

Cause No. 2007-62428

VIRGIE ARTHUR	§	IN THE DISTRICT COURT OF
	§	HARRIS COUNTY, TEXAS
v.	§	
	§	
HOWARD K. STERN, CBS STUDIOS, INC., and KPRC HOUSTON,	§	280 th JUDICIAL DISTRICT
	§	
	§	

**SPECIAL APPEARANCE TO PRESENT MOTION
OBJECTING TO JURISDICTION**

TO THE HONORABLE COURT:

Howard K. Stern, defendant (the "*Defendant*") in this cause, makes this special appearance under the authority of Texas Rule of Civil Procedure 120a for the purpose of objecting to the jurisdiction of the court over the person and property of the Defendant in this cause initiated by Virgie Arthur, Plaintiff (the "*Plaintiff*") against Defendant and other named co-defendants, showing the Court the following:

1. Purpose of Special Appearance

This special appearance is made to the entire proceeding.

2. Special Appearance Motion Filed First

This special appearance motion (the "*Motion*") is filed before any motion to transfer or any other plea, pleading, or motion filed by Defendant. As additional support for the Motion, Defendant attaches as **Exhibit A** hereto the Affidavit of Howard K. Stern in addition to this verified Motion.

3. The Court Does Not Have Jurisdiction Over Defendant

This Court does not have jurisdiction over Defendant because Defendant is not amendable to process issued by the courts of Texas because: (i) Defendant is not a resident of Texas and is not required to maintain and does not maintain a registered agent for service of

process in Texas; (ii) Defendant does not engage in business in Texas and has not committed any tort, in whole or in part, within the state; (iii) Defendant does not maintain a place of business in Texas and has no employees, servants, or agents within the state; (iv) Defendant has no substantial connection with Texas arising from any action or conduct of Defendant purposefully directed toward Texas; (v) Plaintiff's claims do not arise from and are not related to any activity conducted by Defendant in Texas; and (vi) Defendant has no continuing systematic contacts with Texas.

4. Jurisdiction Deprives Defendant of Due Process

The assumption of jurisdiction by the court over Defendant and his property would offend traditional notions of fair play and substantial justice, depriving Defendant of due process as guaranteed by the Constitution of the United States.

WHEREFORE, for these reasons, Defendant requests that the Court set this Motion for hearing on notice to Plaintiff, and that after hearing, the court grant this Motion and dismiss this cause for want of jurisdiction.

Dated: November 5, 2007.

Respectfully submitted,

POWELL GOLDSTEIN LLP

By: _____

Keith Miles Aurzada
Texas Bar No. 24009880
L. Lin Wood
2200 Ross Avenue, Suite 3200
Dallas, Texas 75201
(214) 721-8000 Telephone
(214) 721-8100

Attorneys for Howard K. Stern

VERIFICATION

STATE OF CALIFORNIA:
COUNTY OF LOS ANGELES

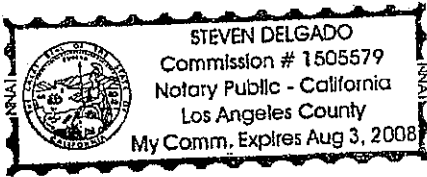
Before me, the undersigned Notary Public, on this day personally appeared Howard K. [redacted], and after being duly sworn, stated under oath that he is the defendant in this cause; that he read the above Special Appearance to Present Motion Objection to Jurisdiction (the "Motion"); and that every statement contained in the Motion is within his personal knowledge and is true and correct.

[Signature]

SUBSCRIBED AND SWORN TO BEFORE ME on November 5, 2007

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[Signature]
Name: Steven Delgado
Notary Public in and for the State of ~~Texas~~ California
My commission expires: Aug. 3 2008



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CERTIFICATE OF SERVICE

I certify that a true copy of the above Special Appearance Motion has this day been sent by certified mail to:

Neil McCabe
State Bar No. 13335300
The O'Quinn Law Firm
440 Louisiana
Suite 2300
Houston, Texas 77002

Dated: November 5, 2007



Keith Miles Aurzada

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EXHIBIT A

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VIRGIE ARTHUR

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IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS

v.

HOWARD K. STERN,
CBS STUDIOS, INC., and
KPRC HOUSTON,

280th JUDICIAL DISTRICT

AFFIDAVIT OF HOWARD K. STERN

STATE OF CALIFORNIA:
COUNTY OF LOS ANGELES

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

1. Identification of Affiant

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

2. Residence of Defendant

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

3. No Connection to Texas

I have no substantial connections to the state of Texas. I do not own property of any kind in Texas. I have not signed any contracts in the state of Texas. I am not engaged in business in Texas and have not committed any tort within the state of Texas. I do not maintain a place of business in Texas and have no employees, servants, or agents within the state of Texas. I have no continuing contacts with the state of Texas.

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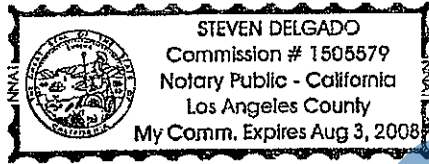
4. Statements are True and of Personal Knowledge

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

USA
Howard K. Stern

SUBSCRIBED AND SWORN TO BEFORE ME on this 5 day of November, 2007.

Name: Steven Delgado
Notary Public in and for the State of California
My commission expires: Aug 3, 2008



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I, Theresa Chang, District Clerk of Harris County, Texas, certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date
Witness my official hand and seal of office
this _____

Certified Document Number: _____

THERESA CHANG, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com