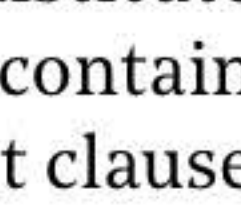


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Michael Jackson Estate Sues HBO Over 'Leaving Neverland' Documentary



Courtesy of HBO
'Leaving Neverland'



'Leaving Neverland' is alleged in a new suit to constitute a breach of a 1992 deal that contained a non-disparagement clause.

The Michael Jackson Estate is hardly letting go of *Leaving Neverland*, the documentary about the late pop star's alleged sexual abuse that is set to air next month on HBO. On Thursday, Optimum Productions and the two co-executors of the Jackson estate sued HBO and parent company Time Warner claiming the documentary constitutes a breach of a non-disparagement clause in an old contract.

"Michael Jackson is innocent. Period," begins the complaint filed in Los Angeles Superior Court. "In 2005, Michael Jackson was subjected to a trial — where rules of evidence and law were applied before a neutral judge and jury and where both sides were heard — and he was exonerated by a sophisticated jury. Ten years after his passing, there are still those out to profit from his enormous worldwide success and take advantage of his eccentricities. Michael is an easy target because he is not here to defend himself, and the law does not protect the deceased from defamation, no matter how extreme the lies are."

The law may give no recourse to dead individuals when it comes to reputation, but those managing the Jackson business have found a way to haul HBO into court over *Leaving Neverland*.

After going through attacks on Jackson's two accusers — Wade Robson and James Safechuck, plus filmmaker Dan Reed and HBO — [for failing to meet with them to address concerns about what the estate sees as a one-sided propaganda film](#), the plaintiffs discuss the old contract that HBO made to air a first-ever televised concert after the release of Jackson's album *Dangerous*.

The year was 1992, and many media outlets were said to be chasing Jackson's televised concert at that time. Then came the deal.

"In those non-disparagement provisions, HBO promised that 'HBO shall not make any disparaging remarks concerning Performer or any of his representatives, agents, or business practices or do any act that may harm or disparage or cause to lower in esteem the reputation or public image of Performer,'" states the complaint. "Other provisions in the Agreement require HBO to notify and consult with Jackson and Optimum Productions if it wishes to air additional programming about Jackson."

The complaint notes that at the time, HBO chief Richard Plepler was working as a senior vp communications and thus "must have known, or should have known, about HBO's contract with Jackson, as *Michael Jackson in Concert in Bucharest: The Dangerous Tour* was the biggest event for HBO that year. Yet in his desperation, Plepler willfully ignored HBO's obligations to Michael Jackson."

Among the complaints is how *Leaving Neverland* expressly suggests "Jackson was abusing children in connection with and on the *Dangerous World Tour*," pointing to a scene where Robson's mother is shown discussing the children taken on that tour.

"To summarize, HBO profited off the Dangerous World Tour by airing a concert from the tour and promoting Michael Jackson's talents," continues the complaint. "Now, HBO is profiting off the Dangerous World Tour by airing a 'documentary' that falsely claims Michael Jackson was abusing children on the same tour. It is hard to imagine a more direct violation of the non-disparagement clause."

Besides claiming violation of the disparagement clause, the estate is also talking about "responsible journalism" and alleging a breach of the covenant of good faith and fair dealing.

HBO on Thursday issued a statement, staying firm on its plans to premiere the documentary. "Despite the desperate lengths taken to undermine the film, our plans remain unchanged," reads the statement. "HBO will move forward with the airing of *Leaving Neverland*, the two-part documentary, on March 3rd and 4th. This will allow everyone the opportunity to assess the film and the claims in it for themselves."

The lawsuit being handled by attorneys including Howard Weitzman and Bryan Freedman demands that HBO be compelled to participate in a non-confidential arbitration, where the Jackson estate says it will be seeking "all damages proximately caused by HBO's reprehensible disparagement of Michael Jackson, which could exceed \$100 million should HBO succeed in the damage it is intending to cause to the legacy of Michael Jackson."

The Jackson estate could have first filed an arbitration demand, but obviously they wished to make noise right before the airing of the documentary. If this dispute moves forward in arbitration or otherwise, there could be challenges to the standing for suit as Michael Jackson's old touring company was a signatory to the agreement (said to be a predecessor of Optimum Productions) and there will be the question of injury. Additionally, expect an attack on the scope of this agreement ([attached as an exhibit to the complaint](#)). The confidentiality provisions include some discussion that obligations on non-disclosures post-date HBO's relationship with the singer, but it's less clear whether those post-term obligations extend to non-disparagement, and HBO will surely argue that it wasn't the intention of either party to bind what HBO could say about Jackson throughout eternity.

After the estate penned a letter earlier this month pointing to concerns about the film, HBO told *The Hollywood Reporter*, "Our plans remain unchanged. The two-part documentary, *Leaving Neverland* will air as scheduled on Sunday, March 3rd and Monday, March 4th. Dan Reed is an award-winning filmmaker who has carefully documented these survivors' accounts. People should reserve judgment until they see the film."