lucrative and extremely litigious Jackson estate have been on the warpath against the harrowing allegations made against the much-accused but never convicted singer in the Dan Reed-directed project even before its [police protected but very well received](#) world premiere at the Sundance Film Festival earlier this year.



Having failed to convince then-HBO boss Richard Plepler to pull the plug on the docu [in mid-February](#), legal reps for the estate [soon after launched a big bucks suit](#) in L.A. Superior Court to be publicly arbitrated and an injunction against the film that clearly they never achieved.

The matter went over to federal court in early March for jurisdictional reasons just over a week after *Leaving Neverland* played to [some of the biggest documentary viewerships](#) that HBO had seen over the last decade. Long-time Jackson lawyer Howard Weitzman of Kinsella Weitzman Iser Kump & Aldisert and team are trying to get the matter moved back to LASC, with a May 13 hearing on that desire before federal Judge George Wu.

In the meantime, HBO’s stance is not here, not there, not anywhere.

“This Court should deny Petitioners’ Motion, find the 1992 Agreement does not contain a valid agreement to arbitrate the instant dispute, and confirm that any claim that Petitioners might seek to bring in any forum against HBO over *Leaving Neverland* based on the 1992 Agreement would not be actionable,” the home of *Game of Thrones* propounded today.

“Petitioners do not, and cannot, allege that any information HBO obtained during the course of performing the 1992 Agreement, let alone any confidential information or trade secrets, was provided to the filmmakers,” the 23-page filing from the defendants maintains. “Thus, by the express language of the contract itself, *Leaving Neverland* is categorically outside the scope of the Confidentiality Provisions.”

One of the lawyers representing the Jackson Estate ripped into the WarnerMedia-owned outlet’s argument.

“HBO’s opposition clearly shows that they are afraid to have this matter adjudicated,” Bryan Freedman told Deadline tonight. “The Jackson Estate wants an arbitration open to the public for all to see. If HBO thinks the contract does not apply or is expired then why are they opposing adjudicating it?”

“The reason why is because they know they were complicit in this one-sided farce of a money grab that clearly violates the agreement,” the Freedman & Taitelman, LLP partner added.

“Now they are trying to delay the inevitable beating that they will suffer when this matter is adjudicated,” veteran Tinseltown litigator Freedman concluded. “It won’t work.”

“Stay turned because at least we are offering them a chance to tell their side of the story, unlike they did in the creation of the one-sided fiction intended to disparage Michael Jackson.”

That “stay tuned” actually has a date – this stage in the case is all to be fought out in person in front of Judge Wu on May 23 – I’ll be there, to quote a old tune you might have heard of.

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