

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

**MOTION TO QUASH AND/OR FOR PROTECTION**  
**REGARDING MARCH 14 SUBPOENAS**

Rose and Kenneth Turner, non-party witnesses, move to quash two third-party record subpoenas dated March 14, 2008 and improperly served upon them, and for protection, pursuant to FED. R. CIV. P. 45(c).

1. Rose and Kenneth Turner are non-party witnesses who were served through counsel with two record subpoenas dated March 14, 2008. The subpoenas are attached as Exhibits A and B. These are the second subpoenas served by Plaintiff on the Turners. The earlier subpoenas, virtually identical, were withdrawn after the Turners filed for protection. The new subpoenas were emailed to counsel on March 19, 2008. This Motion for Protection is filed within fourteen (14) days from receipt. FED. R. CIV. P. 45(c)(2)(B).

2. Like their predecessors, the March 14 subpoenas are overbroad, unduly burdensome, and not reasonably calculated to lead to the production of relevant evidence. The subpoenas literally would require the Turners to surrender their personal computer to attorneys for Plaintiff, or to image the entire hard drive of their computer, which needlessly invades their rights of privacy.

3. On information and belief, the subpoenas were issued principally to intimidate and to harass, not to discover evidence. Ms. Turner is housebound and terminally ill with a bone marrow autoimmune disorder. As a distraction from her troubles, and for therapy, she posts a website, [www.rosespeaks.com](http://www.rosespeaks.com), and a weblog, [www.rosespeaks.com/rose-blog](http://www.rosespeaks.com/rose-blog). The internet sites contain discussion of high profile and celebrity court cases, and are sometimes accompanied by postings of public records from those cases. Internet readers other than the Turners can post comments to the weblog. The subpoenas attached as Exhibit A and B are apparently issued in retaliation for commentary and criticism regarding various participants in the Anna Nicole Smith legal matters.

4. The right of the Turners to comment on public issues and public proceedings is protected by constitutional, common law and statutory privileges, including without limitation the First Amendment to the United States Constitution, Article I Section 8 of the Texas Constitution and TEX. CIV. PRAC. & REM. CODE §73.002, among others. To avoid chilling their rights of expression, and being punished for expressing their opinion, the Turners seek protection from the attached subpoenas.


5. *Defective Form and Service.* The Turners further move to quash the subpoenas for defective form and service. The subpoenas were not signed by an officer of the court, and no witness fee was tendered to either witness. FED. R. CIV. P. 45(a)(3), (b)(1). While the undersigned counsel agreed to accept service, no subpoena was served at all, other than the attached notices and list of documents. The documents furnished failed to include the required elements of FED. R. CIV. P. 45(a)(1)(A), and are thus defective.

WHEREFORE, PREMISES CONSIDERED, Rose and Kenneth Turner pray that the attached subpoenas be quashed, and for other relief appropriate in the premises.

DATED and SERVED this 27th day of March, 2008.

Respectfully submitted,

OGDEN, GIBSON, BROOCKS & LONGORIA, L.L.P.

By:   
William W. Ogden  
State Bar No. 15228500  
1900 Pennzoil South Tower  
711 Louisiana  
Houston, Texas 77002  
Telephone: 713-844-3000  
Facsimile: 713- 844-3030

ATTORNEYS FOR  
ROSE AND KENNETH TURNER

**CERTIFICATE OF SERVICE**

I hereby certify that on this 27th day of March, 2008 a true and correct copy of the foregoing Motion to Quash and/or for Protection was served by electronic notification to parties of record through the efilng website of the Southern District, and by certified mail, return receipt requested as follows:

Neil C. McCabe  
The O'Quinn Law Firm  
440 Louisiana Street, Suite 2300  
Houston, Texas 77002

L. Lin Wood  
Powell Goldstein, LLP  
One Atlantic Center, 14th Floor  
Atlanta, Georgia 30309

Charles L. Babcock  
Nancy W. Hamilton  
Jackson Walker L.L.P.  
1401 McKinney, Suite 1900  
Houston, Texas 77010



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William W. Ogden