

HBO Bats Away *Leaving Neverland* Suit as Jackson Estate Claims It's "Afraid"

In a new motion, HBO's lawyers argue that the Jackson estate's "vague and overbroad interpretation" of an old non-disparagement clause "would, if accepted, violate HBO's First Amendment right to distribute expressive content on an issue of public concern."

→ by LAURA BRADLEY

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By Dan Reed/HBO.

The Michael Jackson estate's legal fight against HBO over its Michael Jackson doc *Leaving Neverland* continues. The estate has repeatedly slammed both the doc and Jackson's accusers, claiming that their allegations that the late singer sexually abused children are financially motivated. In February, the estate sued HBO over the doc, citing an alleged non-disparagement clause from 1992. (Since Jackson is dead, claims of defamation are off the table.) Now, however, HBO has hit back, as the premium cabler's lawyers argue that the estate's interpretation of the clause is a reach.

Per *Variety*, HBO lawyers **Daniel Petrocelli** and **Theodore Boutros** argued in a motion, filed Thursday, that the contract the estate cites expired long ago; HBO's non-disparagement deal came as part of a pact to air footage of a Jackson concert in Bucharest. *Variety* notes that HBO has not aired the film since 1992.

"The vague and overbroad interpretation of the non-disparagement sentence that Petitioners urge this Court to adopt would, if accepted, violate HBO's First Amendment right to distribute expressive content on an issue of public concern," the motion states. Per *Variety*, the lawyers argue that such a wide interpretation of the agreement would also "run afoul of the public policy embodied in numerous California statutes to protect children from sexual abuse," and "legitimize the creation of a special category of wealthy, powerful, or famous individuals who could—through a lifetime of contracts with news or media companies—preserve for themselves via contract posthumous control over how they are portrayed and described in a way that ordinary citizens cannot."

Leaving Neverland is a four-hour exposé focused on interviews with **Wade Robson** and **James Safechuck**, ex-Jackson acolytes who claim Jackson sexually abused them when they were children. (Jackson consistently denied allegations of pedophilia when he was alive, and was acquitted on all counts during his molestation case in 2005.) When the doc first premiered earlier this year, following the Lifetime exposé *Surviving R. Kelly*, it re-ignited conversations around examining artists' legacies in the wake of serious accusations of abuse—especially for artists who, until recently, have skirted severe career repercussions. (**R. Kelly** has been accused of sexual abuse, as well as holding women in a "cult"-like setting—claims he has repeatedly denied, even amid new charges.)

Jackson estate attorney **Bryan Freedman** has already responded to HBO's motion, claiming the network is "afraid to have this matter adjudicated because it will expose the falsity of the documentary," *Variety* reports. The estate's most recent brief before this response characterized the doc as propaganda.

"The Jackson Estate wants an arbitration open to the public for all to see," Freedman added. "If HBO thinks the contract does not apply or is expired then why are they opposing adjudicating it? The reason why is because they know they were complicit in this one-sided farce of a money grab that clearly violates the agreement. Now they are trying to delay the inevitable beating that they will suffer when this matter is adjudicated. It won't work. Stay tuned, because at least we are offering them a chance to tell their side of the story, unlike [what] they did in the creation of the one-sided fiction intended to disparage Michael Jackson. Let this be a warning to all talent that HBO will disregard the truth and distribute fictitious one-sided content in violation of the artists' rights it promised to protect. Make no mistake, HBO will be held responsible for its reprehensible conduct."

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