

# DEADLINE

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## Michael Jackson Estate Moonwalks Over HBO’s ‘Leaving Neverland’ Appeal, Calls Move “Bogus” & “Desperate”



By **Dominic Patten**  
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The legal war of the Emmy winning documentary takes yet another hard move  
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The dance-off over *Leaving Neverland* is far far from over. Less than a month after [HBO](#) lost an attempt to get the multimillion-dollar lawsuit from the estate of [Michael Jackson](#) against the Emmy-winning documentary tossed out, and saw a federal judge shift the whole matter towards arbitration, the AT&T-owned premium cabler kicked back Monday. In a short filing, HBO’s lawyers from Gibson, Dunn & Crutcher LLP and O’Melveny & Myers LLP notified the court that they intend to take the matter upstairs, so to speak.

“Please take notice that Defendant Home Box Office, Inc. hereby appeals to the United States Court of Appeals for the Ninth Circuit from this Court’s order granting Plaintiffs’ Motion to Compel Arbitration (the “Order”),” Theodore J. Boutrous Jr. and Daniel Petrocelli wrote the court today in a move to dispense of Judge George Wu’s ruling of [September 20](#) against their anti-SLAPP motion in the highly charged case.

It’s pretty clearly the Jackson estate and their attorneys thought that was bad – really bad.

“This bogus appeal is nothing more than HBO’s latest desperate attempt to cover up the truth about its shoddy journalism,” Freedman & Taitelman, LLP’s Bryan Freedman said a statement this afternoon.

“For seven months HBO has tried and failed to avoid a public arbitration,” the lawyer added of the turns of the \$100 million lawsuit the estate launched [in late February](#). “This appeal, which is its latest Hail Mary attempt, is even more pathetic than all of its other attempts to avoid public scrutiny. If HBO truly wanted to avoid a judgment, it should have thought about that before it aided and abetted a one-sided documentary without any journalistic integrity and in which the subjects have a huge motivation to lie – namely the millions of dollars for which they are suing the Estate. Our client will never stop until justice is served.”

Having fist premiered at the Sundance Film Festival under threats and police protection, and then debuting on HBO to big viewership on March 3, the Dan Reed-directed *Leaving Neverland* spotlighted specific claims by Wade Robson and James Safechuck that they were sexually abused by Jackson back when they were children.

“HBO’s frivolous appeal to stall the court’s Order to arbitrate this dispute is yet another attempt to avoid the inevitable,” fellow Jackson estate lawyer Howard Weitzman said Monday. “Soon there will be a hearing, as the Court ordered, and damages will be awarded for HBO’s intentional and unlawful conduct,” the Kinsella Weitzman Iser Kump & Aldisert partner added with a verbal grenade. “The real questions are what is HBO afraid of and how much will they end up paying the Estate of Michael Jackson.”

Called out as another set of smears upon the deceased pop star, the estate’s attorneys hoped to bludgeon the film, the filmmaker and the outlet by dredging up a portion of a 1992 deal between Jackson and HBO over a concert special as proof of the legal miscarriage by the premium cabler. That citation of the almost three-decade old agreement didn’t get much movement for the estate, and the case moved out of L.A. Superior Court to federal court in early March for jurisdictional reasons.

The [August 15](#) move to dismiss from HBO’s legal team came following a ruling in late May by U.S. District Court judge Wu to stop the Jackson estate’s desire to have the matter shut away behind closed doors and be decided by the American Arbitration Association. The estate also lost out in its aim to have the lawsuit sent back to state court. Last month, the often-unpredictable Wu went the other way and bundled together a series of rulings to put the matter in open arbitration.

From that point on, the HBO appeal was basically a done deal waiting to happen.

Coming as [WarnerMedia](#) gets ready to put its HBO Max streaming service on the launch pad next year and some ornery shareholders kick up dust about AT&T’s purchase of DirecTV and a few other corporate decisions, the Jackson estate is now out for legal blood.

“This is a cover-up,” asserts estate co-executor John Branca of the appeal move by HBO. “If HBO truly believed that their desperate attempt to grab ratings was true, accurate, and fair, they would not be so strenuously avoiding a public reckoning of this junk programming which has become known as the Lies of *Leaving Neverland*,” he kitchen sinks and then some. “The agenda is set at the top. Stockholders are questioning HBO’s leadership.”

Before his death from a prescription drug overdose in 2009, Jackson settled a previous child abuse claim in 1993 and was acquitted of other such charges in 2005.

A HBO spokesperson said today of their appeal: “We don’t have anything to add beyond what was previously stated in our papers.”