

CAUSE NO. 2008-24181

VIRGIE ARTHUR,

Plaintiff,

v.

HOWARD K. STERN, BONNIE
STERN, LYNDAL HARRINGTON, ART
HARRIS, NELDA TURNER, TERESA
STEPHENS, HARVEY LEVIN, and TMZ
PRODUCTIONS, INC.,

Defendants.

§ IN THE DISTRICT COURT OF
§
§ HARRIS COUNTY, TEXAS
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§
§ 190th JUDICIAL DISTRICT
§

AFFIDAVIT OF HOWARD K. STERN

STATE OF CALIFORNIA:
COUNTY OF LOS ANGELES

Before me, the undersigned Notary Public, on this day personally appeared Howard K. Stern, and after being duly sworn stated under oath deposed and said the following:

1. Identification of Affiant

I am a Defendant in the above-entitled and numbered cause. I am over the age of 21 years and am admitted to the State Bar of California.

2. Residence of Defendant

I am a resident of California and have been a resident of California my entire life.

3. Diligent Search of Email Account for Responsive Documents

In response to Plaintiff Virgie Arthur's First Request for Production to me, I made a diligent search of my email account, hkstern@hkstern.com, for communications between me and the co-defendants concerning Virgie Arthur from **October 12, 2006** through **March 14, 2008**. I have produced non-protected, responsive documents that I located during that search. I will produce any additional non-protected, responsive documents that I locate in accordance with my obligations under the Texas Rules of Civil Procedure to supplement production.

4. No Storage of Emails on Hard Drive

I use a web-based interface, Yahoo! Business, to access my email account, bkstern@hkstern.com. Accordingly, emails I send and receive are not stored on my hard drive but, upon information and belief, are stored on Yahoo!'s server.

5. Privileged Documents

Contained within Plaintiff Virgie Arthur's First Request for Production to me are requests for all communications between my attorneys (i.e., L. Lin Wood, M. Krista Barth, Ben Erwin, and any employee of Powell Goldstein) and me from September 2006 through the present. I have communicated countless times with my attorneys between September 2006 and the present and these communications are attorney-client privileged. To this affidavit, I have attached a privilege log designating those communications as privileged.

6. Documents "About" the Persons Listed in Request No. 3

Request No. 3 of Plaintiff Virgie Arthur's First Request for Production to me asks me to produce "all communications" "about" thirty-nine (39) individuals or classes of persons. Many of these people are unknown to me. In addition, many communications "about" these people are included in the categories of documents listed in the attached privilege log.

7. Statements are True and of Personal Knowledge

Every statement contained in this affidavit is within my personal knowledge and is true and correct.



Howard K. Stern

SUBSCRIBED AND SWORN TO BEFORE ME on this ____ day of December, 2008.

*pl. see
at facsimile
page*

Name: _____
Notary Public in and for the State of California
My commission expires: _____

VIRGIE ARTHUR,

Plaintiff,

v.

HOWARD K. STERN, BONNIE STERN, LYNDAL HARRINGTON, ART HARRIS, NELDA TURNER, TERESA STEPHENS, HARVEY LEVIN, and TMZ PRODUCTIONS, INC.,

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HOWARD K. STERN PRIVILEGE LOG

	Date	From/Author	Description	Privilege
1	2007-2008	Howard K. Stern (or his agents or employees)	Various documents (including notes, correspondence, drafts, research, memoranda, etc.) relating to claims asserted against John O'Quinn and the O'Quinn Law Firm in a lawsuit filed in the Southern District of Florida	Attorney-Client, Work Product
2	2007-2008	L. Lin Wood, Esq. and other attorneys and agents with Powell Goldstein, LLP	Various documents (including notes, correspondence, drafts, research, memoranda, etc.) relating to claims asserted against John O'Quinn and the O'Quinn Law Firm in a lawsuit filed in the Southern District of Florida	Attorney-Client, Work Product
3	2006-2008	M. Krista Barth, Esq. and other attorneys and agents with Eric Sauerberg, P.A.	Various documents (including notes, correspondence, drafts, research, memoranda, etc.) relating to claims asserted against John O'Quinn and the O'Quinn Law Firm in a lawsuit filed in the Southern District of Florida	Attorney-Client, Work Product
4	2007-2008	Howard K. Stern (or his agents or employees)	Various documents (including notes, correspondence, drafts, research, memoranda, etc.) relating to claims asserted against Rita Cosby and	Attorney-Client, Work Product

			Hachette Book Group USA in a lawsuit filed in the Southern District of New York	
5	2007-2008	L. Lin Wood, Esq. and other attorneys and agents with Powell Goldstein, LLP	Various documents (including notes, correspondence, drafts, research, memoranda, etc.) relating to claims asserted against Rita Cosby and Hachette Book Group USA in a lawsuit filed in the Southern District of New York	Attorney-Client, Work Product
6	2007-2008	M. Krista Barth, Esq. and other attorneys and agents with Eric Sauerberg, P.A.	Various documents (including notes, correspondence, drafts, research, memoranda, etc.) relating to claims asserted against Rita Cosby and Hachette Book Group USA in a lawsuit filed in the Southern District of New York	Attorney-Client, Work Product
7	2006-2008	Howard K. Stern (or his agents or employees)	Various documents (including notes, correspondence, drafts, research, memoranda, etc.) relating to claims various actions or potential actions arising as a result of the death of Anna Nicole Smith and/or Daniel Smith	Attorney-Client, Work Product
8	2007-2008	L. Lin Wood, Esq. and other attorneys and agents with Powell Goldstein, LLP	Various documents (including notes, correspondence, drafts, research, memoranda, etc.) relating to claims various actions or potential actions arising as a result of the death of Anna Nicole Smith and/or Daniel Smith	Attorney-Client, Work Product
9	2007-2008	M. Krista Barth, Esq. and other attorneys and agents with Eric Sauerberg, P.A.	Various documents (including notes, correspondence, drafts, research, memoranda, etc.) relating to claims various actions or potential actions arising as a result of the death of Anna Nicole Smith and/or Daniel Smith	Attorney-Client, Work Product
10	2007-2008	Howard K. Stern (or his agents or employees)	Various documents (including notes, correspondence, drafts, research, memoranda, etc.) relating to claims asserted by Virgie Arthur against Stern in a lawsuit filed in the Southern District of Texas	Attorney-Client, Work Product
11	2007-2008	L. Lin Wood, Esq. and other attorneys	Various documents (including notes, correspondence, drafts, research,	Attorney-Client, Work Product

		and agents with Powell Goldstein, LLP	memoranda, etc.) relating to claims asserted by Virgie Arthur against Stern in a lawsuit filed in the Southern District of Texas	
12	2007-2008	M. Krista Barth, Esq. and other attorneys and agents with Eric Sauerberg, P.A.	Various documents (including notes, correspondence, drafts, research, memoranda, etc.) relating to claims asserted by Virgie Arthur against Stern in a lawsuit filed in the Southern District of Texas	Attorney-Client, Work Product
13	2007-2008	Howard K. Stern (or his agents or employees)	Various documents (including notes, correspondence, drafts, research, memoranda, etc.) relating to claims asserted by Virgie Arthur against Stern in a lawsuit filed in the District Court of Harris County, Texas	Attorney-Client, Work Product
14	2007-2008	L. Lin Wood, Esq. and other attorneys and agents with Powell Goldstein, LLP	Various documents (including notes, correspondence, drafts, research, memoranda, etc.) relating to claims asserted by Virgie Arthur against Stern in a lawsuit filed in the District Court of Harris County, Texas	Attorney-Client, Work Product
15	2007-2008	M. Krista Barth, Esq. and other attorneys and agents with Eric Sauerberg, P.A.	Various documents (including notes, correspondence, drafts, research, memoranda, etc.) relating to claims asserted by Virgie Arthur against Stern in a lawsuit filed in the District Court of Harris County, Texas	Attorney-Client, Work Product
16	2007-2008	Howard K. Stern (or his agents or employees) and various legal counsel	Documents created in connection with Howard K. Stern's role as nominated executor, Special Administrator and/or Executor of the Estate of Vickie Lynn Marshall a/k/a Anna Nicole Smith	Attorney-Client, Work Product