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ORIGINAL FILED
 JUL 06 2007
 LOS ANGELES
 SUPERIOR COURT

5 Attorneys for Howard K. Stern, Executor
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT
 10

11 In re the Matter of the Estate of

Case No. BP 104575

12 VICKIE LYNN MARSHALL, also
 known as VICKIE LYNN SMITH,
 13 also known as VICKIE LYNN
 HOGAN, also known as ANNA
 14 NICOLE SMITH

**DECLARATION OF HOWARD K.
 STERN IN SUPPORT OF EX PARTE
 APPLICATION FOR TEMPORARY
 RESTRAINING ORDER AND ORDER
 TO SHOW CAUSE RE: PRELIMINARY
 INJUNCTION**

15 Deceased.

16
 17 HOWARD K. STERN, as Executor of the
 Estate of Vickie Lynn Marhsall,

Date: July 6, 2007
 Time: 8:30 a.m.
 Judge: Hon. Mitchell L. Beckloff
 Dept.: 5; Room 258

18 Petitioner,
 19

20 v.

21 THOMAS RICCIO, and individual;
 UNIVERSAL RARITIES LLC, a California
 Limited Liability Company; GERALD
 22 WAYNE JOHNSON, M.D., an individual; and
 DOES 1 through 100, inclusive,
 23

24 Respondents.

25 I, Howard K. Stern, declare as follows:

26 1. I respectfully submit this Declaration in support of Howard K. Stern's, as Executor
 27 of the Estate of Vickie Lynn Marshall, aka Vickie Lynn Smith, aka Vickie Lynn Hogan, aka Anna
 28 Nicole Smith (the "Estate") *Ex Parte* Application for Temporary Restraining Order and Order to

1 Show Cause Re: Preliminary Injunction.

2 2. On May 14, 2007, I was appointed as the Special Administrator of the Estate, and
3 Letters of Special Administration were subsequently issued to me. By order of this Court, I was
4 appointed Executor on June 19, 2007, and Letters Testamentary were issued that same day. As
5 Executor, I am both authorized and, as a fiduciary, required to make decisions on behalf of the
6 Estate and, when necessary, to pursue litigation on behalf of the Estate.

7 3. On Tuesday, June 26, 2007, I spoke with Mr. Larry Birkhead about a meeting that
8 he had earlier the same day with Mr. Thomas Riccio of Universal Rarities. I am informed and
9 believe that Universal Rarities is a company operating out of Corona, California that obtains and
10 then sells or otherwise distributes for profit what Universal Rarities labels as "fine collectibles and
11 memorabilia." Mr. Birkhead told me that his meeting with Mr. Riccio concerned a videotape
12 depicting a surgical procedure performed on the late Ms. Smith that Mr. Riccio/Universal Rarities
13 unlawfully possessed. Mr. Birkhead contacted me as Executor to express his concern so that I
14 could properly address the situation on behalf of the Estate. Mr. Birkhead has also submitted a
15 Declaration in this matter describing his meeting with Mr. Riccio.

16 4. Following my telephone conference with Mr. Birkhead, I contacted my attorneys to
17 alert them of the situation. Then, on June 28, 2007, I spoke with Mr. Riccio directly by telephone
18 to learn as much as I could about the videotape and what Mr. Riccio and Universal Rarities
19 intended to do with the videotape.

20 5. Mr. Riccio told me that he (and his company Universal Rarities) had possession of
21 at least one videotape depicting a surgical procedure performed on the late Ms. Smith by Gerald
22 Johnson, M.D., in Houston, Texas in or about 1994. Mr. Riccio told me that he had obtained the
23 videotape directly from Dr. Johnson. Mr. Riccio told me that Dr. Johnson did not have any release
24 or waiver documents executed by Ms. Smith that might somehow have permitted Dr. Johnson to
25 sell or otherwise distribute this videotape, but that Dr. Johnson ostensibly believed that he was
26 permitted to profit through distribution of the videotape now that Ms. Smith is deceased. While it
27 is unclear why Dr. Johnson made the videotape in the first instance, it is clear that the videotape
28 was made pursuant to a confidential physician-patient relationship.

Exhibit A

LUCE FORWARD
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July 3, 2007

35604-00001

VIA FACSIMILE, U.S. MAIL, RETURN RECEIPT REQUESTED,
AND STANDARD U.S. MAIL
951-278-1655

Mr. Thomas Riccio
Universal Rarities
512 South Corona Mall
Corona, CA 92879-1420

Re: Unlawful Possession of Videotape

Dear Mr. Riccio:

This firm represents Howard K. Stern as Executor under the Will of Anna Nicole Smith (hereinafter, the "Estate").

We understand that you/Universal Rarities are/is in possession of one or more videotapes depicting a surgical procedure performed on the late Ms. Smith by Gerald Johnson, M.D. in Houston, Texas in or about 1994. We understand that you obtained the videotape directly from Dr. Johnson.

It is unclear why the videotape was made in the first instance. What is clear, however, is that the videotape was made pursuant to a physician-patient relationship and is thus protected under federal law, Texas state law, and California state law.

You are now on notice that Dr. Johnson's disclosure of the videotape to you was patently unlawful, and that your current possession of the videotape is similarly unlawful. We understand that Dr. Johnson ostensibly believes that he was somehow permitted to use the videotape in any manner upon Ms. Smith's death. Dr. Johnson is wrong. At no time did Ms. Smith execute any waiver or release document in favor of Dr. Johnson relative to the videotape that might permit Dr. Johnson's disclosure of the videotape. This disclosure violated physician-patient confidentiality and other ethical provisions, Texas statutory and common law, California statutory and common law, and federal law under the Federal Health Information Portability and Accountability Act (HIPPA). Ms. Smith's death does not alter or diminish the applicability of this law and protections afforded by the pertinent statutory provisions. You should be aware that

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Mr. Thomas Riccio

July 3, 2007

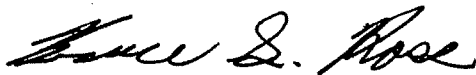
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certain of the applicable state and federal statutes include severe penalties for violation of the same. Any further dissemination of the videotape by you is unlawful, and any such conduct will be as actionable as Dr. Johnson's initial disclosure of the videotape to you.

The videotape, as well as any and all copies, excerpts, or other media depicting the videotape or any portion thereof, belongs solely to the Estate. Accordingly, we hereby demand that you (1) immediately cease and desist any and all efforts to sell, distribute, or otherwise disseminate, in any manner and any form of media whatsoever, the videotape and/or its contents; (2) immediately provide us with a full accounting of the treatment of the videotape since the time it has been in your possession so that we know whether copies have been made and, if so, the current disposition of those copies; and (3) immediately return to us, by delivery to me at the address provided above, the videotape as well as all copies, excerpts, or other media depicting the videotape or any portion thereof created since the time the videotape has been in your possession.

We are currently preparing appropriate pleadings to address Dr. Johnson's unlawful disclosure of the videotape to you. In order to determine the scope of that litigation, please contact me directly (or through your attorneys) no later than Thursday, July 5, 2007 to confirm your willingness to immediately accept and fully respond to the demands made herein.

Very truly yours,



Bruce S. Ross
of
LUCE, FORWARD, HAMILTON & SCRIPPS LLP

JV

cc: Gerald Johnson, M.D. (via U.S. Mail)

cc: Entertainment Tonight/The Insider (via U.S. Mail)
c/o Linda Bell
c/o Bonnie Tiegel
Paramount Pictures
555 Melrose Avenue
Los Angeles, California 90038

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Mr. Thomas Riccio

July 3, 2007

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cc: Geraldo Rivera/FOX News (via U.S. Mail)
c/o Gary D. Roberts
Agent for Service of Process for
Fox News Productions, Inc., Fox News Service, Inc.
10201 West Pico Boulevard
Los Angeles, California 90035

Geraldo Rivera/FOX News (via U.S. Mail)
1211 Avenue of the Americas
New York, New York 10036

cc: Howard K. Stern, Esq.
John Vaughn, Esq.
Vivian Lee Thoreen, Esq.
Jonathan H. Park, Esq.

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