

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 07-60534-CIV-DIMITROULEAS
MAGISTRATE JUDGE: ROBIN ROSENBAUM

HOWARD K. STERN,

Plaintiff,

vs.

JOHN O'QUINN, and JOHN M. O'QUINN
& ASSOCIATES, PLLC d/b/a
The O'Quinn Law Firm,

Defendants.

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**DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFF
HOWARD K. STERN'S MOTION TO DETERMINE THE SUFFICIENCY
OF DEFENDANT JOHN M. O'QUINN'S RESPONSES TO PLAINTIFF'S
FIRST REQUEST FOR ADMISSIONS**

Defendant, John M. O'Quinn ("O'Quinn"), by and through undersigned counsel and pursuant to Fed. R. Civ. P. 37, hereby responds in opposition to Plaintiff Howard K. Stern's ("Stern") Motion to Determine the Sufficiency of Defendant's Responses to Plaintiff's First Request for Admissions ("Admissions Motion"), and as grounds therefor states as follows:

I. O'Quinn's Responses to Request for Admissions Nos. 9 Through 16 Are Sufficient.

Contrary to Stern's contention, O'Quinn has clearly denied the statements in Plaintiff's First Request for Admissions Nos. 9 through 16. Each Request asks O'Quinn to admit that he was quoted accurately in the various paragraphs of Stern's Amended Complaint that include portions of O'Quinn's allegedly defamatory televised

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remarks. While the actual words being quoted and attributed to O'Quinn in the Amended Complaint may well be correct, as was noted in Defendant's still pending Motion to Dismiss, a number of the quotations have been taken from on-line portions of transcripts bearing the legend "**This is not a legal transcript for purposes of litigation.**" Further, the selections being used by Stern are highly edited and do not provide an accurate portrayal of the overall statements made by O'Quinn in the various interviews. For this reason, O'Quinn is unable to admit that he was accurately quoted in his television appearances.

For example, in Paragraphs 93, 129, 145, 181, 195, and 208 of the Amended Complaint, entire portions of the interview preceding and/or subsequent to the quoted material have been omitted. Similarly, in Paragraph 110, the "CROSSTALK" occurring in the middle of the excerpt is omitted. Also in Paragraphs 145 and 168, there are ellipses in the middle of the quoted material (pp. 31, 36 of the Amended Complaint), indicating that entire portions of the interviews were cut out. O'Quinn has attached his Amended Responses to Plaintiff's First Request for Admissions, to be filed along with this Response, indicating the specific omissions and inaccuracies referenced herein (please see Exhibit "A" which will be provided to Plaintiff's counsel only, under separate cover).

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Furthermore, presenting the combination of graphics and segment titles on the television shows, along with complete questions by the interviewers and/or people calling into the show, and the complete, unedited version of O'Quinn's statements, is the only way to accurately portray the content therein. Therefore, it is O'Quinn's position that Stern must present a complete video of the television interview segments in which O'Quinn appeared in order for Stern to attempt to prove his claims.

II. O'Quinn's Amended Response to Request for Admissions No.18

At the time that O'Quinn initially responded to Plaintiff's First Request for Admissions, he believed that Ms. Smith may have procured life insurance policies, which had not yet been fully discovered. That is why O'Quinn did not feel that he had sufficient information to admit or deny knowledge of the policies. After further investigation, O'Quinn now admits that he has no present knowledge of the existence of any life insurance policies. See Defendant John M. O'Quinn's Amended Responses to Plaintiff's First Request for Admissions at No.18 (please see Exhibit "A" which will be provided to Plaintiff's counsel only, under separate cover).

WHEREFORE, Defendant John M. O'Quinn respectfully requests that this Court enter an order denying Plaintiff, Howard K. Stern's Motion to Determine the Sufficiency of Defendant John M. O'Quinn's Responses to Plaintiff's First Request for Admissions.

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