



discovered information or documents and TMZ's right to modify, further supplement, revise or clarify any of its responses as appropriate.

### **GENERAL OBJECTIONS**

TMZ makes the following objections at the outset so as not to require unnecessary repetition of these same objections in response to each interrogatory. Each of the responses herein is made subject to and incorporates the following objections:

1. TMZ objects to the Discovery Requests to the extent they seek the disclosure of privileged attorney-client communications. To the extent any Discovery Request can be construed to seek privileged information or documents, TMZ objects and will provide only non-privileged information responses and documents.
2. TMZ objects to the Discovery Requests to the extent they seek information, documents, or responses protected by the attorney work-product doctrine. To the extent that any Discovery Request can be construed to seek privileged information, TMZ objects and will provide only non-privileged information and responses.
3. TMZ objects to the Discovery Requests to the extent they seek information, documents, or responses protected by the investigative and party communication privileges. To the extent that any Discovery Request can be construed to seek privileged information or documents, TMZ objects and will provide only non-privileged information, responses, and documents.
4. TMZ objects to the Discovery Requests to the extent they seek information, documents, or responses protected by Texas' Free Flow of Information Act. To

the extent that any Discovery Request can be construed to seek information or documents protected by such laws, TMZ objects and will provide only non-privileged information, responses, and documents.

5. TMZ objects to the Discovery Requests to the extent they seek information, documents, or responses relating to matters that are not raised in the pleadings on the grounds that they are not relevant to this action and not reasonably calculated to lead to the discovery of admissible evidence.
6. TMZ objects to the "Instructions" contained in the Discovery Requests to the extent they seek to expand or modify the breadth and scope of the Texas Rules of Civil Procedure or to seek to increase TMZ's duties under those Rules.
7. TMZ reserves the right to supplement or amend these objections and responses upon, among other things: further investigation; discovery of additional facts; discovery of persons with knowledge of relevant information; developments in this action or any other proceedings; and the rebuttal of any of Plaintiff's evidence in this action.
8. TMZ objects to the Discovery Requests to the extent that they seek information that is not within TMZ's possession, custody, or control and/or is uniquely within the knowledge of Plaintiff in this lawsuit, or other third parties with knowledge relevant to this litigation.
9. By responding to any Discovery Request or providing any information herewith, TMZ does not waive and expressly preserves the objections set forth herein and does not concede the relevancy or admissibility of the response.

10. TMZ incorporates each general objection in its response to each individual Discovery Request and TMZ will respond specifically to the Discovery Requests as TMZ understands the terms used therein.
11. TMZ objects to the Discovery Requests to the extent they call for an expression of opinion or a contention that relates to fact, or to the application of law to fact, before TMZ has had the opportunity to complete discovery and to the extent that any interrogatory seeks information, documentary, or testimony, that Plaintiff has thus far failed or refused to produce or to which TMZ has not yet had access.

### **RESPONSES TO DISCOVERY**

#### **INTERROGATORY NO. 1**

State the full legal name of the person answering these questions on behalf of TMZ PRODUCTIONS, INC., along with that person's date of birth, address and occupation; and relationship to TMZ PRODUCTIONS, INC. and to each individual who assisted you in answering these interrogatories.

#### **ANSWER:**

Jason Beckerman  
Senior Counsel, TMZ  
Can be contacted through counsel

Patrick Puorro  
Director of Information Technology, TMZ  
Can be contacted through counsel

#### **INTERROGATORY NO. 2**

Describe the computers owned by you or used by you to store, receive, or generate data during the period September 2006 to present, including the

- a. the make and model;
- b. the operating system(s) used;
- c. the software used, specifically including email programs such as Outlook, Outlook Express and Thunderbird; utility programs, such as defrag utilities and

data destruction tools; anti-viral programs; security software; back-up software; and

- d. whether you still possess or have access to the computer; and if not, why.

**ANSWER:**

TMZ objects to this request on the grounds that it is overly broad and unduly burdensome, and seeks information that is not relevant to a claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. The Request seeks information from the time period September, 2006 through the present, despite the fact that this litigation centers exclusively on TMZ's alleged conduct on and around April 19, 2007. Moreover, the Request as written, if TMZ could respond at all, would require TMZ to compile hundreds of pages of written discovery responses listing information that has no bearing on Plaintiff's allegations or TMZ's defenses thereto. TMZ objects to Plaintiff's fishing expedition that is solely designed to increase the burden on TMZ of mounting a defense.

Subject to and without waiving these and the foregoing general objections:

TMZ states that Harvey Levin currently uses three computers for work purposes— an HPZ600, a Dell Optiplex 745, and a second Dell computer.

TMZ states that, since its inception, it has, from time to time, used one or more of the following computer operating systems on each computer used by its employees: Microsoft Windows XP, Microsoft Windows 2007, Macintosh 10.5, Macintosh 10.6 and Macintosh Snow Leopard.

TMZ states that, since its inception, it has used the Microsoft Outlook email application.

TMZ states that, since its inception, it has used Symantic security software.

TMZ states that it currently uses Symantec Endpoint Protection version 11 security software. TMZ previously used Symantec Antivirus corporate edition version 10.

TMZ states that it does not use “defrag utilities.”

TMZ states that it does not use data destruction tools.

TMZ states that it is not in possession of any computers not currently in use by its employees which contain any data.

**INTERROGATORY NO. 3**

Regarding each computer listed in answers to Interrogatories No. 2, please state:

- a. whether you have used the device to communicate with our about any of the parties to this lawsuit or persons identified in this lawsuit as having knowledge of relevant facts;

- b. whether you have used the device to access or post to any social-networking sites including, but not limited to, Twitter, Facebook, MySpace, and Xanga;

**ANSWER:**

TMZ objects to this request on the grounds that it is overly broad and unduly burdensome, and seeks information that is not relevant to a claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. The Request seeks information from an indefinite period of time, despite the fact that this litigation centers exclusively on TMZ's alleged conduct on and around April 19, 2007. Moreover, the Request as written, if TMZ could respond at all, would require TMZ to compile thousands of pages of discovery responses listing information that has no bearing on Plaintiff's allegations or TMZ's defenses thereto. TMZ objects to Plaintiff's fishing expedition that is solely designed to increase the burden on TMZ of mounting a defense.

Subject to and without waiving these and the foregoing general objections, TMZ states that after a reasonable search of all computers in its possession which TMZ reasonably believed may contain information relevant to the facts and claims asserted in Plaintiff's complaint, TMZ found no communications related to the April 19, 2007 article.

TMZ states that, to the best of its knowledge, no TMZ computer has been used to post information relevant to this lawsuit on any social networking site.

**INTERROGATORY NO. 4**

Regarding each of the computers listed in answer to Interrogatory No. 2, state whether you have ever copied data from that computer to a portable storage device including but not limited to, floppy disk, CD, DVD, back-up tape, USB device, and external hard drive. If so, identify the device by type, make, and model and state whether the data transfer was for archival purposes or transfer between computers.

**ANSWER:**

TMZ objects to this request on the grounds that it is overly broad and unduly burdensome, and seeks information that is not relevant to a claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. The Request seeks information from an indefinite period of time, despite the fact that this litigation centers exclusively on TMZ's alleged conduct on and around April 19, 2007. TMZ objects to Plaintiff's fishing expedition that is solely designed to increase the burden on TMZ of mounting a defense.

Subject to and without waiving these and the foregoing general objections, TMZ states that its employees copy scores of documents and images to floppy disks, CD, DVDs, tapes, USB devices, and external hard drives dozens of times on a daily basis. This is an essential function of TMZ's business. No records are created when such copies are made. TMZ states that it has copied all information in its possession, custody or control that is relevant to this dispute, and it will produce all such non-privileged information.

**INTERROGATORY NO. 5**

Regarding each of the computers listed in answer to Interrogatory No. 2, state whether you have used that computer to generate any document(s) related to the allegations contained in the pleadings in this litigation.

**ANSWER:**

TMZ objects to this request on the grounds that it is overly broad and unduly burdensome, and seeks information that is not relevant to a claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving these and the foregoing general objections, TMZ states that it is aware that one of its computers was used to generate the April 19, 2007 article that is the subject of this litigation, and that TMZ employee Vania Stuelp's computer ("Stuelp Computer") was used to create documents relevant to this dispute. TMZ will produce all non-privileged information that is relevant to this dispute.

**REQUEST FOR PRODUCTION NO. 1**

Produce all documents you generated related to the allegations contained in the pleadings in this litigation.

**RESPONSE:**

TMZ will produce all non-privileged documents that are responsive to this request.

**INTERROGATORY NO. 6**

Regarding each computer or other electronic device listed in answers to Interrogatories No. 2 and No. 3, and regarding any portable data storage device of yours, state what steps you have taken to preserve the data that was on those devices at the time this lawsuit was filed.

**ANSWER:**

TMZ objects to this request on the grounds that it is overly broad and unduly burdensome, and seeks information that is not relevant to a claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving these and the foregoing general objections, TMZ states that at the inception of this lawsuit TMZ ran a search of all computers in its possession which it reasonably believed may contain information relevant to the facts and claims asserted in Plaintiff's complaint. Relevant information was found on the Stuelp Computer only. The hard drive from the Stuelp Computer was therefore copied and the information was sequestered. In addition, the April 19, 2007 article that is the subject of this lawsuit, as well as all other articles and user comments relating to any party to this lawsuit, have been preserved in the archives of TMZ.com.

### **INTERROGATORY NO. 7**

Regarding each computer listed in answer to Interrogatory No. 2, describe any actions that were taken that may have altered or destroyed data on those computers, including:

- a. whether modifications were made to improve efficiency, such as running a defrag utility, reinstalling the operating system, or upgrading the hard drive;
- b. whether there was any reformatting done to the computer, hard drives or storage devices to which data from the computers was transferred;
- c. whether any of the privacy features of any software installed on the computer were implemented; and
- d. whether any wiping tools or data destruction tools on the computer were installed, downloaded, or run.

### **ANSWER:**

TMZ objects to this request on the grounds that it is overly broad and unduly burdensome, and seeks information that is not relevant to a claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. The Request seeks information from an indefinite period of time, despite the fact that this litigation centers exclusively on TMZ's alleged conduct on and around April 19, 2007. TMZ objects to Plaintiff's fishing expedition that is solely designed to increase the burden on TMZ of mounting a defense.

Subject to and without waiving these and the foregoing general objections, TMZ states that it has not performed any of the aforementioned operations on any TMZ computer such that it may have altered or destroyed data on those computers.

### **INTERROGATORY NO. 8**

Regarding each computer listed in answers to Interrogatories No. 2, has any third-party vendor, consultant, or technician made any changes or modifications to the device on your behalf? If so, list the name, address, and telephone number of the person or entity that made the changes and state what changes were made.

### **ANSWER:**

TMZ objects to this request on the grounds that it is overly broad and unduly burdensome, and seeks information that is not relevant to a claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. TMZ further objects to this request on the ground that the phrase "changes or modifications," as used therein, is vague and ambiguous.

Subject to and without waiving these and the foregoing general objections, TMZ states that every one of its computers runs software applications that were created and serviced by third parties. Those software applications are routinely upgraded. TMZ is not otherwise aware that any third

parties have “changed” or “modified,” as TMZ understands those terms to mean, any computer in its possession.

**INTERROGATORY NO. 9**

As Plaintiff is seeking punitive damages, please state your current net worth and list your assets and liabilities.

**ANSWER:**

TMZ objects to this request on the grounds that it is overly broad and unduly burdensome, and seeks information that is not relevant to a claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. TMZ further objects to this request on the grounds that it is intended solely to harass and embarrass TMZ.

**REQUEST FOR PRODUCTION NO. 2**

Produce any and all balance sheets, financial statements, tax returns, and evidence of assets that support the net worth stated in answer to Interrogatory No. 9.

**RESPONSE:**

TMZ objects to this request on the grounds that it is overly broad and unduly burdensome, and seeks information that is not relevant to a claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. TMZ further objects to this request on the grounds that it is intended solely to harass and embarrass TMZ.

**INTERROGATORY NO. 10**

Other than by the Special Master in this case, have any of the computers listed in answer to Interrogatory No. 2 or the other electronic devices listed in answer to Interrogatory No. 3 been forensically examined between September 2006 and present? If so, state by whom they were examined and on what dates.

**ANSWER:**

No.

**REQUEST FOR PRODUCTION NO. 3**

For each forensic examination listed in answer to Interrogatory No. 10, provide copies of any reports or data compilations generated.

**RESPONSE:**

Not applicable.

**REQUEST FOR PRODUCTION NO. 4**

Produce copies of any agreements you entered into with any of the other Defendants, specifically including any non-disclosure agreements and any agreements to collaborate on stories about Anna Nicole Smith, Howard K. Stern, Virgie Arthur, John O'Quinn, or the O'Quinn Law Firm.

**RESPONSE:**

None.

**REQUEST FOR PRODUCTION NO. 5**

Produce copies of all comments posted on the TMZ website, by anyone, regarding Virgie Arthur, Howard K. Stern, Larry Birkhead, John O'Quinn, Neil McCabe, or Don Clark.

**RESPONSE:**

TMZ objects to this request on the grounds that it is overly broad and unduly burdensome, and seeks information that is not relevant to a claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. TMZ has published stories concerning one or more of the aforementioned individuals that are entirely unrelated to the subject matter of this lawsuit. TMZ further objects to this request on the grounds that the information requested therein is publicly available through tmz.com, and is therefore as equally accessible to Plaintiff as it is to TMZ.

Subject to and without waiving these and the foregoing general objections, TMZ has run searches for articles containing the names of each of the people referenced in this request, and shall produce a list of all such articles with accompanying links to all comments posted to each article.

**INTERROGATORY NO. 11**

You have claimed an affirmative defense of the "substantial truth" of the story published on TMZ regarding Virgie Arthur marrying her step-brother. State the facts on which you base your assertion that the story was substantially true.

**ANSWER:**

TMZ objects to this request to the extent that it seeks information that is not within TMZ's possession, custody, or control and/or is uniquely within the knowledge of Plaintiff in this lawsuit, or other third parties with knowledge relevant to this litigation. TMZ further objects to this request to the extent the information requested therein is publicly available, and is therefore as equally accessible to Plaintiff as it is to TMZ.

Subject to and without waiving these and the foregoing general objections, TMZ states that on April 19, 2007 it published a story entitled "Virgie Has Son with Her Stepbrother." In that article, TMZ reported that Arthur bore a son with a man named David L. Tacker. TMZ also

reported that Arthur and Mr. Tacker were stepsiblings because their respective parents married each other. These facts are both literally and substantially true.

TMZ incorporates by reference the documents from the Texas Department of Health Bureau of Vital Statistics, progenealogists.com, ancestry.com, and wikipedia.com that TMZ will produce in response to Plaintiff's Second Set of Requests for Production.

**REQUEST FOR PRODUCTION NO. 6**

Produce all evidence you have that the step-brother story published on TMZ was substantially true.

**RESPONSE:**

TMZ objects to this request to the extent that they seek information that is not within TMZ's possession, custody, or control and/or is uniquely within the knowledge of Plaintiff in this lawsuit, or other third parties with knowledge relevant to this litigation. TMZ further objects to this request to the extent the information requested therein is publicly available, and is therefore as equally accessible to Plaintiff as it is to TMZ.

Subject to and without waiving these and the foregoing general objections, TMZ states that it shall produce all non-public and non-privileged information in its possession, custody or control that is responsive to this request.

**INTERROGATORY NO. 12**

You have claimed an affirmative defense of the "fair reporting" of the story, as provided in Tex. Civ. Prac. & Rem. Code §73.002. State the facts on which you base your assertion that the story was a fair, true and impartial account of a proceeding or a reasonable and fair comment on or criticism of an official act of a public official, or other matter of public concern published for general information, as protected by §73.002.

**ANSWER:**

TMZ objects to this request to the extent that they seek information that is not within TMZ's possession, custody, or control and/or is uniquely within the knowledge of Plaintiff in this lawsuit, or other third parties with knowledge relevant to this litigation. TMZ further objects to this request to the extent the information requested therein is publicly available, and is therefore as equally accessible to Plaintiff as it is to TMZ.

Subject to and without waiving these and the foregoing general objections, TMZ incorporates by reference its response to Interrogatory No. 11 and the documents from the Texas Department of Health Bureau of Vital Statistics, progenealogists.com, ancestry.com, and wikipedia.com that TMZ will produce in response to Plaintiff's Second Set of Requests for Production.

In addition, TMZ states that the article was published without actual malice and amidst a highly-publicized court battle in which Ms. Arthur participated over the custody of Ms. Marshall's daughter Danielynn.

**REQUEST FOR PRODUCTION NO. 7**

Produce all evidence you have that the step-brother story published was a fair reporting under §73.002.

**RESPONSE:**

TMZ objects to this request to the extent that they seek information that is not within TMZ's possession, custody, or control and/or is uniquely within the knowledge of Plaintiff in this lawsuit, or other third parties with knowledge relevant to this litigation. TMZ further objects to this request to the extent the information requested therein is publicly available, and is therefore as equally accessible to Plaintiff as it is to TMZ.

Subject to and without waiving these and the foregoing general objections, TMZ states that it shall produce all non-public and non-privileged information in its possession, custody or control that is responsive to this request.

**REQUEST FOR PRODUCTION NO. 8**

Produce all evidence you have that Virgie Arthur is a public figure for purposes of claims she has asserted against you.

**ANSWER:**

TMZ objects to this request to the extent that they seek information that is not within TMZ's possession, custody, or control and/or is uniquely within the knowledge of Plaintiff in this lawsuit, or other third parties with knowledge relevant to this litigation. TMZ further objects to this request to the extent the information requested therein is publicly available, and is therefore as equally accessible to Plaintiff as it is to TMZ.

Subject to and without waiving these and the foregoing general objections, TMZ states that it shall produce all non-public and non-privileged information in its possession, custody or control that is responsive to this request.

**INTERROGATORY NO. 13**

In your Amended answer you claim an affirmative defense of consent. State the facts on which you base your assertion of an affirmative defense of consent.

**ANSWER:**

TMZ objects to this request to the extent that they seek information that is not within TMZ's possession, custody, or control and/or is uniquely within the knowledge of Plaintiff in this lawsuit, or other third parties with knowledge relevant to this litigation. TMZ further objects to this request to the extent the information requested in it is publicly available, and is therefore as equally accessible to Plaintiff as it is to TMZ.

Subject to and without waiving these and the foregoing general objections, TMZ states that Arthur consented to publicity of her parental fitness and suitability by voluntarily participating in highly-publicized legal proceedings involving the custody of Ms. Marshall's daughter, Danilynn. Arthur further consented to publicity regarding her parental fitness and suitability by voluntarily participating in numerous electronic, television and print media interviews regarding the same subject matter. Arthur further consented to publicity regarding her parental fitness and suitability by failing to dispute or contest the accuracy of numerous publications of her marriage to, and parenthood with, her stepbrother until minutes before the statute of limitations expired. Arthur further consented to publicity regarding her parental fitness and suitability by failing to seek the removal of TMZ's April 19, 2007 story until months after she filed this defamation lawsuit.

#### **REQUEST FOR PRODUCTION NO. 9**

Produce any evidence to support the affirmative defense of consent.

#### **RESPONSE:**

TMZ objects to this request to the extent that they seek information that is not within TMZ's possession, custody, or control and/or is uniquely within the knowledge of Plaintiff in this lawsuit, or other third parties with knowledge relevant to this litigation. TMZ further objects to this request to the extent the information requested therein is publicly available, and is therefore as equally accessible to Plaintiff as it is to TMZ.

Subject to and without waiving these and the foregoing general objections, TMZ states that it shall produce all non-public and non-privileged information in its possession, custody or control that is responsive to this request.

#### **INTERROGATORY NO. 14**

In your Amended Answer you claim an affirmative defense that Virgie Arthur is libel-proof. State the facts on which you base your assertion of an affirmative defense that Virgie Arthur is libel-proof.

#### **ANSWER:**

TMZ objects to this request to the extent that they seek information that is not within TMZ's possession, custody, or control and/or is uniquely within the knowledge of Plaintiff in this lawsuit, or other third parties with knowledge relevant to this litigation. TMZ further objects to this request to the extent the information requested therein is publicly available, and is therefore as equally accessible to Plaintiff as it is to TMZ.

Subject to and without waiving these and the foregoing general objections, TMZ states that the undisputed and unpublished details of the Arthur-Tacker relationship and Arthur's marital history are far more damaging to Arthur's reputation than what TMZ did print. For example, it is undisputed that:

- Arthur was 13 or 14 when she began a sexual relationship with Tacker in 1965.

- Arthur was 14 when their child, Tacker Jr., was born.
- The father was 16.
- Arthur was either 14 or 15 when she married Tacker because she is apparently unable to identify when she and Tacker were married beyond "1966–1967."
- One cannot determine from Arthur's verified interrogatory responses whether Tacker Jr. was born in or out of wedlock.
- Arthur was 15 at the time of her second marriage in February 22, 1967. In other words, by age 15, Arthur was a twice-married divorcée with one child by her stepbrother.
- Arthur was 16 when she gave birth to her second child, Vickie Lynn Hogan (a/k/a Anna Nicole Smith, a/k/a Ms. Marshall) on November 25, 1967. Ms. Marshall was born nine months and three days after Arthur's second teen wedding.
- Arthur divorced her second husband on November 4, 1969. By age 18, the twice-married, twice-divorced Arthur had children by two different men.
- Arthur married her third husband on February 12, 1971, and divorced him June 15, 1983.
- Arthur married her fourth husband on October 17, 1987, and divorced him December 11, 1991.
- Arthur married her fifth husband in April 1997, although she is apparently unable to identify the date. That husband died in September of that year, although she is apparently unable to identify the date.
- Arthur married her sixth husband on December 16, 2000 and was married to him as of December 31, 2008.

#### **REQUEST FOR PRODUCTION NO. 10**

Produce any evidence to support the affirmative defense that Virgie Arthur is libel-proof.

#### **RESPONSE:**

TMZ objects to this request to the extent that they seek information that is not within TMZ's possession, custody, or control and/or is uniquely within the knowledge of Plaintiff in this lawsuit, or other third parties with knowledge relevant to this litigation. TMZ further objects to this request to the extent the information requested therein is publicly available, and is therefore as equally accessible to Plaintiff as it is to TMZ.

Subject to and without waiving these and the foregoing general objections, TMZ states that it shall produce all non-public and non-privileged information in its possession, custody or control that is responsive to this request.

**INTERROGATORY NO. 15**

In your Amended Answer you claim an affirmative defense that plaintiff's own acts or omissions caused or contributed to plaintiff's alleged injury. State the facts on which you base your assertion of that affirmative defense.

**ANSWER:**

TMZ objects to this request to the extent that they seek information that is not within TMZ's possession, custody, or control and/or is uniquely within the knowledge of Plaintiff in this lawsuit, or other third parties with knowledge relevant to this litigation. TMZ further objects to this request to the extent the information requested therein is publicly available, and is therefore as equally accessible to Plaintiff as it is to TMZ.

Subject to and without waiving these and the foregoing general objections, TMZ states that on April 19, 2007 it published a story entitled "Virgie Has Son with Her Stepbrother." In that article, TMZ reported that Arthur bore a son with a man named David L. Tacker. TMZ also reported that Arthur and Mr. Tacker were stepsiblings because their respective parents married each other. These facts are both literally and substantially true therefore Arthur's own acts or omissions caused or contributed to her alleged injuries.

**REQUEST FOR PRODUCTION NO. 11**

Produce any evidence to support the affirmative defense that plaintiff's own acts or omissions caused or contributed to plaintiff's alleged injury.

**RESPONSE:**

TMZ objects to this request to the extent that they seek information that is not within TMZ's possession, custody, or control and/or is uniquely within the knowledge of Plaintiff in this lawsuit, or other third parties with knowledge relevant to this litigation. TMZ further objects to this request to the extent the information requested therein is publicly available, and is therefore as equally accessible to Plaintiff as it is to TMZ.

Subject to and without waiving these and the foregoing general objections, TMZ states that it shall produce all non-public and non-privileged information in its possession, custody or control that is responsive to this request.

**REQUEST FOR PRODUCTION NO. 12**

Produce all TMZ policies and procedures regarding fact-checking of stories.

**RESPONSE:**

TMZ objects to this request on the grounds that it is overly broad and unduly burdensome, and seeks information that is not relevant to a claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving these and the foregoing general objections, TMZ will produce all written policies and procedures regarding fact-checking of stories that it locates after a reasonable search.

**INTERROGATORY NO. 16**

Who or what was your source for the “step-brother story”?

**ANSWER:**

TMZ objects to this request on the ground that it seeks information that is protected from disclosure by, among other federal and state laws, the Texas Free Flow of Information Act, which protects journalists from forced disclosure of their sources and other confidential and non-confidential unpublished information collected as part of their newsgathering activities. TMZ further objects on the grounds that this Interrogatory assumes, without evidence, that the “step-brother story,” resulted from a single “source” or from any “source” at all. The facts underlying the April 19, 2007 article were publicly available and on the Internet before April 19, 2007.

Subject to and without waiving these objections, TMZ answers as follows: TMZ does not routinely maintain and track all information and “tips” that it receives from all sources of stories that it publishes. Following a diligent search, TMZ is unable to determine when or how it first learned of facts that eventually led to the publication of the article.

**INTERROGATORY NO. 17**

Describe the process for members of the public to place comments on the TMZ website during the period September 2006 to present.

**ANSWER:**

TMZ objects to this request on the ground that it seeks information that is not relevant to a claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. The Request seeks information from an indefinite period of time, despite the fact that this litigation centers exclusively on TMZ’s alleged conduct on and around April 19, 2007. TMZ objects to Plaintiff’s fishing expedition that is solely designed to increase the burden on TMZ of mounting a defense.

Subject to and without waiving these and the foregoing general objections, TMZ states that throughout all relevant time periods, members of the public have been able to click the “comment” button that accompanies each article published on tmz.com. When visitors to tmz.com perform this action, the site directs them to a webpage on which they can submit comments as well as a name and an email address, although neither the name nor email address must be specifically identified to the visitor leaving a comment. The visitors’ comments then appear on tmz.com in conjunction with the associated article.

### **INTERROGATORY NO. 18**

Describe the moderation process for the comments on the TMZ website for the period September 2006 to present.

#### **ANSWER:**

TMZ objects to this request on the ground that it seeks information that is not relevant to a claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. The Request seeks information from an indefinite period of time, despite the fact that this litigation centers exclusively on TMZ's alleged conduct on and around April 19, 2007. TMZ objects to Plaintiff's fishing expedition that is solely designed to increase the burden on TMZ of mounting a defense.

Subject to and without waiving these or the foregoing general objections, TMZ states that since on or about March, 2007, it has retained Pamela LaMarca to monitor TMZ's comment boards. Ms. LaMarca performs this function by running both automated and manual searches through the comment database for comments that contain any of the following:

- Swear words and their derivations
- Racial, gender-specific or ethnic slurs
- Hate speech
- Spam
- Obscene, sexually explicit language
- Threats
- Comments that are unrelated to a story
- Repeat postings
- Comments with personal links

If Ms. LaMarca identifies comments that meet any of these criteria, she has been instructed to remove the comment. If she is unsure whether or not to remove a comment, she has been instructed to contact tmz.com's editorial staff for assistance. Additionally, tmz.com's editorial staff may remove comments that meet any of the above criteria.

### **INTERROGATORY NO. 19**

Identify by name, address, telephone number and email address, tile moderators for the TMZ website for the period of September 2006 to present.

#### **ANSWER:**

TMZ objects to this request on the ground that it seeks information that is not relevant to a claim or defense of any party and is not reasonably calculated to lead to the discovery of admissible evidence. The Request seeks information from September 2006 to the present, despite the fact that this litigation centers exclusively on TMZ's alleged conduct on and around April 19, 2007. TMZ objects to Plaintiff's fishing expedition that is solely designed to increase the burden on TMZ of mounting a defense.

Subject to and without waiving these and the foregoing general objections, TMZ states that the following people have removed comments from tmz.com during the relevant time period.

David Brown  
Coordinating Producer, TMZ.com  
Can be contacted through counsel

Daniel Goldblatt  
Coordinating Producer, TMZ.com  
Can be contacted through counsel

Nina Parker  
Producer, TMZ.com  
Can be contacted through counsel

Pam LaMarca  
Comment reviewer  
Can be contacted through counsel

**REQUEST FOR ADMISSION NO. 1**

ADMIT or DENY that you did not attempt to contact Virgie Arthur about the truth or falsity of the step-brother story.

**ANSWER:**

TMZ lacks sufficient information to admit or deny this request, and therefore denies it on that basis.

Respectfully submitted,

SUSMAN GODFREY L.L.P.

By:   
Harry P. Susman  
State Bar No. 24008875  
Richard W. Hess  
State Bar No. 24046070  
1000 Louisiana Street, Suite 5100  
Houston, Texas 77002-5096  
Telephone: (713) 651-9366  
Fax: (713) 654-6666

ATTORNEYS FOR DEFENDANTS HARVEY  
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**CERTIFICATE OF SERVICE**

This is to certify that on this the 22 day of March, 2010, a true and correct copy of the above and foregoing instrument was properly forwarded to the following counsel of record in accordance with Rule 21 of the Texas Rules of Civil Procedure:

Neil C. McCabe *Via E-mail*  
M. Michael Meyer  
The O'Quinn Law Firm  
440 Louisiana Street, Suite 2300  
Houston, TX 77002  
[neilm@oqlaw.com](mailto:neilm@oqlaw.com)  
[mikem@oqlaw.com](mailto:mikem@oqlaw.com)

Teresa Stephens, Pro Se *Via E-mail*  
5022 Cloyce Court  
North Richland Hills, TX 76180  
[butterfly75218@yahoo.com](mailto:butterfly75218@yahoo.com)

L. Lin Wood *Via CM/RRR*  
John C. Patton  
Luke A. Lantta  
Bryan Cave LLP  
One Atlantic Center, 14<sup>th</sup> Floor  
Atlanta, GA 30309

Charles L. Babcock *Via CM/RRR*  
Nancy W. Hamilton  
Amanda L. Bush  
Jackson Walker LLP  
1401 McKinney Street, Suite 1900  
Houston, TX 77010

Walter A. Herring *Via CM/RRR*  
Keith Miles Aurzada  
Bryan Cave LLP  
2200 Ross Avenue, Suite 3200  
Dallas, TX 75201

Nelda Turner, Pro Se *Via E-mail*  
13348 County Road 3111  
Gladewater, TX 75647  
[cajunrose@verizon.net](mailto:cajunrose@verizon.net)

M. Krista Barth *Via CM/RRR*  
Eric M. Sauerberg, P.A.  
200 Village Square, Suite 102  
Palm Beach Gardens, FL 33410

Diana Marshall *Via CM/RRR*  
Marshall & Lewis LLP  
1010 Lamar, Suite 450  
Houston, TX 77002-6322

Bonnie Stern, Pro Se *Via E-mail*  
269 S. Beverly Drive, No. 1247  
Beverly Hills, CA 90212  
[Bonnies10@yahoo.com](mailto:Bonnies10@yahoo.com)

Lyndal Harrington, Pro Se *Via E-mail*  
8318 Burning Hills Drive  
Houston, TX 77071  
[tx\\_babee@yahoo.com](mailto:tx_babee@yahoo.com)

  
Harry P. Susman