

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

VIRGIE ARTHUR,

Plaintiff,

v.

HOWARD K. STERN, CBS STUDIOS
INC., and KPRC HOUSTON,

Defendants.

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CIVIL ACTION NO.: 4:07-cv-03742
ECF

NOTICE OF SERVICE OF SUBPOENA

TO: Virgie Arthur, by and through her attorneys of record, Neil C. McCabe and M. Michael Meyer, The O'Quinn Law Firm, 440 Louisiana Street, Suite 2300, Houston, Texas 77002.

- and -

Howard K. Stern, by and through his attorneys of record, L. Lin Wood, John C. Patton, and Luke A. Lantta, Powell Goldstein, LLP, One Atlantic Center, Fourteenth Floor, 1201 West Peachtree Street, NW, Atlanta, GA 30309-3488 and M. Krista Barth, Eric M. Sauerberg, P.A., 200 Village Square Crossing, Suite 102, Palm Beach, FL 33410.

PLEASE TAKE NOTICE that, on December 17, 2008, pursuant to Federal Rule of Civil Procedure 45, Defendant CBS Studios, Inc. will serve the following person the subpoena attached hereto as Exhibit "1," requesting a deposition and production of certain documents described in Exhibit "A" to the subpoena:

Stephen E. Tunstall
2655 S. Le Jeune Rd #1C
Miami, Florida 33134

Respectfully submitted,

By: *s/ Amanda L. Bush*

Charles L. Babcock
State Bar No. 01479500
Email: cbabcock@jw.com
Nancy W. Hamilton
State Bar No. 11587925
Email: nhamilton@jw.com

Amanda L. Bush
State Bar No.. 24042161
Email: abush@jw.com

JACKSON WALKER L.L.P.

1401 McKinney, Suite 1900
Houston, Texas 77010
Telephone: (713) 752-4200
Facsimile: (713) 752-4221

**ATTORNEYS FOR DEFENDANT
CBS STUDIOS INC.**

CERTIFICATE OF SERVICE

This is to certify that on the 17th day of December 2008, a true and correct copy of the foregoing *Notice of Service of Subpoena* was served upon the following as indicated below:

Via Notice of Electronic Filing and Email:

Neil C. McCabe
M. Michael Meyer
The O'Quinn Law Firm
440 Louisiana, Suite 2300
Houston, Texas 77002
E-mail: neilm@oqlaw.com
E-mail: mm0102@sbcglobal.net

Via Notice of Electronic Filing and Email:

L. Lin Wood
John C. Patton
Luke A. Lantta
Powell Goldstein LLP
One Atlantic Center, Fourteenth Floor
1201 West Peachtree Street, NW
Atlanta, GA 30309-3488
E-mail: llwood@pogolaw.com
E-mail: jpatton@pogolaw.com
E-mail: llantta@pogolaw.com

Via Notice of Electronic Filing and Email:

M. Krista Barth
Eric M. Sauerberg, P.A.
200 Village Square Crossing, Suite 102
Palm Beach, FL 33410
E-mail: krista@emsattorneys.com

s/ Amanda L. Bush

Amanda L. Bush

**Issued by the
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

VIRGIE ARTHUR

SUBPOENA IN A CIVIL CASE

Case Pending in the U.S. District Court, Southern District of Texas, Houston Division

V.

HOWARD K. STERN, ET AL.

Case Number:¹ 4:07-CV-03742

**TO: Stephen E. Tunstall
2655 S Le Jeune Rd # 1C
Coral Gables, FL 33134**

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION Hunton & Williams, LLP, 1111 Brickell Ave., Suite 2500, Miami, Florida 33131	DATE AND TIME January 7, 2009 1:00 p.m.
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YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):
See Exhibit "A"

PLACE Hunton & Williams, LLP, 1111 Brickell Ave., Suite 2500, Miami, Florida 33131	DATE AND TIME January 7, 2009 1:00 p.m.
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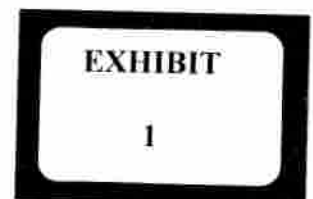
YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
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Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) Attorneys for CBS Studios, Inc. <i>Amanda Bush</i>	DATE December 17, 2008
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ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
**Charles L. Babcock
Nancy W. Hamilton
Amanda L. Bush
Jackson Walker L.L.P.
1401 McKinney Ave., Suite 1900
Houston, Texas 77010
(713) 752-4200**



(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

¹If action is pending in district other than district of issuance, state district under case number.

AO88 (Rev. 1/94) Subpoena in a Civil Case

PROOF OF SERVICE

DATE	PLACE
SERVED ON (PRINT NAME)	MANNER OF SERVICE
SERVED BY (PRINT NAME)	TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to comply production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance,
- (ii) requires a person who is not a party or an officer

of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in who behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT "A"

I. Definitions

The following definitions shall apply herein, whether capitalized or not:

1. **"Communication"** or **"Communications."** "Communication" or "Communications" means any contact or act by which information or knowledge is transmitted or conveyed between two or more persons and includes, without limitation: (1) written contact, whether by letter, memorandum, telegram, telex, or other Document; (2) oral contact, whether by face-to-face meetings, telephone conversations or otherwise; and (3) nonverbal acts intended to communicate or convey any meaning, understanding or other message.
2. **"Document."** "Document" means all writings of any kind, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise, including, without limitation, correspondence, memoranda, emails, notes, diaries, statistics, letters, telegrams, minutes, contracts, reports, studies, text, statements, receipts, returns, summaries, pamphlets, books, prospectuses, inter-office and intra-office Communications, offers, notations of any sort regarding conversations, telephone calls, meetings or other Communications, bulletins, printed matters, computer printouts, teletypes, telefax, invoices, worksheets, and each and every draft, alteration, modification, change or amendment of any kind of the foregoing; graphic or aural records and oral representations of any kind, including, without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings, motion pictures; and electronic, magnetic, mechanical or electric records or representations of any kind, including, without limitation, tapes, cassettes, disks, computer generated or stored information and recordings. All Documents should be produced without alteration and with all exhibits and attachments thereto.
3. **"Evidence"** or **"Evidencing."** "Evidence" or "Evidencing" means tending to show, in any probative manner, the existence or nonexistence of any matter.
4. **"Relating"** or **"Relates."** "Relating" or "Relates" means, in addition to its customary and usual meaning, discussing, referring to, pertaining, reflecting, showing or recording.
5. **"You"** and **"Your."** "You" and "Your" refer to Stephen Tunstall, the person to whom this request is directed.

II. Instructions

1. If any Document requested herein was, but is no longer in Your custody, control or possession (as that term is defined by the Federal Rules of Civil Procedure), state with particularity the disposition made of each such Document, including the date of, method of and reason(s) for such disposition and the name and address, if known, of any Person who has seen the Document or who now has custody, control or possession thereof.

2. Possession, custody and control does not require that You have actual physical possession; instead, if You have physical control or a superior right to compel production from another, the Document must be produced.

3. If any Document requested herein is objected to or withheld pursuant to any claim of privilege, please provide the following information with respect to such Document:

- (a) Date created;
- (b) Author(s), and their title or position;
- (c) Addressee(s), and their title or position;
- (d) Person(s) receiving a copy, and their title or position;
- (e) General description of subject matter (e.g., opinion of counsel on merits of claim);
- (f) The nature of the privilege claimed (e.g., attorney-client, work product, etc.); and
- (g) State the factual and legal basis for the claim of such privilege (e.g., communication between attorney for corporation and outside counsel relating to acquisition of legal advice).

4. These document requests shall be deemed continuing, and You shall produce for inspection and copying by Defendant any Document requested herein which is unavailable to You at the time you submit your response hereto, but which becomes available to You at any time prior to trial or any hearing hereof.

III. Documents to be Produced

1. All written contracts and/or agreements regarding Your representation of Virgie Arthur.
2. All written communications, including but not limited to documents, faxes, emails, text-messages, instant messages, and any other electronic communications between You and any media representative on behalf of or relating to Virgie Arthur.
3. All written communications, including but not limited to emails, between You and Jennifer Henderson, Carolyn Greenspan, or any other representative of Entertainment Tonight or CBS Studios relating to Virgie Arthur.
4. All documents relating to photographs, videos, television appearances, interviews, or statements given to any media representative by or on behalf of Virgie Arthur, except for any privileged communications between You and Virgie Arthur.