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7 Attorneys for James P. Spears,  
Temporary Conservator of the Person and  
8 Temporary Co-Conservator of the Estate

9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA  
11 WESTERN DIVISION  
12

13 In re the Conservatorship of the Person  
14 and the Estate of

15 BRITNEY JEAN SPEARS,

16 Temporary Conservatee.

CASE NO. CV 08-1021 PSC (RCx)

**NOTICE OF MOTION AND  
MOTION TO REMAND [28 U.S.C.  
§ 1447(c)]**

Date: March 17, 2008

Time: 1:30 p.m.

Place: Courtroom 790  
Roybal Building

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1 PLEASE TAKE NOTICE that on March 17, 2008, at 1:30 p.m., or as soon  
2 thereafter as the matter may be heard before the Honorable Philip S. Gutierrez,  
3 United States District Judge, in Courtroom 790 of the United States Courthouse,  
4 Roybal Federal Building, 255 East Temple Street, Los Angeles, California 90012,  
5 James P. Spears (“Mr. Spears”), the temporary conservator of the person of Britney  
6 Jean Spears and the temporary co-conservator of the estate of Britney Jean Spears,  
7 will, and hereby does, move the Court pursuant to 28 U.S.C. § 1447(c) to remand  
8 these conservatorship proceedings (the “Conservatorship Proceedings”) to the  
9 Probate Department of the Superior Court of the State of California for the County  
10 of Los Angeles.

11 This motion to remand is made on the grounds that:

12 (1) the Probate Court entered Orders dated February 6, 2008  
13 finding that temporary conservatee Britney Jean Spears (“Britney”)  
14 “does not have the capacity to retain counsel,” and the counsel who  
15 purported to file the Notice of Removal on Britney’s behalf, Jon  
16 Eardley (“Mr. Eardley”), therefore lacked the power to remove the  
17 Conservatorship Proceedings on behalf of Britney in the Notice of  
18 Removal filed on February 14, 2008; and

19 (2) there is no federal question jurisdiction over the  
20 Conservatorship Proceedings because the well-pleaded conservatorship  
21 petitions do not present a claim arising under federal law.

22 PLEASE TAKE FURTHER NOTICE that Mr. Spears also will, and hereby  
23 does, move the Court pursuant to 28 U.S.C. § 1447(c) to require Mr. Eardley, and  
24 any person or persons with whom he has worked in concert to effectuate the  
25 removal, to pay Mr. Spears his just costs and any actual expenses, including  
26 attorneys’ fees, incurred as a result of the removal, on the grounds that removal was  
27 not objectively reasonable and that unusual circumstances justify an award of costs  
28 and fees.

1 PLEASE TAKE FURTHER NOTICE that Mr. Spears also will, and hereby  
2 does, move the Court to compel Mr. Eardley to provide a full and complete  
3 statement, under penalty of perjury, identifying every person or persons with whom  
4 he has worked in concert to effectuate the removal, or in whose agency he acts, and  
5 stating each person's role with regard to the removal.

6 This motion is based on this Notice, the Memorandum filed concurrently  
7 herewith, the Declarations of Andrew M. Wallet and Jeffrey D. Wexler filed  
8 concurrently herewith, the Request for Judicial Notice filed concurrently herewith,  
9 the pleadings and Orders that were publicly filed in the Conservatorship  
10 Proceedings (copies of which are attached to the Request for Judicial Notice but  
11 were not attached to the Notice of Removal despite the requirement of 42 U.S.C.  
12 § 1446(a) that all such materials be filed along with the Notice of Removal); the  
13 [Proposed] Order lodged concurrently herewith, the files in this matter, and such  
14 further oral or written argument as may be considered by the Court.

15 This Motion is made following the conference of counsel pursuant to Local  
16 Rule 7-3, which took place on February 18, 2008.

17 DATED: February 19, 2008

Respectfully submitted,

18 LUCE, FORWARD, HAMILTON &  
19 SCRIPPS LLP

20 By:           /s/ Jeffrey D. Wexler          

21 Jeffrey D. Wexler  
22 Attorneys for James P. Spears,  
23 Temporary Conservator of the Person  
24 and Temporary Co-Conservator of the  
25 Estate  
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7 Attorneys for James P. Spears,  
Temporary Conservator of the Person and  
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9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA  
11 WESTERN DIVISION  
12

13 In re the Conservatorship of the Person  
14 and the Estate of

15 BRITNEY JEAN SPEARS,  
16 Temporary Conservatee.

CASE NO. CV 08-1021 PSC (RCx)

**[PROPOSED] ORDER GRANTING  
MOTION TO REMAND [28 U.S.C.  
§ 1447(c)]**

Date: March 17, 2008  
Time: 1:30 p.m.  
Place: Courtroom 790  
Roybal Building

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1 After consideration of the papers in support of and in opposition to the motion  
2 of James P. Spears ("Mr. Spears"), the temporary conservator of the person of  
3 Britney Jean Spears and the temporary co-conservator of the estate of Britney Jean  
4 Spears, pursuant to 28 U.S.C. § 1447(c) to remand these conservatorship  
5 proceedings (the "Conservatorship Proceedings") to the Probate Department of the  
6 Superior Court of the State of California for the County of Los Angeles, and after  
7 consideration of the oral argument of counsel, if any,

8 IT IS ORDERED that:

9 1. This matter is remanded to the Probate Department of the Superior  
10 Court of the State of California for the County of Los Angeles on each of the  
11 following grounds:

12 (a) the Probate Court entered Orders dated February 6, 2008  
13 finding that temporary conservatee Britney Jean Spears ("Britney")  
14 "does not have the capacity to retain counsel," and the counsel who  
15 purported to file the Notice of Removal on Britney's behalf, Jon  
16 Eardley ("Mr. Eardley"), therefore lacked the power to remove the  
17 Conservatorship Proceedings on behalf of Britney in the Notice of  
18 Removal filed on February 14, 2008; and

19 (b) there is no federal question jurisdiction over the  
20 Conservatorship Proceedings because the well-pleaded conservatorship  
21 petitions do not present a claim arising under federal law.

22 2. Pursuant to 28 U.S.C. § 1447(c), Mr. Eardley, and any person or  
23 persons with whom he has worked in concert to effectuate the removal, shall, within  
24 ten (10) Court days of entry of this Order, pay Mr. Spears \$ \_\_\_\_\_,  
25 representing his just costs and any actual expenses, including attorneys' fees,  
26 incurred as a result of the removal.

27 3. Mr. Eardley shall, within ten (10) Court days of entry of this Order,  
28 filed with the Court and provide to counsel for Mr. Spears a full and complete

1 statement, under penalty of perjury, identifying every person or persons with whom  
2 he has worked in concert to effectuate the removal, or in whose agency he acts, and  
3 stating each person's role with regard to the Notice of Removal.

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5 DATED: \_\_\_\_\_

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\_\_\_\_\_  
The Honorable Philip S. Gutierrez  
United States District Judge

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