

**FILED**  
LOS ANGELES SUPERIOR COURT

MAY 14 2009

JOHN A. CLARK, EXECUTIVE OFFICER/CLERK  
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6 SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE  
7 COUNTY OF LOS ANGELES (Stanley Mosk)

9 CONSERVATORSHIP OF BRITNEY )  
10 J. SPEARS )

CASE NO.: BP 108870

11 ) NOTICE OF INTENT TO MOVE TO  
12 ) VACATE THE JUDGMENT OR IN  
13 ) THE ALTERNATIVE FOR A NEW  
14 ) TRIAL [CCP §§ 659, 663a]  
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(FAX)

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27 NOTICE OF INTENT TO SET ASIDE JUDGMENT [CCP § 663A]  
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CIT/CASE: BP108870 LEA/NEA  
RECEIPT #: F1946772009  
DATE PAID: 05/14/09 01:18:14 PM  
PAYMENT: \$40.00 0310  
RECEIVED:  
CHECK: \_\_\_\_\_  
CASH: \_\_\_\_\_  
CHANGE: \_\_\_\_\_  
CARD: 40.00

1 NOTICE IS HEREBY GIVEN THAT:

2 Jon Eardley hereby moves pursuant to CCP §§ 657 and 663a to set aside the  
3 court's judgment of April 28, 2009, or in the alternative for a new trial, based upon  
4 the following grounds:  
5

- 6 1. Moving party had a right to trial by jury because the nature of the proceedings  
7 under the Welfare and Institutions Code was inherently legal in nature, and not  
8 equitable, irrespective of the remedy sought; the plaintiff necessarily must  
9 show damage before an injunction may issue. That aspect of the proceeding  
10 should necessarily, and as a prerequisite, have been tried to a jury for the  
11 establishment of any damage to body or mind. Hoopas v. Dolan, 168 Cal.  
12 App. 4<sup>th</sup> 146 (2008). Because those issues have been inadequately tried, the  
13 judgment is irretrievably lost in equity and is void;  
14  
15 2. Because there is no right to a jury trial in the probate court, the matters were  
16 required to be tried accordingly in the Superior court as civil actions or special  
17 proceedings.  
18  
19 3. Moving party did not receive due process of law under the laws of the United  
20 States or the State of California; further he was not served with a summons or  
21 even probate citation;  
22  
23 4. The testimony does not support the entry of a judgment against Mr. Eardley;  
24  
25 5. There is no justification whatsoever for the issuance of any injunction against  
26

27 Mr. Eardley;

28 NOTICE OF INTENT TO SET ASIDE JUDGMENT [CCP § 663A]

- 1 6. The conservatorship was not a proper party to bring the action and did not as a  
2 matter of law and fact have standing;
- 3
- 4 7. The court did not have personal or subject matter jurisdiction over Mr.  
5 Eardley;
- 6 8. An evidentiary hearing for the appointment of a temporary conservator should  
7 have been set, and a temporary conservator appointed after the filing of the  
8 appeal of the permanent orders of conservatorship;
- 9
- 10 9. Mr. Eardley was never served with a bill of particulars in that no complaint  
11 was ever filed or served; hence the judgment must fail as a matter of law;
- 12
- 13 10. The court acted in contravention of the automatic appellate stay pursuant to  
14 CCP § 916 after the filing of the appeal of the permanent orders of  
15 conservatorship and the Temporary Restraining Order;
- 16
- 17 11. The restraining order and injunction proceedings were brought in the wrong  
18 department of the Superior Court, as the papers are possessed of the case  
19 number BP 108870;
- 20
- 21 12. Because no personal or subject matter jurisdiction exists as to the conservatee,  
22 the proceedings in their entirety as to Mr. Eardley are void;
- 23
- 24 13. Testimony of the conservator James Spears indicates that neither he nor the  
25 conservatee was aggrieved in any way by Mr. Eardley's conduct; and that it  
26 was the exercise of the conservatorship lawyers' judgment that caused the  
27 process to be issued against Mr. Eardley;

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14. Mr. Eardley should have been served with a bill of particulars, as the statutes he is alleged to have offended are not stated with any specificity whatsoever; nor are they contained in a complaint;

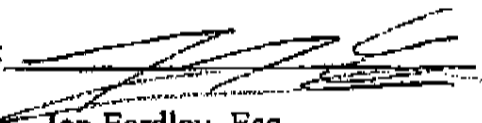
15. Service of the judgment of April 28, 2009 has not been effected upon Mr. Eardley and therefore the judgment cannot be entered;

16. The injunction violates Mr. Eardley's first amendment rights in that it was designed as a prior restraint to prevent him from appealing the permanent orders of conservatorship, and have set access to the appellate court at a much higher level, thus denying him and others equal protection of the law under the United States and California constitutions.

17. The proceedings, in their totality, violated federal statutory law as herein previously stated in papers filed with this court.

All of these irregularities denied Mr. Eardley a fair trial. Thus, the judgment must be vacated in its entirety and a new judgment entered in favor of Mr. Eardley.

Date: May 13, 2009

By:   
Jon Eardley, Esq.