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SEE ATTACHED FOR LIST OF COUNSEL

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Case No. CV 08-03541 ODW AJW

HOWARD K. STERN,  
Plaintiff,

v.

RITA COSBY and HACHETTE  
BOOK GROUP USA, INC., d/b/a  
GRAND CENTRAL PUBLISHING,  
and JOHN or JANE DOE,

Defendants.

**REVISED NOTICE OF  
DEFENDANTS' MOTION TO  
COMPEL DISCOVERY  
RESPONSES TO SUBPOENA AND  
PRIVILEGE LOG AND FOR  
PERMISSION TO SERVE  
SUBPOENA VIA ALTERNATIVE  
METHOD**

Date: July 7, 2008  
Time: 10:00 a.m.

Discovery Cut-off: August 15, 2008  
(Pre-Trial Conf. or Trial Date not set.)

*QV & The Red Couch*

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22 *Attorneys for LARRY BIRKHEAD*

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Red Couch  
The

**NOTICE OF MOTION AND MOTION**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on July 7, 2008 at 10:00 a.m. or as soon thereafter as the matter may be heard, in the United States District Court for the Central District of California before the Honorable Andrew J. Wistrich, in Courtroom 690, located at 312 N. Spring Street, Los Angeles, California 90012, Defendants Hachette Book Group USA, Inc. and Rita Cosby will and hereby do move to compel nonparty Larry Birkhead to provide them with (i) all non-privileged information in his possession, custody, or control that is responsive to request numbers 1-4, 6-10, 12-18, 20, 21-23 (as modified by Defendants' 37-1 Letter) and 24 of the Subpoena served on Mr. Birkhead by Defendants on January 28, 2008, and (ii) a privilege log that comports with Rule 45 of the Federal Rules of Civil Procedure, and for permission to serve Mr. Birkhead with a deposition subpoena by sending the subpoena to Mr. Birkhead and his counsel, Trope & DeCarolis, LLP, via pre-paid First Class Mail, Return Receipt Requested.

This Motion is made pursuant to Local Rule 37-3 and is based upon the Joint Stipulation Regarding Defendants' Motion to Compel Discovery Responses to Subpoena and Privilege Log and for Permission to Serve Subpoena via Alternative Method, the Declaration of Deborah J. Newman and the exhibits attached thereto, and the declaration of Michael L. Trope.

Dated: June 12, 2008

AKIN GUMP STRAUSS HAUER &  
FELD LLP

By /s/ Christopher Blanchard  
Christopher Blanchard  
Attorneys for Defendant HACHETTE  
BOOK GROUP USA, INC.

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Dated: June 12, 2008

DAVIS WRIGHT TREMAINE LLP

By /s/ Alonzo Wickers IV  
Alonzo Wickers  
Attorneys for Defendant RITA COSBY

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QV & The Red Couch

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 2029 Century Park East, Suite 2400, Los Angeles, CA 90067. On June 12, 2008, I served the foregoing document(s) described as: **REVISED NOTICE OF DEFENDANTS' MOTION TO COMPEL DISCOVERY RESPONSES TO SUBPOENA AND PRIVILEGE LOG AND FOR PERMISSION TO SERVE SUBPOENA VIA ALTERNATIVE METHOD** on the interested party(ies) below, using the following means:

MICHAEL L. TROPE (SBN 132768)  
ANDREW STEIN (SBN 205494)  
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Telephone: 404-572-6600  
*Attorneys for Defendant HOWARD K. STERN*

BY UNITED STATES MAIL I enclosed the documents in a sealed envelope or package addressed to the respective address(es) of the party(ies) stated above and placed the envelope(s) for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid at Los Angeles, California.

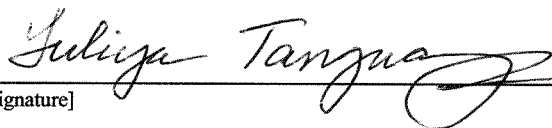
(STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on June 12, 2008 at Los Angeles, California.

Yuliya Tanguay

[Print Name of Person Executing Proof]



[Signature]