

Judge Sides With Michael Jackson Estate in 'Leaving Neverland' Dispute

By **GENE MADDAUS**



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Updated below: The ruling is now final.

A federal judge is leaning towards granting the Michael Jackson estate's move to take HBO to arbitration in its dispute over the documentary "Leaving Neverland."

Judge George Wu issued a tentative ruling on Thursday in which he denied HBO's motion to dismiss the estate's case. Wu is expected to make the ruling final by the end of September.

The four-hour documentary features allegations of two men, James Safechuck and Wade Robson, who say they were sexually abused by Jackson over the course of several years when they were young children. The Jackson estate argues that by running the documentary, HBO violated a non-disparagement agreement from a 1992 concert film from Jackson's "Dangerous" tour.

The estate blasted HBO for not including their rebuttal to the allegations in the film, and went to court seeking to compel a public arbitration of the contract dispute. HBO has said that the 26-year-old contract no longer applies.

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HBO's attorneys, led by Theodore Boutsros, had sought to throw out the case under California's anti-SLAPP statute, which discourages frivolous litigation intended to chill speech on issues of public interest.

Wu had earlier suggested that HBO file the anti-SLAPP motion, but in his tentative ruling he concluded that the statute does not apply to requests for arbitration.

In court on Thursday, Boutsros asked the judge to reconsider.

"It was filed to chill speech," he argued. "It was filed to tell the world, 'Don't talk about child sex abuse.'... A company like HBO may be able to fight back and move forward. Others might not be able to do that."

Wu acknowledged that the legal issues in the case are close calls, and that his ruling will likely be appealed.

"You're a big company, they're a wealthy estate," he told HBO's lawyers. "It's a clash of the titans."

Outside court, John Branca, a co-executor of Jackson's estate, said that HBO has been trying to avoid a public airing of both sides of the story.

"I've never seen a media organization fight so hard to keep a secret," he said. "We're saying let's get all the facts out there, not just two stories from two accusers with a financial interest."

A spokesperson for HBO said, "We are waiting to see the Judge's final decision."

Bryan J. Freedman, an attorney for the estate, issued a statement slamming HBO for its "wrongful conduct."

"HBO has tried everything possible to avoid having a trier of fact adjudicate their wrongdoing," Freedman said. "If HBO believes its actions were proper then there is no reason for them to try and hide behind procedural technicalities to avoid an arbitration or a trial. Whether in an arbitration, federal court, state court or the court of appeal, the Estate of Michael Jackson will force HBO to be held accountable for its wrongful conduct. The Estate will never stop until justice has been obtained."

Update, 5 p.m. Sept. 20: Wu has adopted the tentative ruling as his final ruling. A status conference has been set for Oct. 3, and an appeal is expected.

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