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## **Documentary Film Community Claims Victory in Journalistic Privilege Ruling**

### ***Attempted Subpoena of "The Central Park Five" Outtakes Quashed***

Los Angeles, CA (February 19, 2013) – The documentary film community claimed victory today when New York Federal Magistrate, The Honorable Ronald L. Ellis, ruled in favor of filmmakers Ken Burns, Sarah Burns and David McMahon. They produced the documentary, "The Central Park Five," which examines the controversial and racially charged 1989 Central Park jogger rape/murder case.

The City of New York attempted to subpoena outtakes from "The Central Park Five." The court severely scaled back what New York City was able to obtain. The five young men were convicted almost entirely on the basis of their confession after 16 hours of interrogation without legal representation. They were freed after 15 years in prison and the confession of the real assailant. They are now suing the city, so the city wants all the research the filmmakers gathered.

The court found that documentarians generally qualify as journalists with the benefits of the Journalistic Privilege. In this case, the status of Journalist was established in the face of arguments by NYC that Sarah Burns learned of the case while working as a summer intern at a law firm. NYC also argued that the filmmakers lost the protection of the Journalistic Privilege when they advocated on behalf of the subjects of their film.

Michael C. Donaldson, one of the industry's fiercest advocates for documentary filmmakers, along with well-known New York attorney Andrew Cielli prepared and filed an amicus brief on behalf of the independent film community. The brief was in support of a motion filed by the filmmakers to quash the subpoena for their notes and outtakes. The documentary community, including such industry organizations as the International Documentary Association, NAMAC and Film Independent, as well as many individual filmmakers lent their names to the amicus brief to support the cause.

"Documentary filmmakers gather and disseminate information about significant social and political issues. Through their films, they uncover new information, advocate action, and initiate public debate where none had previously existed," according to Donaldson. He continued, "Preservation of the Journalistic Privilege for documentary filmmakers in spite of how they initially find out about a story and in spite of how passionately they advocate for their

subjects is essential to documentarians being able to work effectively." The ruling in this case supports this right.

ABOUT THE TEAM:

Michael C. Donaldson, Donaldson & Callif

Michael C. Donaldson is an entertainment attorney who has been fighting for independent filmmakers for 35 years. In addition to representing writers, producers and directors, he serves as General Counsel to Film Independent (home of the Independent Spirit Awards and the Los Angeles Film Festival) and the Writers Guild Foundation. Michael is a founding partner of Donaldson & Callif, where he is the industry's go-to attorney for fair use and other clearance-related issues. In appreciation for his tireless work on behalf of documentary filmmakers, the International Documentary Association (IDA) recently presented to Michael its Amicus Award, an honor granted only two other times in the IDA's 25-year history.

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Andrew G. Celli, Jr., a founding partner of the firm, maintains a diverse practice representing institutions and individuals in commercial, civil rights, and civil liberties matters in courts around the country. Clients include The Tribune Company and Newsday, Inc.; Penguin USA, a division of Pearson, the international publishing house; Ford Models, Inc.; EchoStar Corporation; Global Strategy Group, LLC, a public affairs, political consulting, and polling company; Atlantic Development Corp., a developer of affordable housing; The Doe Fund, a not-for-profit organization that provides housing and job training to the homeless; and a number of highly compensated professionals in the legal, financial services, entertainment, medical, and other sectors.

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Docket No. 03 Civ. 9685 (DAB)(RLE).

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