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7 Attorney for Plaintiff Sam Lutfi

FILED
Los Angeles Superior Court

DEC 23 2011

Jann A. Clarke, Executive Officer/Clerk
By *[Signature]*, Deputy
DOROTHY SWAIN

8 **SUPERIOR COURT OF CALIFORNIA**
9 **FOR LOS ANGELES COUNTY**

10 **SAM LUTFI, an individual,**
11 **Plaintiff,**

12 **vs.**

13 **LYNNE IRENE SPEARS, an**
14 **individual; JAMES PARNELL**
15 **SPEARS, an individual; BRITNEY**
16 **JEAN SPEARS, an individual; and**
17 **DOES 1 through 25, inclusive,**

18 **Defendants.**

Case No. BC 406904

MOTION TO COMPEL
COMPLIANCE WITH TRIAL
DOCUMENT DEMAND
PROPOUNDED TO DEFENDANT
JAMES PARNELL SPEARS

[C.C.P. §1987(c); Civil Code
§3295(c)]

Final Status Conference:

Date: 1-12-12

Time: 9:00 a.m.

Dept: 23 (Hon. Zaven V. Sinanian)

Filed: 2-3-09

Trial: 1-23-12

DCO: 12-24-12

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21 **TO DEFENDANT JAMES PARNELL SPEARS AND TO HIS COUNSEL OF**
22 **RECORD HEREIN:**

23 **PLEASE TAKE NOTICE** that Plaintiff Sam Lutfi shall move to overrule
24 objections and compel compliance with the C.C.P. §1987 document
25 propounded to James Parnell Spears, at the Final Status Conference
26 matter, or at such later date and time as counsel may be heard.

CIT/CASE: KC406904 LEA/REF#:
RECEIVED #: CCH118782010
DATE FILED: 12/23/11 12:04:48 PM
FEE: \$40.00
RECEIVED: 0310

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1 **Motion to Enforce Notice to Produce**
2 **Documents at Trial**

3 Plaintiff moves to enforce the Notice to Defendant James Parnell Spears
4 to produce documents at trial pursuant to C.C.P. §1987(c) and Civil Code
5 §3295(c).¹ This motion is necessary because Mr. Spears objected and refused
6 to comply² and a “meet and confer” effort was unsuccessful.³

7 The documents at issue concern the net worth and financial condition
8 of the Defendant, and they are sought solely for use in “Phase II” proceeding,
9 when the *amount* of punitive damages is adjudicated. This issue, and the net
10 worth evidence, is normally considered *after* a jury verdict that punitives *shall*
11 be awarded, because of mandatory bifurcation under Civil Code §3295(d).

12 In that event, the disputed records will be needed because Plaintiff will
13 have the burden of proof. See, Adams v. Murakami (1991) 54 Cal.3d 105, 109:

14 “[C]onstitutional considerations. . . indicate that an award of
15 punitive damages cannot be sustained on appeal unless the trial
16 record contains meaningful evidence of the defendant's financial
17 condition.”

18 Plaintiff seeks punitive damages based on his cause of action against
19 James Parnell for *assault and battery*.⁴ Despite the relevance of the
20 documents, Defendant objected refused to produce them. However, the
21 objections are meritless because a “Phase II” production of this exact kind of
22 records is expressly provided for under Civil Code §3295(c). As stated in
23

24 ¹ Exhibit 18

25 ² Exhibit 18A

26 ³ Declaration of Joseph D. Schleimer, Esq., ¶2

27 ⁴ First Amended Complaint, ¶¶46-56; Schleimer Dec., ¶2
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1 StreetScenes v. ITC Entertainment Group, Inc. (2002) 103 Cal.App.4th 233,
2 243-244:

3 “[I]t may not be a defendant's burden to prove its net worth, but if
4 it is ordered to produce that evidence it is under an obligation to
5 do so. (Civ. Code, §3295, subd. (c).) Once the court makes the
6 order there is no justification for not specifically following that
7 order. (See *People v. Glass* (1972) 44 Cal.App.3d 772, 781-782
8 [118 Cal.Rptr. 797].) If counsel has problems with the court's
9 orders, he or she may seek a pretrial writ or argue the validity of
10 that ruling on appeal. (*Mike Davidov Co. v. Issod, supra*, 78
11 Cal.App.4th 597, 609.) Here, there was no error in ordering ITC to
12 bring evidence of its financial condition to court.”

13 **Documents at issue**

14 Plaintiff's C.C.P. §1987(c) demand contains 13 narrowly-framed
15 categories, all of which directly pertain to Defendant James Parnell Spear's
16 net worth and financial condition:

17 **Demand for Production No. 1**

18 The most recent BANK STATEMENT for each and every bank account
19 holding funds which belong to James Parnell Spears.

20 “BANK STATEMENT” refers to the periodic statement issue by a
21 bank, savings and loan or credit union reflecting deposits, credits,
22 withdrawals, debits and/or balances for any account or certificate
23 of deposit.

24 **Demand for Production No. 2:**

25 The most recent SECURITIES ACCOUNT STATEMENT for each and
26 every securities account which belongs to James Parnell Spears.

27 “SECURITIES ACCOUNT STATEMENT” refers to the periodic
28 statement issued by a broker, trustee or other holding entity

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which reflects the value of securities, change of value of securities, purchase of securities and/or sale of securities.

Demand for Production No. 3:

The most recent MORTGAGE STATEMENT for any mortgage on which James Parnell Spears is a debtor.

“MORTGAGE STATEMENT” refers to the periodic statement issued by a mortgage lender which reflects the balance due, amount currently due, accrued interest, payment of interest and/or payment of principal on any loan secured by real property.

Demand for Production No. 4:

The most recent PROPERTY TAX BILL for any real property on which James Parnell Spears is an owner.

“PROPERTY TAX BILL” refers to the invoice or other billing document from any taxing authority which reflects taxes due on real property and includes a statement from a mortgage lender which reflects the payment of property taxes by the lender on behalf of the owner.

Demand for Production No. 5:

The most recent CREDIT CARD STATEMENT for any credit card on which James Parnell Spears is the holder, co-holder, or guarantor.

“CREDIT CARD STATEMENT” refers to the periodic statement by a credit card issuer reflecting the amount due on the account, the amount due for the current billing period, the minimum payment due, accrued interest, and/or bank charges on a credit card account.

Demand for Production No. 6:

Any and all APPLICATIONS FOR ORDER ALLOWING AND APPROVING

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1 PAYMENT filed with the Los Angeles Superior Court, seeking approval of the
2 payment of monies to James Parnell Spears in the action styled In re
3 Conservatorship of the Estate of Britney Jean Spears, Los Angeles Superior
4 Court Case No. BP108870 (herein "CONSERVATORSHIP ACTION").

5 "APPLICATIONS FOR ORDER ALLOWING AND APPROVING
6 PAYMENT" includes any application, motion or other request
7 directed to the Court seeking permission to make payment
8 and/or approval of a payment or payments already made.

9 **Demand for Production No. 7:**

10 Any and all ORDERS approving the payment of monies to James Parnell
11 Spears in the CONSERVATORSHIP ACTION.

12 "ORDERS" includes Minute Orders and orders signed by a Judge
13 or Commissioner or otherwise entered by the Court.

14 **Demand for Production No. 8:**

15 The most recent LOAN STATEMENT on any loan for which James
16 Parnell Spears is a borrower, guarantor or has any other obligation as a
17 debtor.

18 "LOAN STATEMENT" refers to the periodic statement issued by a
19 lender reflecting the total amount due, minimum payment due,
20 payments made, past due amounts, total principal due, and/or
21 total interest due.

22 **Demand for Production No. 9:**

23 The BOOK AGREEMENT for the story of James Parnell Spears.

24 "BOOK AGREEMENT" refers to the author contract for a book,
25 including a contract with the publisher or with a co-writer.

26 **Demand for Production No.10:**

27 The most recent CAR LOAN STATEMENT on any vehicle owned by
28 James Parnell Spears.

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“CAR LOAN STATEMENT” refers to the statement issued by a lender reflecting the total amount due, minimum payment due, payments made, past due amounts, total principal due, and/or total interest due on a car loan.

Demand for Production No. 11:

TOUR STATEMENTS reflecting the total income from Britney Spears’ tour on which James Parnell Spears has received, will receive or is entitled to receive a commission.

“TOUR STATEMENTS” refers to the statements issued by the tour promotor reflecting monies paid for the services of Britney Spears.

Demand for Production No. 12:

The TOUR ACCOUNTINGS reflecting the total income from Britney Spears’ tour on which James Parnell Spears has received, will receive or is entitled to receive a commission.

“TOUR ACCOUNTINGS” refers to the statement of income and expenses prepared for a concert tour.

Demand for Production No. 13:

The agreement whereby Britney Spears’ manager, Larry Rudolph, agreed to assign a percentage of his commission on Britney’s concert tour to Conservator James Parnell Spears.

Conclusion

Without these records, Plaintiff will be unable to meet his burden of proving the financial condition of the Defendant. Accordingly, Plaintiff moves

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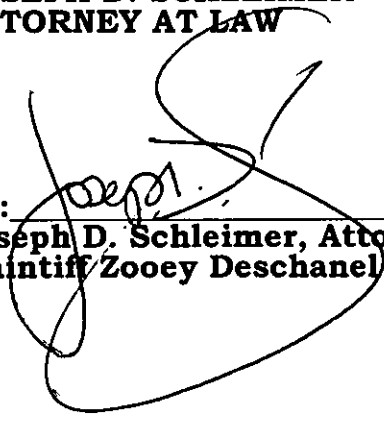
that the Defendants' objections be overruled and for an Order compelling compliance.

Respectfully submitted,

Dated: December 22, 2011

**JOSEPH D. SCHLEIMER
ATTORNEY AT LAW**

BY:
**Joseph D. Schleimer, Attorney for
Plaintiff Zooney Deschanel**



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PROOF OF SERVICE
BY FAX & U.S. MAIL

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 9401 Wilshire Boulevard, Suite 1250, Beverly Hills, California 90212.

On ***December 22, 2011*** I served the foregoing document described as: *** MOTION TO COMPEL COMPLIANCE WITH TRIAL DOCUMENT DEMAND PROPOUNDED TO DEFENDANT JAMES PARNELL SPEARS [C.C.P. §1987(c); Civil Code §3295(c)] *** on the interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

See attached service list

BY U. S. MAIL

I deposited the sealed envelopes in the United States mail at Beverly Hills, California, addressed as stated above. The envelopes were mailed with first class postage thereon fully prepaid.

BY TELECOPIER:

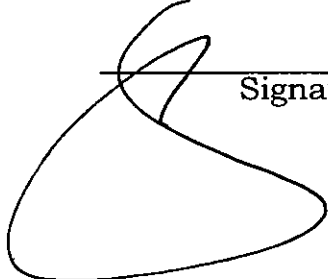
I transmitted a copy of this document by telecopier to each of the fax numbers set forth on the service list.

Executed on ***December 22, 2011*** at Beverly Hills, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Joseph D. Schleims
Type or Print Name

Signature



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**Service List
Lutfi v Spears**

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22/23/11

TRANSMISSION VERIFICATION REPORT

TIME : 12/22/2011 17:45
NAME : J.D. SCHLEIMER
FAX : 3102739809
TEL : 3102739807
SER.# : K8J788349

DATE, TIME	12/22 17:40
FAX NO./NAME	13107348696
DURATION	00:04:50
PAGE(S)	10
RESULT	OK
MODE	STANDARD ECM

12/23/11

TRANSMISSION VERIFICATION REPORT

TIME : 12/22/2011 17:50
NAME : J.D. SCHLEIMER
FAX : 3102739809
TEL : 3102739807
SER.# : K8J788349

DATE, TIME	12/22 17:49
FAX NO./NAME	13102012110
DURATION	00:01:26
PAGE(S)	10
RESULT	OK
MODE	STANDARD ECM

12/22/11

TRANSMISSION VERIFICATION REPORT

TIME : 12/22/2011 18:01
NAME : J.D. SCHLEIMER
FAX : 3102739809
TEL : 3102739807
SER.# : K8J788349

DATE, TIME	12/22 18:00
FAX NO./NAME	13107758775
DURATION	00:01:40
PAGE(S)	10
RESULT	OK
MODE	STANDARD ECM

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