

VIRGIE ARTHUR,

Plaintiff,

vs.

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

Defendants.

§ IN THE DISTRICT COURT OF
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§ HARRIS COUNTY, TEXAS
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§
§ 280TH JUDICIAL DISTRICT

**DECLARATION OF BONNIE STERN IN RESPONSE TO THE COURT’S
ORDER TO SHOW CAUSE**

I, Bonnie Stern, declare as follows:

I, am a pro se defendant in Virgie Arthur v. Howard K. Stern, Bonnie Stern, Lyndal Harrington, Art Harris, Nelda Turner, Teresa Stephens, Larry Birkhead, Harvey Levin, and TMZ Productions, Inc., Cause No. 2008-24181, in the District Court of Harris County Texas, 280 Judicial District (the “State Court Lawsuit”). I have personal knowledge of the facts set forth in this Declaration and, if called, could and would testify competently to such facts under oath.

1. I am unable to participate in anything that I will need to pay for. I have filed bankruptcy, Chapter 7 and cannot afford to fly to Texas for hearings, send my computers to Texas, or pay for Counsel in Texas to represent me.

2. The attached exhibits^{1,2} show that I have never tried to avoid having my computers imaged, just that they were to be imaged in California, and not include any information related to any of my businesses¹. I own no personal computers. All 4 of the computers

1. Exhibit 5 Page 19 lines 5-8, Page 58 lines 22-24, page 66 lines 12-14, page 63 lines 19-21

2 Exhibit 2 Page 6 lines 18-24, Page 7 lines 3-4

are owned by the corporation and are used everyday in order to perform my work. I am a contract full-charge bookkeeper and my computers contain private and privileged client and employee information, including but not limited to: Sensitive company financial information; complete contact information for each client; bank account and credit card numbers with passwords and security questions; human resources information for my clients employees; that would be in violation of my clients' privacy rights pursuant to the California State Constitution, Texas State Constitution, and the Constitution of the United States. I have informed my clients, both past and present of this Contempt Order as I know that I would be subject to over hundreds of civil lawsuits if I followed the order to ship my hard drives and computers to Texas³ The information that I have on my computers could be used for identity theft and fraud.

3. I have had all of my personal information as well as fraudulent information about me spread all over the internet since this lawsuit started so I have genuine reason for concern about the information I do have.

4. The exhibits^{1, 2} will also show that the when the computers were going to be imaged in California, they would only be unavailable to me for a few hours¹ so that I would be able to work.

5. There was a hearing in my bankruptcy on April 7, 2009. Neil McCabe attended and spoke at this hearing. Noted on page 29² of the hearing Mr. McCabe stated, **“We**

already offered over the phone to Counsel not to have her send her computers to Texas, which was what the court ordered. We can contract with someone out here

³ See Exhibit 1 of letters from attorneys for some of my clients.

¹ Exhibit 5 Page 19 lines 5-8, Page 58 lines 22-24, page 66 lines 12-14, page 63 lines 19-21

² Exhibit 2 Page 6 lines 18-24, Page 7 lines 3-4

to go to wherever the computers are and do the imaging. It takes a day to do it in order to accommodate her. We are willing to do that.” From December 11 through the current date, I have always agreed to have my computers imaged in California.

6. In the bankruptcy hearing on page 30², please note that Counsel stated, **“Debtor has agreed to turn over her computers without objection...”** I work Monday – Friday using the computers and cannot be without computers for more than a few hours. I cut checks, enter data, and answer questions from clients using that data and require access to the information on the computers to perform these functions.

7. Per the current January 27, 2008 Order by this court, I would be without my computers a minimum of three (3) days and two (2) nights because of shipping all four (4) computers to Texas and returning them to be via overnight Fed Ex. That would collapse my business making it impossible to conduct business for my clients for an extended time not the few hours the Plaintiff’s counsel has continued to state from the December 11, 2008 hearing¹ up through the April 7, 2009 hearing².

8. In the exhibits^{1,2} I hope the Court will also see that I have never said, “no” to a jurisdictional deposition or a deposition on the merits of this case. From December 11, 2008 through April 7, 2009 hearings with transcripts^{1, 2}, I have consistently said I never objected to either, I just need them to take place in California.

9. Five (5) of the co-defendants live and work in California (Howard K. Stern, Larry Birkhead, Harvey Levin, TMZ.com, and myself) and have law firms representing them that can easily afford to conduct the deposition in California would be better for **ALL** of

² Exhibit 2 Page 6 lines 18-24, Page 7 lines 3-3
Exhibit 5 Page 102 lines 22- 23, Page 104 lines 5-8

those defendants and would present no burden on them to conduct the deposition on jurisdiction as well as the merits of the case because all of the law firms that these five (5) defendants utilize have either offices in Los Angeles, California or they travel here regularly to do work for clients.. A sixth defendant, Art Harris also has counsel that regularly travels to California. The three Texas defendants, left in this case are all Pro Se and in all probability would not be able to attend a deposition in whichever city and state the deposition is conducted. The attorney for the Plaintiff has already stated in the Bankruptcy court² that he had the funds to come to California. It would be fair to say that with all the competent, high powered attorneys attending, all the questions that need to be asked can be done by these attorneys who know what they are doing, thus the three Pro Se defendants left in Texas would be covered by the questioning of both Plaintiff's counsel as well as the attorneys for the six (6) defendants that can easily conduct deposition here thus not creating an undo hardship on me financially.

10. The Plaintiff, Virgie Arthur, has filed an adversary non-dischargeable case in California (4) thus putting me into a position to have to defend myself in two courts over the same lawsuit. I have had to file a Chapter 7 bankruptcy and cannot afford to defend myself in either state, let alone 1,600 miles away. I am financially unable to afford Counsel in Texas, go to and from Texas for the numerous hearings involved in this case, or participate in any way financially in these proceedings'. I called the clerk of the court prior to the May 8th hearing, to attempt to participate and was informed by the clerk of the court, Alice Rowe, that the Honorable Judge Lindsey does not allow anyone to appear for a hearing telephonically, even for a contempt order. This case would cost me a

minimum of half a million dollars to litigate in Texas, which there is no way I can afford. As a Pro Se Defendant, I have no education or knowledge in anything legal and have no way of representing myself adequately. I feel all of this violates my right to Due Process and pray that the Honorable Judge Tony Lindsay would rule and issue an Order that reflects this situation.

11. I had no involvement whatsoever in the family tree story that is the alleged defamation displayed on TMZ. I do not know who posted it on TMZ or why it was posted. I do know that it was posted elsewhere prior to TMZ and I sent a personal email to at least two site owners asking that it be removed and stating that they don't even know if it is in fact true. (5). I am not in the business of defaming or conspiring to defame anyone and never have been. I never instructed anyone to post any information of any kind on a blog or anywhere else, public or private. After this story was posted, long before there was a lawsuit, I wrote an email to people who had collected data for what I hoped would help in Howard's defense, stating thanks for all the information they sent over and that if they were going to publicly display information it would not be anything we would partake in or be responsible for. I also stated that they could be sued. (5)

I declare under penalty of perjury under the laws of the United State of America, the state of California and the state of Texas that the forgoing is true and correct.

Bonnie Stern

Bonnie Stern
269 S. Beverly Drive, #1247
Beverly Hills, CA 90212
310-409-7656

Defendant Pro Se

CERTIFICATE OF SERVICE

This is to certify that on this 18th day of May, 2009 a true and correct copy of the foregoing Affidavit was served by email, facsimile or certified mail upon the following counsel of record:

<p>Harry Susman, Esq. Susman Godfrey, LLP 1000 Louisiana, 51st Floor Houston, Texas 77002 <i>Via e-mail, facsimile</i></p> <p>Nelda "Rose" Turner 13348 C. R. 3111 Gladewater, Texas 75647 <i>Via e-mail, facsimile</i></p>	<p>Ms. Teresa Stephens 5022 Cloyce Court North Richland Hills, Texas 76180 <i>Via e-mail And Certified Mail</i></p> <p>Lyndal Harrington 8318 Burning Hills Dr. Houston, Texas 77071 <i>Via e-mail And Certified Mail</i></p>
<p>L. Lin Wood, Esq. Bryan Cave Powell Goldstein One Atlantic Center, 14th Floor 1201 West Peachtree Street, NW Atlanta, Georgia 20209 <i>Via e-mail, facsimile</i></p>	<p>Charles L. Babcock, Esq. Jackson Walker L.L.P. 1401 McKinney Street, Suite 1900 Houston, Texas 77010 <i>Via e-mail, facsimile</i></p>
<p>Neil McCabe, Esq. The O'Quinn Law Firm 440 Louisiana, Suite 2300 Houston, Texas 77002 <i>Via e-mail, facsimile And Certified Mail</i></p>	<p>Mrs. Diana Marshall. Marshall & Lewis LLP 1010 Lamar, Suite 450 Houston, TX 77002 <i>Via e-mail, facsimile</i></p>

Exhibit 1

Exhibit 1

J. S. ROSENFELD & CO.

Real Estate

TELEPHONE 310-458-6682 FACSIMILE 310-458-6681
921 MONTANA AVENUE SANTA MONICA, CALIFORNIA 90403

May 1, 2009

Ms. Bonnie Stern
Bonnie Stern, Inc.
269 South Beverly Drive #1247
Beverly Hills, CA 90212

Dear Bonnie,

I'm writing this on behalf of myself as an individual and any of my companies whom you do work for including but not limited to James S. Rosenfield, J.S. Rosenfield & Company, Country Mart, LLC, Marin Country Mart, LLC, Montecito Country Mart, LLC, Maxtana Avenue, LLC, Greenfield, LLC, 10935 Weyburn, LLC, and 1101 Glendon Avenue, LLC.

I strenuously object to the release of any of our proprietary information including, but not limited to social security numbers, bank account numbers, credit card numbers, security passwords, and any business and personal financial information.

To further clarify, I oppose any of the above referenced information leaving your office for any reason without my written consent. Failure to adhere to this demand, will force us to assert our rights to privacy through litigation against you.

Thank you for your cooperation.

Sincerely,



James S. Rosenfield
President, J.S. Rosenfield & Co.

On Thu, 5/14/09, Barbara Bienstock <barbarabienstock@sbcglobal.net> wrote:

From: Barbara Bienstock <barbarabienstock@sbcglobal.net>
Subject: Re: This is IMPORTANT regarding the privacy of your financial records...
To: bonnies10@yahoo.com
Date: Thursday, May 14, 2009, 10:11 PM

Dear Bonnie

I certainly wish you the very best however it is totally unacceptable that any of my personal, business or accounting records be released to *anyone* otherwise I would need to have a restraining order put on my data via a lawsuit.

Best regards
Barbara

park slope design

eco - conscious landscapes

Joan Grabel 818.481.0883

e-mail: parkslopedesign@aol.com

BONNIE STERN

9587 Olympic Blvd, Unit A

Beverly Hills, CA 90212

May 14, 2009

Dear Bonnie Stern,

This is to inform you that I do not authorize you to send any of my personal business information anywhere and that if my business information is sent anywhere I would will be forced to sue you and have a restraining order put on my data. In the past you were hired by Park Slope Design, Inc to do bookkeeping and any information you have in my account has nothing to do with any other matter that you may be involved with. Sending any of my information violates my constitutional right to privacy and leaves me open to identity theft.

Sincerely,

Joan Grabel

President

Park Slope Design, Inc.

Re: This is IMPORTANT regarding the privacy of your financial records...

Tuesday, May 12, 2009 9:52 AM

From: "Shae" <shae@earthlink.net>

To: bonnies10@yahoo.com

Hi Bonnie,

I am writing to put on record that if my personal information is being sent out I would like a restraining order put on my data.

I am also forwarding this to Randy's attorneys.

Thank you for the heads up.

Christy Shae Breitenbach