

1 Douglas R. Young (State Bar No. 073248)
 2 Grace K. Won (State Bar No. 178258)
 3 Eric W. Bass (State Bar. No. 206641)
 4 Farella Braun & Martel LLP
 5 Russ Building, 30th Floor
 235 Montgomery Street
 San Francisco, CA 94104
 Telephone: (415) 954-4400
 Facsimile: (415) 954-4480,

6 Attorneys for Non-Party Reporter
 7 TED ROWLANDS

FILED
SAN MATEO COUNTY

FEB 11 2004

Clerk of the Superior Court

By

DEPUTY CLERK

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 IN AND FOR THE COUNTY OF SAN MATEO

BY FAX

11 PEOPLE OF THE STATE OF
 12 CALIFORNIA,

13 Plaintiff.

14 vs.

15 SCOTT LEE PETERSON,

16 Defendant.

Case No. 1056770

DECLARATION OF GRACE K. WON IN
 SUPPORT OF MOTION OF NON-PARTY
 REPORTER TED ROWLANDS TO
 QUASH TRIAL SUBPOENA

Date: TBA
 Time: TBA
 Dept: 42
 Judge: Hon. Alfred Delucchi

18 I, Grace K. Won, declare as follows:

19 1. I am a partner at the law firm Farella Braun & Martel, LLP, counsel of record for non-
 20 party reporter Ted Rowlands in the above-captioned matter. I have personal knowledge of the
 21 matters stated herein and could and would testify competently thereto under oath, if required.

22 2. I submit this declaration in support of the Motion By Non-Party Reporter Ted
 23 Rowlands To Quash Trial Subpoena.

24 3. On or about January 26, 2004, the District Attorney for Stanislaus County (the
 25 "District Attorney") served a trial subpoena on KTVU, Inc. ("KTVU"), ordering non-party
 26 reporter Ted Rowlands to appear as a witness to testify in the matter of People v. Scott Lee
 27 Peterson, Case No. 1056770. No other indication of the scope or subject of the subpoena is
 28

17181685129.1

Farella Braun & Martel LLP
 Russ Building, 30th Floor
 235 Montgomery Street
 San Francisco, CA 94104
 (415) 954-4400

DECLARATION OF GRACE K. WON IN SUPPORT OF MOTION OF NON-PARTY TED ROWLANDS TO
 QUASH TRIAL SUBPOENA / CASE NO. 1056770

Filed By
 One Legal

1 apparent on the face of the subpoena. Attached as Exhibit A is a true and correct copy of the
2 subpoena.

3 4. Ted Rowlands is a reporter for Channel 2 KTVU. Mr. Rowlands has conducted
4 newsgathering activities relating to the criminal case against Scott Peterson, the defendant in this
5 action.

6 5. On January 28 and 29, 2003, in an effort to meet-and-confer regarding the subpoena, I
7 placed telephone calls to the Stanislaus County District Attorney office. In both calls, I was
8 unable to reach anyone directly and left messages inquiring about the reasons the subpoena had
9 been served. On January 30, 2003, having heard nothing back, I faxed a letter to Rick Distaso at
10 the Stanislaus County District Attorney office urging him to contact me to discuss the subpoena
11 and alerting him of Mr. Rowlands' intention to bring a motion to quash. Attached as Exhibit B is
12 a true and correct copy of the January 30, 2003 letter that I sent to Mr. Distaso.

13 6. On January 31, 2003, I spoke with Rick Distaso in the Stanislaus County District
14 Attorney office. In that conversation, Mr. Distaso indicated that the District Attorney subpoenaed
15 Mr. Rowlands because it wanted to compel him to testify about conversation he had with Mr.
16 Peterson regarding Mr. Peterson's alleged affair with Amber Frey. Mr. Distaso stated that he
17 believed that these conversations were referenced in a news report by Mr. Rowlands which was
18 broadcast on KTVU, but said he would not provide any dates for that alleged broadcast. In that
19 conversation, Mr. Distaso declined to withdraw the subpoena to Mr. Rowlands.

20 7. Attached as Exhibit C is a true and correct copy of the February 3, 2004 letter that I
21 sent to Mr. Distaso confirming our conversation. In that letter, I requested further information
22 about the testimony that the District Attorney seeks from Mr. Rowlands. I also requested that the
23 District Attorney identify the specific KTVU broadcast that Mr. Distaso had mentioned in our
24 conversation. On February 5, 2004, I left Mr. Distaso another voicemail to follow up on my
25 February 3 letter. However, to date, the District Attorney has not provided any further
26 information about the nature of the testimony sought or about which KTVU broadcast had been
27 referenced by Mr. Distaso.

28

-2-

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Pardis Braun & Daniel LLP
Kaiser Building, 20th Floor
335 Montgomery Street
San Francisco, CA 94104
(415) 456-4400

DECLARATION OF GRACE K. WON IN SUPPORT OF MOTION OF NON-PARTY TED ROWLANDS TO
QUASH TRIAL SUBPOENA / CASE NO. 1056770

1 8. KTVU has already provided a declaration to the District Attorney authenticating
2 videotape of the news footage broadcast on KTVU relating to the matter of People v. Scott Lee
3 Peterson. In August 2003, in response to a subpoena served by the District Attorney on the
4 KTVU Custodian of Records, KTVU provided videotape of original news footage of KTVU
5 relating to the People v. Scott Lee Peterson case as well as a sworn declaration authenticating that
6 videotape. Attached as Exhibit D is a true and correct copy of the subpoena served by the District
7 Attorney on the KTVU Custodian of Records. Attached as Exhibit E is a true and correct copy of
8 the declaration by the KTVU Custodian of Records, Janice S. Gin, authenticating the videotape
9 provided by KTVU in response to that subpoena.

10 I declare under penalty of perjury under the laws of the State of California that the
11 foregoing is true and correct.

12 Executed on February 11, 2004 at San Francisco, California.

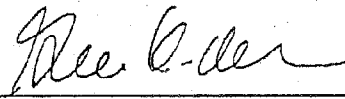
13
14 
15 _____
16 Grace K. Won

EXHIBIT A

01/28/04 14:08 FAX 510 874 0239

KTVU

Attorney or Party without attorney:

Stanislaus County District Attorney
800 11th Street, Room 200
Modesto, CA 95354 (209) 525-5550

FOR COURT USE ONLY

Name of court, judicial district or branch court, and street address:

Stanislaus County Superior Court
800 11th Street, Room 140
Modesto, CA 95354

Title of Case:

People v. PETERSON, SCOTT LEE

SUBPOENA (Criminal or Juvenile): PERSONAL SERVICE

Case Number:

1056770

THE PEOPLE OF THE STATE OF CALIFORNIA, TO:

Jurisdiction: OCA

Agency/Number: MPD 02142591

F PC 187

KTVU CHANNEL 2 NEWS
ROWLANDS, TED
2 JACK LONDON SQ
OAKLAND CA 94607

1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this action at the date, time, and place shown in the box below UNLESS you make a special agreement with the person named in item 3.

a. Date: 01/26/2004 Time: 9:30 AM Event: JURY TRIAL FELONY

b. Address: Superior Court 800 11th Street, Modesto, California 95354

***** TO AVOID UNNECESSARY COURT APPEARANCES, PLEASE CALL 575-0785 after normal
***** business hours the night before your scheduled appearance for a recorded message. *****

2. AND YOU ARE ORDERED TO APPEAR IN PERSON

Notes:

3. IF YOU HAVE ANY QUESTIONS regarding this court order, contact the following person before the date on which you are to appear:

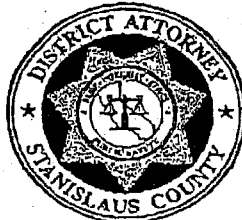
a. Name: RICK DISTASO b. Telephone number: (209) 525-5550

4. Witness fees: You may be entitled to witness fees, mileage, or both, at the discretion of the court.

BEFORE court, please come to the District Attorney's office at 8:00 AM on 01/26/2004.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED BY A FINE, IMPRISONMENT, OR BOTH.
A WARRANT MAY BE ISSUED FOR YOUR ARREST IF YOU FAIL TO APPEAR.

FOR COURT USE ONLY



James C. Brazelton
James C. Brazelton, District Attorney

Date: 12/19/2003

Witness Copy

EXHIBIT B



FARELLA BRAUN + MARTEL LLP

Attorneys At Law

Russ Building / 235 Montgomery Street
San Francisco / CA 94104

T 415.954.4400 / F 415.954.4480
www.fbm.com

GRACE K. WON

gwon@fbm.com
D 415 954 4944

January 30, 2004

Via Facsimile and U.S. Mail

Rick Distaso
Stanislaus County District Attorney's Office
800 11th Street, Room 200
Modesto, CA 95354

Re: Subpoena for Ted Rowlands in People v. Scott Lee Peterson, Case No. 1056770

Dear Mr. Distaso:

I am counsel for KTVU and its reporter Ted Rowlands, and am writing to follow up on messages I have left for you and your associate Jan on January 28 and 29, 2004, regarding the subpoena for Mr. Rowlands served on the station on January 26, 2004.

I understand from my client that the Stanislaus County District Attorney's office is not seeking testimony from Mr. Rowlands. However, I need further clarification from you. While I recognize that you are very busy preparing for trial and moving your office to temporary quarters in San Mateo County, it is important that we discuss this subpoena. If we do not hear from you, we will have no choice but to move to quash the subpoena in its entirety.

Please feel free to contact me at the above number. You can also reach me on my cell phone: (415) 577-4783. I look forward to speaking to you soon.

Sincerely,

Grace K. Won

GKW:ka

17181682934 1

EXHIBIT C



FARELLA BRAUN + MARTEL LLP

Attorneys At Law

Russ Building / 235 Montgomery Street
San Francisco / CA 94104

T 415.954.4400 / F 415.954.4480
www.fbm.com

GRACE K. WON
gwon@fbm.com
D 415 954 4044

February 3, 2004

Via Facsimile and U.S. Mail

Rick Distaso
Stanislaus County District Attorney's Office
800 11th Street, Room 200
Modesto, CA 95354

Re: Subpoena for Ted Rowlands in People v. Scott Lee Peterson, Case No. 1056770

Dear Mr. Distaso:

I am writing to follow up on the issue of the subpoena your office issued to KTVU reporter Ted Rowlands. Pursuant to our conversation on February 1, 2004, your office will not withdraw the subpoena to Mr. Rowlands. It is your position that Mr. Rowlands should be compelled to testify about conversations he had with the defendant, Scott Peterson, regarding Mr. Peterson's alleged affair with Amber Frye and his denial of that affair. You stated that these conversations were part of report by Mr. Rowlands which was broadcast on KTVU.

We obviously disagree with your position, and require further information from you about the testimony you are seeking. The station is uncertain about the broadcast to which you are referring. Please send me the date on which this story aired so that we may locate the exact broadcast for which you seek testimony. Finally, we would like to get a better idea from you when you expect the trial to start and testimony to begin.

Please feel free to call me or send me an e-mail the above address if that is more convenient for you.

Sincerely,

Grace K. Won

GKW:ka

17181684112.1

EXHIBIT D

By: KTVU/Fox2

510 874 0218

Feb 10 04

20PM

Page 3/3

Attorney or Party without attorney:

Stanislaus County District Attorney
800 11th Street, Room 200
Modesto, CA 95354 (209) 525-5550

Name of court, judicial district or branch court, and street address:

Stanislaus County Superior Court
800 11th Street, Room 140
Modesto, CA 95354

Title of Case:

People v. PETERSON, SCOTT LEE

SUBPOENA (Criminal or Juvenile): *** RECORDS ONLY ***

FOR COURT USE ONLY

Case Number:

1058770

THE PEOPLE OF THE STATE OF CALIFORNIA, TO:
CUSTODIAN OF RECORDS

Jurisdiction: ML

Agency/Number: MPD 02142581

SUBPOENA COMPLIANCE DEPT.
KTVU-CHANNEL 2
2 JACK LONDON SQ NEWS DEPT
OAKLAND CA 94607

1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this action at the date, time, and place shown in the box below UNLESS you make a special agreement with the person named in Item 3.

a. Date: 08/15/2003 Time: 8:30 AM Even: LAW AND MOTION
b. Address: Superior Court 800 11th Street, Modesto, California 95354

2. AND YOU ARE NOT required to appear in person if you produce the records described in the accompanying affidavit and a completed declaration of custodian of record in compliance with Evidence Code sections 1560, 1561, & 1271.
- (a) Place a copy of the records in an envelope (or other wrapper). Enclose your original declaration with the records. Seal them.
 - (b) Attach a copy of this subpoena to the envelope or write on the envelope the case name and number, your name and the date, time, and place from item 1.a. (the box above).
 - (c) Place this first envelope in an outer envelope, seal it, and mail it to the clerk of the court at: Superior Court Clerk, P.O. Box 828, Modesto CA 95354.
 - (d) Mail a copy of your declaration to the District Attorney at the address shown at the top of this form. If records have previously been sent, you may disregard this subpoena.

Notes: ALL AIRED FOOTAGE OF ANY INTERVIEW BY ANY KTVU REPORTER OF SCOTT PETERSON; THIS INCLUDES THE INTERVIEW OF SCOTT PETERSON BY TED ROWLAND. PLEASE PROVIDE THE FOOTAGE IN VHS OR DVD FORMAT.

3. IF YOU HAVE ANY QUESTIONS regarding this court order, contact the following person before the date on which you are to appear:

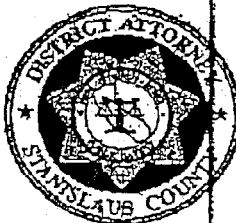
a. Name: (to be assigned) b. Telephone number: (209) 525-5550

4. Witness fees: You may be entitled to witness fees, mileage, or both, at the discretion of the court.

BEFORE court, please come to the District Attorney's office at 8:00 AM on 08/15/2003.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED BY A FINE, IMPRISONMENT, OR BOTH.
A WARRANT MAY BE ISSUED FOR YOUR ARREST IF YOU FAIL TO APPEAR.

FOR COURT USE ONLY



James C. Brazelton

James C. Brazelton, District Attorney

Date: 07/21/2003

(see reverse for proof of service)

Witness Copy

FEB 11 2004 13:51

PAGE 27

[Illegible text block]

EXHIBIT E

By: KTVU-Fox2


510 874 0218;

Feb-10-04 5:20PM;

Page 2/3

|KTVUFOX TWO| 

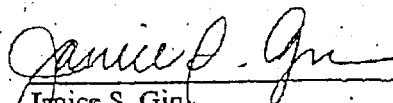
DECLARATION



In response to subpoena in the case of:
People v. Peterson, Scott Lee
Case # 1056770

I, Janice S. Gin, am a custodian of records for KTVU Channel 2. I further declare under penalty of perjury that the enclosed video tape is a true copy of original news footage of KTVU Channel 2 produced during the normal course of business, and related to the case stated above.

Signed,



Janice S. Gin
Associate News Director, KTVU

Date: August 11, 2003