MEDIA ALLIANCE

By electronic filing

October 21, 2021

California Supreme Court
350 McAllister Street
San Francisco CA 94102

Re: *USA Today, a division of Gannett Satellite Information Network LLC, Petitioner v. Los Angeles Superior Court, Respondent Britney Jean Spears, Real Party in Interest*
Case #S271168

Honorable Justices,

Media Alliance writes today to urge the court to grant the petition for review filed by petitioner *USA Today.*

Media Alliance believes the issues raised in the petition for review are of compelling significance for Californians and that the cancellation of the RAAP remote access program by the L.A. Superior Court constrain fundamental rights of the press and public, both under the specific pandemic conditions currently in effect, and in the long-term adoption of civic technology.

1. **Interest of Media Alliance**

Media Alliance is a 46 year old California not for profit corporation dedicated to greater diversity, accountability and accuracy in the media and communications in the interests of peace, justice and social responsibility. Our members include professional journalists (in their individual capacity), citizen journalists and academics, researchers and communications professionals who use media platforms to inform. As an advocacy organization acting on their behalf, we educate, amplify and advocate in local, regional and state forums for policies that support communication rights with an emphasis on support for marginalized and vulnerable communities.

We have no direct connection with any party in this case, and no party, attorney for a party, or judicial member has played any part in the preparation of this letter.

2. Discussion

The questions raised by the petition for review merit the Supreme Court's attention for several reasons.

Firstly, the COVID-19 pandemic, as the Chief Justice and the Judicial Council have already observed, have significantly altered the operation of virtually all branches of government and the judicial branch is no exception. While some progress has been made with the development of vaccinations, the ongoing nature of the pandemic is continuing, given partial vaccination rates, disease variants, and breakthrough infections. The director of this organization notes several cases of breakthrough COVID-19 infections among her personal acquaintances in recent weeks. Most, if not all, Brown Act meetings of governmental bodies are continuing, for all of the above-stated reasons, with the remote access protocols developed in the early days of the pandemic. These protocols protect many among us including the young children in our lives who cannot yet be vaccinated, vulnerable seniors for whom a breakout infection could prove fatal (as we recently saw with General Colin Powell), and those with immune vulnerabilities including those afflicted with cancer and other chronic diseases.

When, as is the case with the L.A. Superior Court's termination of the RAAP remote access program, reporters whose job requires them to cover court proceedings are told that they cannot observe those proceedings without crowding into a small enclosed courtroom space, they can face the undue burden of compromising their own health, or that of those they love, in order to do their job. In the particular case in question, that of the conservatorship of Britney Jean Spears, the larger issues of California's conservatorship program and the abuses that are being chronicled, is of broad public interest to many Californians involved with that system and range well beyond the issue of prurient interest in the travails of one particular celebrity.

The court's decision constrains the pre-emptive right of access to non-confidential court hearings by imposing an undue burden on members of the media and the public to endanger their health and that of those around them in order to be able to follow in depth and report out the specific content argued and discussed in the hearing, including oral arguments and the interplay between counsel, parties and the judge. Transcripts that would provide such details are generally not available for some time, and require financial resources to access and such resources are not always available to members of the public whose own conservatorship situations may provide a compelling interest. The court's statement that it was lifting “social distancing protocols” in order to better accommodate the media and the public in the courtroom, is not a panacea, since such an action increases, not decreases, the health risks to those who attend.

Secondly, there is a compelling public interest in expanding access to California court proceedings using technology that exists above and beyond the duration of the COVID-19

pandemic. The civic technology that has been developed from necessity in 2020 has proven to greatly enhance civic engagement, and governmental openness and transparency, across the executive and legislative branches. Brown Act bodies report greatly increased attendance and participation from their constituents, and have benefited from the ability to invite experts and presenters from anywhere in the country at little to no expense. California courts have recognized that offering ease of access and lower costs have been beneficial for parties and counsels for some years and have made remote appearances increasingly possible. Yet where the media and the public is concerned, the L.A. Superior Court seeks to slam the door shut to the benefits of civic technology.

In so doing, they violate fundamental precepts of the fourth estate responsibilities of the press to report on the proceedings of justice fully and fairly. Both our federal and state constitutions call for an expansive definition of these rights and responsibilities, not a minimalist one that insists that access is technically available after surmounting burdens. In other words, the right to report is presumptive and should not be artificially limited without a pressing and compelling necessity for constraint. That standard is not met here, The court continues to offer remote access to counsels and parties, but simply cancels it for the media and the public, subjecting them to an unequal limitation on access to the court in defiance of constitutional imperatives for equal, if not maximal access. 3

We are aware of the nominal reason for the L.A. Superior Court's decision, namely the taping and public release of the statements of the real party of interest, Ms. Spears. It bears repeating that the nominally damaged party has stated clearly that her desire was to be “heard” and that the release of her statement was not destructive to her pursuit of justice. But even if that were not the case, and acknowledging that a rule was broken and rules are the basis for our survival as a society, the facts are that there is no direct connection between the provision of remote access via RAAP to members of the media and the public and the taping and release of Ms. Spear's statement. The recording could have been done by an attendee on the parties/counsel remote system or by any of the members of the public or media physically present in the courtroom.

The suspension of RAAP by the L.A. Superior Court was not narrowly tailored to the offense that precipitated it. The suspension of RAAP affects more cases than the one subject to the breach: it constrains access to every non-confidential court proceeding in the state's largest county indefinitely. It does not necessarily address security issues as remote access remains for some participants. It creates a public health burden for members of the media and the public who must balance the possibility of transmitting COVID-19 to their children, parents and colleagues after sustained indoor observation periods without social distancing in place. And it narrows and limits the constitutionally protected responsibilities of the media to report in depth on matters of public interest in the justice system without sufficient justification and in contradiction to statements by the Chief Justice, the Judicial Council, and the Legislature and

the Governor of the State, all of whom have called for enhanced public access to the court system as a societal good.

3. Conclusion

Media Alliance respectfully urges the court to take up the petition *USA Today v. Los Angeles Superior Court* for review to evaluate the pressing constitutional issues inherent in limiting remote access to court proceedings for the press and the public, both for the duration of the public health emergency and following the end of it. The technological transitions underway, which have been accelerated but not caused solely by the pandemic, require the Court to grapple with the meaning of court access in our technologically-aided world.

Respectfully submitted,

Tracy Rosenberg

Executive Director
Media Alliance
On behalf of the members of our organization
2830 20th Street
San Francisco, CA 94110
(415) 746-9475
Email: tracy@media-alliance.org
https://media-alliance.org

PROOF OF SERVICE

USA Today, a Division of Gannett Satellite Information Network LLC
Petitioner

v.

Los Angeles County Superior Court
Respondent

Britney Jean Spears
Real Party of Interest

Petition for Review

I, Tracy Rosenberg, declare:

I am a resident of the County of Alameda, State of California. I am over the age of 18 and am not a party to the within action. I am the executive director of Media Alliance, a California 501(c)(3) not for profit corporation. My address is 826 Adams Street Albany California 94706. On October 21, 2021, I served the documents described as:

AMICUS LETTER

on the interested parties in this action, via Truefiling, addressed as follows:

Hon. Brenda J. Penny
Department 4
Los Angeles Superior Court
Stanley Mosk Courthouse
111 N. Hill Street
Los Angeles CA 90012
Respondent/Superior Court
(Copy sent via mail)

Matthew S. Rosengart
Greenberg Traurig LLP
1840 Century Park East, # 1900
Los Angeles CA 90067-2121
Attorneys for Real Party in Interest/Conservatee
Britney Jean Spears

Yasha Bronsteyn
Ginsburg and Bronsteyn LLP
11755 Wilshire Boulevard, # 1250
Los Angeles CA 90025
Attorneys for Lynn Spears

Gladstone N. Jones III
Lynne E. Swanson
Jones Swanson Huddell and Garrison LLC
Pan-American Life Center
601 Poydras Street, # 2655
New Orleans, LA 70130
Attorneys for Lynn Spears

Jodi Montgomery
1443 E. Washington Blvd #644
Pasadena, CA 91104
Temporary Conservator of the Person

Lauriann C. Wright
Wright Kim Douglas ALC
130 S. Jackson Street
Glendale, CA 91205-1123
Attorneys for Jodi Montgomery
Temporary Conservatorship of the Person

Vivian L. Thoreen
Jonathan H. Park
Roger B. Coven
Holland and Knight LLP
Attorneys for James P. Spears
Conservatorship of the Estate

Christopher C. Melcher
Walzer Melcher LLP
5941 Variel Avenue
Woodland Hills, CA 91367
Attorneys for Petitioner, USA Today

Court of Appeals
Second Appellate District
Division 2
Ronald Reagan State Building
300 S. Spring Street, 2nd Floor
Los Angeles CA 90013
Court of Appeal
(Copy sent via mail)

California Supreme Court
350 McAllister Street
San Francisco CA 94102
(Copy sent via mail)

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on October 20, 2021 in Albany, California.

Tracy Rosenberg

Tracy Rosenberg