

No. 184,784

PRK ENTERPRISES, INC., PHILIP KLEIN	§	IN THE DISTRICT COURT OF
AND KLEIN INVESTMENTS, INC.	§	
	§	
vs.	§	JEFFERSON COUNTY, TEXAS
	§	
GOOGLE, INC., BLOGGER.COM,	§	
<a href="http://WWW.OPERATIONKLEINWATCH.BLOGSPOT.COM">WWW.OPERATIONKLEINWATCH.BLOGSPOT.COM</a>	§	
AND <a href="http://WWW.SAMTHEEAGLEUSA.COM">WWW.SAMTHEEAGLEUSA.COM</a>	§	
<a href="http://BLOGSPOT.COM">BLOGSPOT.COM</a>	§	172 <sup>ND</sup> JUDICIAL DISTRICT

**PETITIONERS' VERIFIED THIRD AMENDED PETITION**  
**UNDER RULE 202 TO INVESTIGATE CLAIMS**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, PRK ENTERPRISES, INC., KLEIN INVESTMENTS, INC. and PHILIP KLEIN, Petitioners in the above-entitled and numbered cause and files Petitioners' Verified Third Amended Petition Under Rule 202 to Investigate Claims, seeking a deposition of GOOGLE, INC., BLOGGER.COM, [WWW.OPERATIONKLEINWATCH.BLOGSPOT.COM](http://WWW.OPERATIONKLEINWATCH.BLOGSPOT.COM), [WWW.SAMTHEEAGLEUSA.BLOGSPOT.COM](http://WWW.SAMTHEEAGLEUSA.BLOGSPOT.COM), Michael Harrison, Shon Hodgston and Brent Coon, Respondents, and would show the following:

**PARTIES**

1. Plaintiffs, PRK Enterprises, Inc. and Klein Investments, Inc., are corporations doing business in Jefferson County, Texas and are appearing in court through their attorney of record.
2. Plaintiff, Phillip Klein, is appearing in Court through his attorney of record.
3. Respondent, Google, Inc., is a website and is appearing in Court through its attorney

of record, Dennis M. Lynch, 3400 Bank of America Plaza, Dallas, Texas 75202.

4. Respondent, Blogger.com, is a website appearing in Court through its attorney of record, Jeffrey L. Dorrell, 201 Stratford, Houston, Texas 77006.

5. Respondent, www.operationkleinwatch.blogspot.com, is a website appearing in Court through its attorney of record, Jeffrey L. Dorrell, 201 Stratford, Houston, Texas 77006.

6. Respondent, www.samtheagleusa.blogspot.com is a website appearing in Court through its attorney of record, Jeffrey L. Dorrell, 201 Stratford, Houston, Texas 77006.

7. Respondent, Michael Neil Harrison, is an individual who may be served with process at 3118 Timberview, Sugarland, Texas 77479.

8. Respondent, Shon Hodgston, is an individual who may be served with process at his place of business, Brent Coon & Associates, 215 Orleans, Beaumont, Texas 77701.

9. Respondent, Brent Coon, is an individual who may be served with process at his place of business, Brent Coon & Associates, 215 Orleans, Beaumont, Texas 77701.

#### **JURISDICTION AND VENUE**

10. The issues in controversy are within the jurisdictional purview of this Court. Venue is proper in this Court, because any potential suit will be filed in this venue, and the underlying defamation per se and torts are occurring in this venue.

#### **FACTS AND CAUSES OF ACTION**

11. Pursuant to Rule 202, Plaintiffs would show that this is a petition for depositions to investigate claims for an anticipated lawsuit to be filed in this county. The Petitioners

anticipate the institution of a suit in which the Petitioners shall be parties in this venue, and they seek to investigate potential claims by the Petitioners against potentially these Respondent and/or the persons identified by these Respondents as causing or contributing to the underlying torts at issue.

12. By way of background, the websites at issue are being hosted by the Defendant Google, Inc., and/or Blogger.com. These websites shall be collectively referred to as the “B. C. Blogs,” and the contributing individuals and/or entities as the “B. C. Bloggers.” The B. C. Blogs and B. C. Bloggers have been engaged in a deliberate pattern of libel and defamation per se, invasion of privacy, intentional infliction of emotional distress, and use of copyrighted images (both facial and voice image) of the Plaintiff Philip Klein, without permission. The purpose of these websites and the blog entries are only to disparage, harass and cause injury to these Petitioners. These websites and blog entries host significant, false information, and invade the privacy of Petitioners throughout the websites and blogs. For example, without limitation, the website Operation Klein Watch, contains false information on legal proceedings that do not involve either Mr. Klein individually or the other Petitioners; falsely represent that judgments have been taken against the Petitioners; falsely identify a bankruptcy proceeding; and also identify lawsuits that do not involve Petitioners. Additionally, this website identifies all members of Mr. Klein’s family, for no purpose other than to invade their privacy. A review of the websites and the blog entries make it clear that they are not expressing any “opinions” protected by the First Amendment but instead are

solely vehicles for defamation. Further, these Petitioners are not “public figures” as that term is defined under First Amendment jurisprudence, and there is no constitutional right to defame private persons anonymously. As such, the potential Respondents cannot hide behind the First Amendment to continue their anonymous defamatory and tortious conduct.

13. Specifically, these Respondents and others are hiding the identity of the persons or entities comprising the B. C. Bloggers and other agents of B. C. who are responsible for a campaign of relentless defamation. The Respondents named herein have interests adverse to the Petitioners in the anticipated suit. Further, the Petitioners would show that the names, addresses and telephone numbers of all the persons and/or entities who are the “B. C. Bloggers,” as well as those participating in the defamation of the Petitioners through the “B. C. Blogs,” cannot be ascertained through diligent inquiry. Until Petitioners depose Respondents herein, Petitioners cannot set forth the names, addresses and telephone numbers of all persons who have interests adverse to the Petitioners. Petitioners seek to depose these Respondents to learn the full names, addresses and phone numbers of all persons and/or entities contributing to the B. C. Blogs and/or are the B. C. Bloggers.

14. \_\_\_ The Petitioners seek to depose the designated corporate representative of Google, Inc., with knowledge of the identity of the persons or entities contributing any materials to the B. C. Bloggers and the B. C. Blogs. Petitioners also seek to depose Mr. Michael Harrison, who upon information and belief has information regarding the identity of the B. C. Bloggers and contributors to the B. C. Blogs. The Petitioners also seek to depose Shon Hodgston of the

Brent Coon & Associates law firm (B. C. Law firm), who sent undersigned counsel an email stating that he was working on behalf of “B. C.,” the man behind the B. C. Bloggers; and he was reporting to B. C. for direction on this matter. This email has been traced directly to the B. C. law firm. On the same basis, Petitions seek to depose Brent Coon of the B. C. Law firm, since Petitions are not aware of any other B. C. who works at the B. C. Law firm. Petitioners seek to depose the individuals, Mr. Hodgston, Mr. Harrison and Mr. Coon, to determine the identities of all persons and/or entities contributing to the B. C. Blogs and the B. C. Bloggers.

15. Petitioners request an Order authorizing Petitioners to take the depositions sought herein under Tex. R. Civ. P. 202.

#### **PRAYER**

WHEREFORE, PREMISES CONSIDERED, Petitioners, PRK Enterprises, Inc., Klein Investments, Inc. and Philip Klein, pray that Respondents, GOOGLE, INC., BLOGGER.COM, WWW.OPERATIONKLEINWATCH.BLOGSPOT.COM, WWW.SAMTHEEAGLEUSA.BLOGSPOT.COM, Michael Neil Harrison, Shon Hodgston and Brent Coon, be cited to appear and answer herein as the law directs, and that upon hearing, Petitioners obtain a court order for depositions under Rule 202, and for such other and further relief, both general and special, statutory or common law, at law and in equity, to which Petitioners may be justly entitled.

Respectfully submitted,

/s/ John S. Morgan

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Attorney for Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served on the following counsel of record via facsimile, on this 6<sup>th</sup> day of May, 2011.

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**Via CM/RRR-#7006 2150 0003 0021 1718  
& Regular First Class Mail**

/s/ John S. Morgan

JOHN S. MORGAN