



Defendant HOWARD STERN is an individual resident of California and already has made an appearance by filing a special appearance in this case.

Defendant BONNIE STERN is a resident of the state of California and already has made an appearance by filing a special appearance in this case, which this Court has denied.

Defendant HARRINGTON is a resident of the state of Texas and already has made an appearance by filing an answer in this case.

Defendant HARRIS is a resident of the state of Georgia and already has made an appearance by filing an answer and by withdrawing his special appearance in this case.

Defendant TURNER, also known as Rose, is a resident of the state of Texas and already has made an appearance by filing an answer in this case.

Defendant STEPHENS, is a resident of the state of Texas and already has made an appearance by filing an answer in this case.

Defendant LEVIN is a resident of the state of California and already has made an appearance by filing an answer in this case.

Defendant TMZ is a California corporation and already has made an appearance by filing an answer in this case.

Defendant BIRKHEAD is an individual residing in California and already has made an appearance by filing a special appearance in this case.

Defendant CBS STUDIOS, INC. is a Delaware corporation doing business in Texas and may be served with process by serving its registered agent, Corporation Service Company, 701 Brazos, Suite 1050, Austin, Texas, 78701.

## II.

### DISCOVERY PLAN

Discovery in this cause will be conducted under Level 3 of Rule 190 of the Texas Rules of Civil Procedure.

## III.

### JURISDICTION AND VENUE

The amount in controversy in this cause exceeds the jurisdictional minimum of this Court. Jurisdiction is proper against TURNER, HARRINGTON and STEPHENS, because they are residents of the state of Texas. Jurisdiction is proper against HOWARD STERN, BONNIE STERN, HARRIS, BIRKHEAD, LEVIN, TMZ, and CBS because they committed, in whole or in part, a tort in the state of Texas. In conspiring to defame and in defaming VIRGIE ARTHUR, HOWARD and BONNIE STERN, BIRKHEAD, HARRIS, and CBS, along with other co-conspirators, including LEVIN and TMZ, who have answered and obviously are subject to the jurisdiction of this Court, directed their conspiratorial and defamatory efforts into Texas, where they knew VIRGIE ARTHUR resides.

Texas has specific personal jurisdiction over Defendants HOWARD and BONNIE STERN. They used a Texas resident, Defendant NELDA TURNER, as their agent to accomplish the work of conspiring against and defaming Plaintiff. Defendant BONNIE STERN sent email to NELDA TURNER at [cajunrose@verizon.net](mailto:cajunrose@verizon.net), [cajunrose103@gmail.net](mailto:cajunrose103@gmail.net), [stormdnrcer@verizon.net](mailto:stormdnrcer@verizon.net), and [stormdnrcr@gmail.com](mailto:stormdnrcr@gmail.com), in Texas, and directed others to send email to that last address. HARRIS communicated with TURNER and other CONSPIRATORS for HOWARD STERN. Defendant BONNIE STERN informed Defendant TURNER of HOWARD STERN'S wishes regarding the manner and means of attempting to dig up defamatory stories, which the conspirators

called “researching,” as well as other work being done on HOWARD STERN’S behalf by the CONSPIRATORS to defame VIRGIE ARTHUR and others.

HOWARD STERN, BONNIE STERN, LARRY BIRKHEAD, ART HARRIS, HARVEY LEVIN, and TMZ, along with the other conspirators, worked together in a conspiracy to direct defamatory stories into Texas, where they knew VIRGIE ARTHUR resided, with the intention of injuring her reputation there and in other places. They specifically directed the defamatory step-brother and prison interview stories into Texas for the purpose of injuring VIRGIE ARTHUR’S reputation, and they were successful in that endeavor.

HOWARD STERN has waived his jurisdictional challenge by engaging in actions in Texas that were not related to his jurisdictional challenge, *i.e.* filing a frivolous motion to recuse the Honorable Judge of this Court and filing a frivolous grievance with the State Bar of Texas against undersigned counsel for ARTHUR.

Texas has general jurisdiction over Defendant BONNIE STERN, as she owned and operated a company, Flurtz Chocolate, through which she had continuous and systematic contact with the state of Texas. That company sold a chocolate product designed to heighten female sexual pleasure, as well other products, such as T-shirts. Marketing also was accomplished through a video that could be viewed on the web at the following address: <http://www.youtube.com/watch?v=wMkqxij23RU>. (Ms. Stern appears as the person second from the right in the video.) The company website, <http://www.flurtzchocolate.com>, contained a testimonial from a Texas resident, Nelda Norris, who actually is Defendant NELDA TURNER, with whom Bonnie Stern had extensive, continuous, and systematic contact, and who, along with Turner’s husband, Ken Turner, assisted Bonnie Stern in starting her business.

Defendant HARRIS is subject to specific Texas jurisdiction in this case, as he used Defendant TURNER as his agent in Texas. Defendant HARRIS solicited information from Defendant TURNER and told her how he wanted the information formatted, so that he could post stories on his website in an effort to defame VIRGIE ARTHUR. Defendant HARRIS also instructed Defendant TURNER to perform research and editing services for him directly related to this case. HARRIS worked in concert with HOWARD STERN, BONNIE STERN, and TURNER for the benefit of HOWARD STERN and for the defamation of VIRGIE ARTHUR. HARRIS sent email messages to TURNER at stormdncr@verizon.net and to STEPHENS at [TrinitisTrends@aol.com](mailto:TrinitisTrends@aol.com). HARRIS, through CBS, directed into Texas a defamatory story based on a prison interview with a relative of VIRGIE ARTHUR, which repeated false allegations that ARTHUR was complicit in sexual abuse of her daughter, Vickie Lynn Marshall, when Marshall was a child in her home. The CBS television broadcast of the prison interview also falsely implied that ARTHUR was an unfit mother and that she should not be allowed contact with her granddaughter, Dannielynn.

Defendant HARRIS also is subject to general jurisdiction in Texas, as he has had continuous and systematic contact with the state of Texas through his website and television appearances. On numerous occasions, Defendant HARRIS has filmed his broadcasts in Texas, specifically including an occasion when Defendant HARRIS traveled to a Texas prison to interview a relative of VIRGIE ARTHUR. Further, HARRIS has published articles directed toward Texas, including articles published in the Houston Chronicle and an article regarding the 2007 Christmas party hosted by Plaintiff's counsel, John O'Quinn.

Texas has specific jurisdiction over Defendant BIRKHEAD, because he conspired with HOWARD STERN, BONNIE STERN, ART HARRIS, and HARVEY

LEVIN/TMZ to defame VIRGIE ARTHUR. As part of and in furtherance of that conspiracy, BIRKHEAD sent a false and defamatory story (the step-brother story), to Defendants LEVIN and TMZ for publication by them, and, in so doing, BIRKHEAD directed defamation into Texas with the intention of injuring VIRGIE ARTHUR'S reputation and which did injure her reputation.

Texas has general jurisdiction over CBS because it has continuous and systematic contact with the state and regularly conducts business in the state.

Additionally, ARTHUR incorporates by reference all allegations set out in Plaintiff's previously-filed responses in opposition to special appearances of Defendants HOWARD STERN, BONNIE STERN, and ART HARRIS, which are in the Court's file. ARTHUR also incorporates by reference all allegations set out in her Motion for Sanctions Against Bonnie Stern, filed with this Court on July 6, 2009.

Venue is proper in this county because HARRINGTON is a resident of Harris County, Texas.

#### **IV. FACTUAL BACKGROUND**

This is a case of defamation and conspiracy to defame.

Plaintiff VIRGIE ARTHUR's daughter was Vickie Lynn Marshall, also known as Anna Nicole Smith, now deceased. Ms. Marshall lived with and entrusted her personal and business affairs to HOWARD STERN, BONNIE STERN's brother. HOWARD STERN was Ms. Marshall's lawyer and companion in the months preceding her death. During that time and with her connivance, HOWARD STERN publicly pretended to be Ms. Marshall's husband and the father of her new-born child. HOWARD STERN maintained tight control over Ms. Marshall's environment. For his own benefit, he isolated Ms. Marshall from her family and others who cared about her. He decided who

could visit Ms. Marshall, who could speak to Ms. Marshall, what public appearances Ms. Marshall could make, and the content of those public appearances.

HOWARD STERN also maintained influence and control over Ms. Marshall by providing her with prescription drugs, including prescriptions obtained illegally in his name and other persons' names, but intended for Ms. Marshall, who was a methadone user. Ms. Marshall's son, Daniel Smith, who was not a methadone user, died of a massive dose of methadone on September 10, 2006, while visiting his mother, baby sister, and HOWARD STERN in the Bahamas.

The death of Plaintiff's grandson, Daniel Smith, alarmed VIRGIE ARTHUR and caused her great concern about the safety of Ms. Marshall and Ms. Marshall's infant daughter, Dannielynn. HOWARD STERN controlled all channels of communication with Ms. Marshall and effectively prevented VIRGIE ARTHUR from communicating with her daughter through normal channels. In a televised interview with Nancy Grace, VIRGIE ARTHUR warned Ms. Marshall to be cautious about the people who surrounded her or she might be next. Unfortunately, VIRGIE ARTHUR's words of warning went unheeded. Following these events, Vickie Lynn Marshall died of a drug overdose. The State of California now is prosecuting HOWARD STERN in connection with obtaining and supplying the drugs that killed Vickie Lynn Marshall. The State of California officially has notified VIRGIE ARTHUR that she is regarded as next of kin to the victim in that case, under Marsy's Law.

Eventually Defendant BIRKHEAD and HOWARD STERN struck a deal. Pursuant to this deal, HOWARD STERN acknowledged that BIRKHEAD, not HOWARD STERN, was the father of Dannielynn. In exchange, HOWARD STERN retained what he always wanted – continued control over Dannielynn's anticipated fortune, as executor of the estate of her deceased mother. The only person standing in the

way of this sweetheart deal reaching fruition was perceived to be VIRGIE ARTHUR, who was still fighting for custody of her granddaughter, or at least for a place in her granddaughter's life.

HOWARD STERN and BIRKHEAD were infuriated over this and worked with the defendants and others to continue a plot and a conspiracy to destroy VIRGIE ARTHUR and anyone else they perceived to be standing in the way of exercising control over the millions of dollars that might be the estate's, and Dannielynn's, one day.

The members of HOWARD STERN's cabal included defendants BONNIE STERN, BIRKHEAD, HARRINGTON, HARRIS, TURNER, STEPHENS, TMZ, LEVIN, CBS, and others who already were a part of the conspiracy, and some who later would join the conspiracy. These defendants and the co-conspirators who are not named as defendants in this petition are collectively referred to as the "CONSPIRATORS."

HOWARD STERN, BONNIE STERN, HARRINGTON, HARRIS, TURNER and STEPHENS took any opportunity to refer to VIRGIE ARTHUR as "Mommie Dearest", thereby republishing in capsule form Marshall's defamatory depiction of VIRGIE ARTHUR as an abusive mother. TURNER has acknowledged on her website that the term "Mommie Dearest" is shorthand for abusive mother. STEPHENS composed and disseminated a letter in which she collected every defamatory statement or inference that she could, including claiming that VIRGIE ARTHUR was an unfit mother and had been complicit in "physical, emotional and sexual abuse" of ARTHUR's daughter, Ms. Marshall. Further, STEPHENS gave internet links to Ms. Marshall's defamatory statements. TURNER forwarded STEPHENS's letter to others. HARRINGTON has admitted in open court that she has been "involved from the beginning." HARRINGTON served as a moderator on TURNER'S website, which was favorable to HOWARD STERN and which took every opportunity to denigrate ARTHUR. HARRINGTON'S

liability in the conspiracy further is demonstrated by the fact that, when she was ordered by the Court to turn over her computer for forensic analysis by a special master, she falsely claimed that her computer had been stolen in a burglary.

Bonnie Stern's liability in the conspiracy further is demonstrated by the fact that, in the words of a computer forensic specialist appointed by the Court as a Special Master, which have been adopted by the Court in its findings of fact, the electronic "media submitted for examination by Bonnie Stern reveals a wide-ranging, concerted and insidious effort by or for Ms. Stern to destroy evidence."

HARRIS operates a website called "The Bald Truth." He often appears on Entertainment Tonight, a production of CBS, as a "special correspondent." On his website he has republished Vickie Lynn Marshall's defamatory statements in an article entitled, "Is Virgie Arthur A Grandmother With a Past? Volunteer Web Detectives Out to Investigate: Asking if Bahamas Social Services on The Case: Will Dannielynn Be Safe with Family in Texas?" HARRIS has claimed to be in direct contact with Defendant HOWARD STERN, who, HARRIS says, shares with HARRIS his secret thoughts. HARRIS's conspiratorial relationship with HOWARD STERN also is demonstrated by the fact that HARRIS has received from HOWARD STERN's representatives and has published certain documents that were under a protective order in a related case, incurring the disapproval of the federal district court in that case. HARRIS's conspiratorial relationship with TURNER and others and the expectation that HARRIS would be leaked documents are demonstrated by e-mails. HARRIS was aware that TURNER and other co-conspirators live in Texas. HARRIS directed his defamatory statements at Plaintiff's reputation, which is centered in Texas.

Additionally, HARRIS undertook to interview one of Marshall's relatives, Larry Dale Hart, in prison. HOWARD STERN gave advance approval of the plan for the prison

interview. In HARRIS's words, "Howard loved the fact I'm trying to get an interview .... " The interview was conducted at the Clarence N. Stevenson Unit in Texas. Indeed, HARRIS acknowledged that the interview was conducted in a prison near Cuero, Texas. The interview highlighted a childhood rape accusation that Ms. Marshall had made to CBS but which CBS had not broadcast previously because of its seriousness and because of serious doubts on the part of CBS about its truth or falsity. The broadcast actually begins with a close-up of Ms. Marshall's face and the sound of her saying the word "rape."

In fact, Hart, when asked by HARRIS whether he raped Ms. Marshall, emphatically denied the allegation and said that VIRGIE ARTHUR would have shot him. HARRIS gratuitously asserted, "people will question that answer." The clear implication of HARRIS's interview, the questions he asks and the comments he makes, is that Hart cannot be trusted and that it must be presumed that VIRGIE ARTHUR permitted the rape of her daughter. HARRIS conducted the interview in Texas, and he knew that the interview, when aired, would be directed into Texas, by virtue of being aired on a CBS program, "Entertainment Tonight." VIRGIE ARTHUR's reputation is centered in Texas and, when the interview, with its publication of the defamatory allegation that VIRGIE ARTHUR permitted her daughter to be raped, was broadcast into Texas, VIRGIE ARTHUR was damaged in this state. HARRIS and CBS, who conspired with each other to defame VIRGIE ARTHUR through the broadcast of the prison interview, knew that VIRGIE ARTHUR lived in Texas and directed the broadcast into Texas with the intention of harming VIRGIE ARTHUR'S reputation there. HOWARD STERN knew of their plans in advance and approved of them.

HARRIS's animus in attempting to defame VIRGIE ARTHUR can be seen in the closing paragraph of written text accompanying a clip of a portion of his interview with

Hart. This written text is found on HARRIS's website – "ArtHarris.com." Rather than permitting the interview to stand on its own and permitting viewers to make an unadulterated evaluation of Larry Dale Hart, Harris states

Despite an alleged rape Anna claims happened under her own roof, the accidental shooting, two brothers who went to prison for violent crimes, including rape, Larry believes Dannielynn would be safe with Virgie today.

The clear implication of HARRIS's gratuitous comments is that VIRGIE ARTHUR was not fit to gain custody of, and is not fit to have visitation with, her granddaughter and that this is so because VIRGIE ARTHUR was an unfit mother who permitted children to be shot in the head, permitted children to commit violent crimes, and permitted her step-son to rape her daughter.

Further evidence of HARRIS's ill will and spite toward VIRGIE ARTHUR is found in an article published on HARRIS's website on October 11, 2007. In that article, HARRIS states "Virgie Sues Howard For Anna Trashing Mama; Says He's 'Manipulative, Deceitful, Dangerous!!' Look Who's Talking...What Could Be Next?" The reference to "look who's talking" is clearly meant to imply that VIRGIE ARTHUR, and not HOWARD STERN, is "manipulative," "deceitful," and "dangerous."

Employing the internet, the CONSPIRATORS set out to "destroy" VIRGIE ARTHUR. HOWARD STERN communicated with and led the conspiracy by using his sister, defendant BONNIE STERN as the go-between. The CONSPIRATORS spent countless hours in front of their computers, being guided by HOWARD STERN through his sister BONNIE STERN, "desperate" to find what they considered "VIRGIE ARTHUR dirt." They would use anything thing they could find "to discredit her." They were unabashedly proud of what they did, stating that "when it came to digging up the dirt, no one had anything on" them. Their goal was simple and straightforward – to "destroy" "anyone that was opposed to Howard K. Stern or his interest."

When the CONSPIRATORS found what they believed they could spin as “dirt” or “skeletons” in VIRGIE ARTHUR’s closet, they would publish these defamatory and false statements on websites run by some of the CONSPIRATORS, such as “Rose Speaks,” run by defendant TURNER with the assistance of moderators HARRINGTON and STEPHENS, or on a website called “The Bald Truth” run by defendant HARRIS. Defendant HOWARD STERN, through defendant TURNER, promised HARRIS exclusivity on a story about a childhood injury to one of ARTHUR’s children and a story about ARTHUR marrying a cousin. According to TURNER, “Howard said ONLY you [HARRIS] get these 2 stories in depth the injury to Donald Hart, Jr., the ‘Kissing Cousins” and if you want to correct the family tree that TMZ got wrong... I am suppose[d] to cooperate and help you find anything or facts you need... Rose.” Not content with defaming and destroying VIRGIE ARTHUR on their own sites, the CONSPIRATORS looked for a broader publication to disseminate their dirt. The CONSPIRATORS disseminated a false and defamatory article alleging that VIRGIE ARTHUR married her step-brother and bore a son by him. Defendant HOWARD STERN approached CBS with the step-brother story. Defendant BIRKHEAD sent the story to defendant TMZ and to its Executive Producer/Managing Editor, Defendant LEVIN. Wanting to assist Defendant BIRKHEAD and the other CONSPIRATORS in destroying VIRGIE ARTHUR, TMZ and LEVIN published the story on their website, TMZ.com. The story ran under the title, “Virgie Has Son With Step-Brother.” The intention to help BIRKHEAD and to hurt VIRGIE ARTHUR is shown by the way the article began: “As Larry Birkhead’s custody hearing looms with grandma Virgie standing largely in the way, TMZ has dug up an interesting family tree – turns out Virgie liked her stepbrother a whole lot.” The story was sent to TMZ and LEVIN by Defendant BIRKHEAD, with the purpose of holding VIRGIE ARTHUR up to public ridicule. TMZ

and LEVIN published the story for the same reason. Not content that thousands of persons read the story, many accusing VIRGIE of incest, TMZ and LEVIN used their website to conduct “an opinion poll.” Defendants TMZ and LEVIN published the results as follows:

**Virgie boinking David is . . . .**

Creepy 85%

No problemo 15%

Total Votes: 115,403

HARRIS’s plan, in his own words, was to “have a Virgie series that will go viral if I break it on my website ... and ET [the *Entertainment Tonight* program on CBS].

When the defendant CONSPIRATORS undertook these actions and when the defendants TMZ and LEVIN published the article and the “poll” results, they were aware that the story related to a family tree in Texas, that VIRGIE ARTHUR resides in Texas, and that her reputation was centered in Texas. They also knew that the story was false.

HARRIS apparently was miffed that TMZ and not he was permitted to break the step-brother story. Defendant HOWARD STERN attempted to mollify him by offering him other exclusive stories. HOWARD STERN, working through defendant TURNER in Texas, promised HARRIS exclusivity on a story about a childhood injury to one of ARTHUR’s children and a story about ARTHUR marrying a cousin. According to TURNER, “Howard said ONLY you [HARRIS] get these 2 stories in depth the injury to Donald Hart, Jr., the ‘Kissing Cousins’ and if you want to correct the family tree that TMZ got wrong... I am suppose[d] to cooperate and help you find anything or facts you need... Rose.” As TURNER further explained to HARRIS, “I have been told by both the Stern family and Krista (on behalf of her and Mr. Wood) to assist you in anything you ask me to do.” HARRIS responded, “rose – I sure do appreciate it ... I know krista and

lin and howard et all love your work ....” Clearly, Defendants HARRIS and HOWARD STERN, along with HOWARD STERN’s attorneys, Krista Barth and Lin Wood, all were working together to smear ARTHUR, through TURNER, HOWARD STERN’s agent in Texas. Mr. Wood, speaking for his client, HOWARD STERN, admitted in open court that he had engaged in efforts to smear ARTHUR, and that he smears opponents in defamation case as a matter of standard practice: “I’m sure I probably tried to go out and dig up dirt on Virgie Arthur because that’s how you defend a defamation case. You try to, in effect, attack the reputation of the plaintiff.”

V.

**FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS:  
DEFAMATION**

Defendants HOWARD STERN, BONNIE STERN, BIRKHEAD, HARRINGTON, HARRIS, TURNER, STEPHENS, LEVIN, TMZ and CBS published false statements, presented as factual, that concerned VIRGIE ARTHUR and that were defamatory. While publishing these statements, Defendants HOWARD STERN, BONNIE STERN, BIRKHEAD, HARRINGTON, HARRIS, TURNER, STEPHENS, LEVIN, TMZ, and CBS acted negligently. Alternatively, if it is shown that VIRGIE ARTHUR is a limited public figure, which she does not admit but specifically denies, defendants published the defamatory statements with malice, as defined in constitutional law, *i.e.* with knowledge that they were false or with reckless disregard to falsity.

The Defendants directed the defamation into Texas, where they knew Ms. ARTHUR lived. As a direct and proximate result of Defendants’ publication of the defamatory statements, VIRGIE ARTHUR’s reputation has been severely damaged. The allegations contained in the defamatory statements have caused her to suffer extreme mental anguish, public humiliation, and embarrassment. Those who do not know her have treated her with derision. Defendants have created a very negative public perception

of Ms. ARTHUR, which threatens her ability to obtain court-ordered visitation of her granddaughter, Dannielynn, which Ms. ARTHUR does not think she can obtain unless she can clear her name. Ms. ARTHUR also brings this cause to recover a sum of money, as found by the trier of fact, which will compensate her for the damage caused by Defendants HOWARD STERN, BONNIE STERN, BIRKHEAD, HARRINGTON, HARRIS, TURNER, STEPHENS, LEVIN, TMZ and CBS.

In the unlikely event this Court finds that the statements and publications made by the defendants are not defamatory as a matter of law, then the audience to which they were directed to be defamatory could certainly reasonably understand the statements as being an attempt to defame VIRGIE ARTHUR. As such, the statements are defamatory by implication.

The defamatory statements and publications made by the defendants were republished in various media worldwide. For example, the TMZ step-brother story was republished in India the day after it was published in the U.S.

Virgie Arthur's stepbrother is her son's father!  
Washington | April 20, 2007 4:34:25 PM IST

If reports are to be believed, late model Anna Nicole Smith's estranged mother Virgie fell in love with her stepbrother, and gave birth to his son.

Virgie was born out of her mother Paralee and father Melvin's wedlock. But later on Paralee married one George William Tacker, who had begotten a son named David Luther Tacker from a woman, Betty Jo.

As per the family tree, Virgie and David were the step children of George and Paralee, and they had a happy family.

Later on Virgie fell for her step brother and gave birth to his son, although she does not share blood with George, reports TMZ. (ANI)<sup>1</sup>

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<sup>1</sup> WebIndia123.com,  
[http://news.webindia123.com/news/ar\\_showdetails.asp?id=704200854&cat=&n\\_date=20070420](http://news.webindia123.com/news/ar_showdetails.asp?id=704200854&cat=&n_date=20070420)

Not atypical were headlines like the following: “Virgie Arthur: Incest is best, she put her stepbrother to the test.”<sup>2</sup> The likely effect of the step-brother story on ARTHUR’S ability to have a relationship with her granddaughter, Dannielynn, was not lost on observers.

The following is from a blogger in the United Kingdom:

**Virgie Arthur And Her Step-Brother Were Really Close, And By "Close" I Mean Screwing**

Anna Nicles Moms had a relationship with her step-brother that resulted in a child. Now before everyone starts vomiting, remember - he wasn't a blood relation. The son doesn't have flippers .... If she is planning on trying to obtain custody of Dannielynn from Flat Iron, she might wanna leave this tidbit out. I know it's not illegal or anything but still – ewwww ....<sup>3</sup>

The defendants are legally responsible for such republication of their defamatory statements.

VI.

**SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS:  
CONSPIRACY**

Defendants HOWARD STERN, BONNIE STERN, BIRKHEAD, HARRINGTON, HARRIS, TURNER, STEPHENS, LEVIN, TMZ, and CBS had a meeting of the minds and decided on a course of action to destroy the reputation of VIRGIE ARTHUR and to hold her up to public ridicule. Also, defendants joined in an ongoing conspiracy led by HOWARD STERN and others. Defendants BONNIE STERN, BIRKHEAD, HARRINGTON, HARRIS, TURNER, STEPHENS, LEVIN, TMZ, and CBS adopted the goals of the ongoing conspiracy, which previously had been launched by HOWARD STERN, and they acted in furtherance of this ongoing conspiracy.

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<sup>2</sup> <http://www.snarkygossip.com/2007/04/19/virgie-arthur-incest-is-best-she-put-her-stepbrother-to-the-test/>

<sup>3</sup>

<http://gossip.americangirl.co.uk/index.php/2007/04/20/VirgieArthurAndHerStepBrotherWereReallyCloseAndByC>

Defendants committed one or more unlawful, overt acts in furtherance of the conspiracy. Plaintiff was damaged as a proximate result of the conspiratorial activities of defendants. Ms. ARTHUR brings this cause to clear her name and to recover a sum of money, as found by the trier of fact, which will compensate her for the damage caused by defendants.

#### **VII. EXEMPLARY DAMAGES**

Defendants HOWARD STERN, BONNIE STERN, BIRKHEAD, HARRINGTON, HARRIS, TURNER, STEPHENS, LEVIN, TMZ, and CBS were grossly negligent in undertaking the actions ascribed to them in this petition. Alternatively, Defendants HOWARD STERN, BONNIE STERN, BIRKHEAD, HARRINGTON, HARRIS, TURNER, STEPHENS, LEVIN, TMZ, and CBS undertook these actions with malice as defined under Texas law and with malice as defined under constitutional law, *i.e.* with knowledge of the falsity of the defamatory statements or with reckless disregard as to the falsity of the statements. Plaintiff VIRGIE ARTHUR brings this cause to recover a sum of money, as found by the trier of fact, which will serve as an example to other persons who may, in the future, be tempted to engage in similar unlawful conduct.

#### **VIII. JURY DEMAND**

Plaintiff demands a jury trial.

#### **IX. PRAYER**

Plaintiff VIRGIE ARTHUR requests that on final trial plaintiff VIRGIE ARTHUR have the following:

- Judgment against all defendants for actual damages as found by the trier of fact;

- Judgment against all defendants for exemplary damages as found by the trier of fact;
- Prejudgment and postjudgment interest as provided by law;
- Costs of suit; and
- Such other and further relief to which Plaintiff VIRGIE ARTHUR may be justly entitled.

Respectfully submitted,

THE O'QUINN LAW FIRM

By: 

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713-223-1000 (telephone)  
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**ATTORNEYS FOR  
PLAINTIFF VIRGIE  
ARTHUR**

CERTIFICATE OF SERVICE

On the ~~13<sup>th</sup>~~<sup>14<sup>th</sup></sup> day of August, 2009, Plaintiff served the foregoing Plaintiff's Fourth Amended Petition to all parties as follows.

*Via Email and Fax*

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*Via Email and Certified Mail*

Ms. Nelda Turner  
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Gladewater, Texas 75647

  
NEIL MCCABE

CAUSE NO. 2008-24181

VIRGIE ARTHUR ,	§	IN THE DISTRICT COURT OF
	§	
PLAINTIFF,	§	
	§	
v.	§	HARRIS COUNTY, T E X A S
	§	
HOWARD K. STERN, BONNIE STERN,	§	
LYNDAL HARRINGTON, ART HARRIS,	§	
NELDA TURNER, TERESA STEPHENS,	§	
LARRY BIRKHEAD, HARVEY LEVIN,	§	
TMZ PRODUCTIONS, INC., and	§	
CBS STUDIOS, INC.	§	
	§	
DEFENDANTS.	§	280th JUDICIAL DISTRICT

**PLAINTIFF'S REQUESTS FOR DISCLOSURES TO CBS STUDIOS, INC.**

TO: DEFENDANT, CBS STUIDOS, INC., by and through registered agent,  
Corporation Service Company, 701 Brazos, Suite 1050, Austin, Texas 78701

PLAINTIFF, VIRGIE ARTHUR, files this request for disclosures under Texas Rule of Civil Procedure 194. Each defendant is requested to disclosure within 30 days of service of these requests, the information or material described in Texas Rule of Civil Procedure 194.2:

- (a) **The correct names of the parties to the lawsuit;**
- (b) **the name, address, and telephone number of any potential parties;**
- (c) **the legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial);**
- (e) **the name, address, and telephone number of persons having knowledge of relevant facts and a brief statement of each identified person's connection with the case;**
- (f) **for any testifying expert:**

- (1) the expert's name, address, and telephone number;
- (2) the subject matter on which the expert will testify;
- (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, of if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
- (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
  - (A) all documents, tangible things, reports, models or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
  - (B) the expert's current resume and bibliography;
- (g) any indemnity and insuring agreements described in Rule 192.3(f);
- (h) any settlement described in Rule 192.3(g);
- (i) any witness statements described in Rule 192.3(h);
- (l) the name, address, and telephone number of any person who may be designated as a responsible third party.

Respectfully submitted,

THE O'QUINN LAW FIRM

By: 

Neil C. McCabe  
State Bar No. 13335300  
M. Michael Meyer  
State Bar No. 13993850  
440 Louisiana, Suite 2300  
Houston, Texas 77002  
713-223-1000 (telephone)  
713-222-6903 (fax)  
**ATTORNEYS FOR  
PLAINTIFF VIRGIE  
ARTHUR**

*13th* *14th*  
**CERTIFICATE OF SERVICE**

On the *13th* of August, 2009, Plaintiff served the foregoing Requests for Disclosures to CBS Studios, Inc. to all counsel of record as follows.

*Via Email and Fax*

Mr. Harry Susman  
Mr. Richard Hess  
Susman Godfrey LLP  
1000 Louisiana, 51<sup>st</sup> Floor  
Houston, Texas 77002  
(713) 651-9366  
Fax: (713) 654-6666

*Via Email and Fax*

Mr. L. Lin Wood  
Mr. Luke Lantta  
Bryan Cave  
One Atlantic Center, 14<sup>th</sup> Floor  
Atlanta, GA, 30309  
404 572 6600  
Fax: 404 572 6999

*Via Email and Fax*

Mr. Charles Babcock  
Ms. Amanda Bush  
Ms. Nancy Hamilton  
Jackson Walker  
1401 McKinney, Suite 1900  
Houston, Texas 77010  
713.752.4200  
Fax: 713.752.4221

*Via Email and Fax*

Ms. Diana Marshall  
Marshall & Lewis, LLP  
1010 Louisiana, Suite 450  
Houston, Texas 77002  
713-655-0300  
Fax: 713-655-0130

*Via Certified Mail*

Ms. Teresa Stephens  
5022 Cloyce Court  
North Richland Hills, Texas 76180

*Via Email and Certified Mail*

Ms. Bonnie Stern  
269 S. Beverly Dr., No. 1247  
Beverly Hills, CA 90212

*Via Email and Certified Mail*

Ms. Lyndal Harrington  
8318 Burning Hills Dr.  
Houston, TX 77071

*Via Email and Certified Mail*

Ms. Nelda Turner  
13348 County Road 3111  
Gladewater, Texas 75647

  
NEIL MCCABE



- (f) for any testifying expert:
- (1) the expert's name, address, and telephone number;
  - (2) the subject matter on which the expert will testify;
  - (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, of if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
  - (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
    - (A) all documents, tangible things, reports, models or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
    - (B) the expert's current resume and bibliography;
- (g) any indemnity and insuring agreements described in Rule 192.3(f);
- (h) any settlement described in Rule 192.3(g);
- (i) any witness statements described in Rule 192.3(h);
- (l) the name, address, and telephone number of any person who may be designated as a responsible third party.

Respectfully submitted,

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**ATTORNEYS FOR  
PLAINTIFF VIRGIE  
ARTHUR**

12~~th~~ 14<sup>th</sup> **CERTIFICATE OF SERVICE**

On the 12~~th~~ 14<sup>th</sup> of August, 2009, Plaintiff served the foregoing Requests for Disclosures to Larry Birkhead to all counsel of record as follows.

*Via Email and Fax*

Mr. Harry Susman  
Mr. Richard Hess  
Susman Godfrey LLP  
1000 Louisiana, 51<sup>st</sup> Floor  
Houston, Texas 77002  
(713) 651-9366  
Fax: (713) 654-6666

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Ms. Nancy Hamilton  
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