

982(a)(16)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): STEVEN E. FELDMAN, ESQ. ROBERT E. BOYCE, ESQ. 934 23rd Street San Diego, CA 92102 ATTORNEY FOR (Name): DAVID WESTERFIELD		TELEPHONE NO.: (619) 232-8649	FOR COURT USE ONLY
Insert name of court, judicial district or branch court, if any, and post office and street address: SUPERIOR COURT OF CALIFORNIA 220 WEST BROADWAY SAN DIEGO, CALIFORNIA 92101			
Title of case: PEOPLE OF THE STATE OF CALIFORNIA -v- DAVID WESTERFIELD			
SUBPENA (CRIMINAL OR JUVENILE) <input checked="" type="checkbox"/> DUCE TECUM		CASE NUMBER SCD 165805	

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (NAME): **KEVIN COX, SAN DIEGO MAGAZINE**

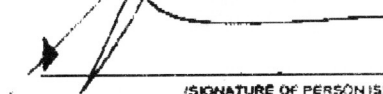
1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this action at the date, time, and place shown in the box below UNLESS you make a special agreement with the person named in item 3:

a. Date: **November 22, 2002** Time: **8:30 a.m.** ☒ Dept.: **40** ☐ Div. ☐ Room
 b. Address: **220 West Broadway, San Diego, CA 92101**

2. AND YOU ARE

- a. ☐ ordered to appear in person.
 b. ☐ not required to appear in person if you produce the records described in the accompanying affidavit and a completed declaration of custodian of records in compliance with Evidence Code sections 1560, 1561, 1562, and 1271. (1) Place a copy of the records in an envelope (or other wrapper). Enclose your original declaration with the records. Seal them. (2) Attach a copy of this subpoena to the envelope or write on the envelope the case name and number, your name and date, time, and place from item 1 (the box above). (3) Place this first envelope in an outer envelope, seal it, and mail it to the clerk of the court at the address in item 1. (4) Mail a copy of your declaration to the attorney or party shown at the top of this form.
 c. ☒ ordered to appear in person and to produce the records described in the accompanying affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records is required by this subpoena. The procedure authorized by subdivision (b) of section 1560, and sections 1561 and 1562, of the Evidence Code will not be deemed sufficient compliance with this subpoena.
 d. ☐ ordered to make the original business records described in the accompanying affidavit available for inspection at your business address by the attorney's representative and to permit copying at your business address under reasonable normal business hours, conditions during normal business hours.
 3. IF YOU HAVE ANY QUESTIONS ABOUT THE TIME OR DATE FOR YOU TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR: **Steven E. Feldman**
 a. Name: **Steven E. Feldman** b. Telephone number: **232-8649**
 4. WITNESS FEES: You may be entitled to witness fees, mileage, or both, in the discretion of the court. Contact the person named in item 3 AFTER your appearance.

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

FOR COURT USE ONLY Date: 11/13/02	 (SIGNATURE OF PERSON ISSUING SUBPENA) Steven E. Feldman (TYPE OR PRINT NAME) Attorney for David Westerfield (TITLE)
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(See reverse for proof of service)

ATTORNEY OR UNREPRESENTED PARTY (NAME AND ADDRESS): STEVEN E. FELDMAN, ESQ. ROBERT E. BOYCE, ESQ. 934 23rd Street, San Diego, CA 92102 ATTORNEY FOR (Name): DAVID WESTERFIELD		TELEPHONE NO.: (619) 232-8649	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO 220 WEST BROADWAY SAN DIEGO, CA 92101			
PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA			
DEFENDANT: DAVID WESTERFIELD			
AFFIDAVIT FOR SUBPENA DUCES TECUM			CASE NUMBER: SCD 165805

Steven E. Feldman declares: That he is attorney of record for:
David Westerfield (Plaintiff) (Defendant) (Respondent) in the above entitled
action; that said cause has been duly set down for (Hearing) as follows:

a. Date: 11/22/02	Time: 8:30 a.m.	Dept.: 40	Room:
b. Address: 220 West Broadway, San Diego, CA 92101			

Declarant alleges that KEVIN COX, SAN DIEGO MAGAZINE

has in his possession or under his control the following documents, matters, or things:

(Designate and specify the exact matters or things to be produced.)

Any and all notes of interview, tape recordings, videotapes of interviews, of any law enforcement officers related to the pending issues; the identity of the law enforcement "triplets" who allegedly confirmed the information published; the identity of any other law enforcement source who provided information relevant to the issues pending before the court.

Declarant states that the above documents, matters, and things are material to the proper presentation of his case and that good cause exists for the production of the above-described matters and things for the following reasons:

(State in full detail the materiality to the issues involved.)

See attachment "A"

WHEREFORE declarant prays that Subpena Duces Tecum issue.

I certify (or declare) under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on November 13, 2002

(Sign here)
STEVEN E. FELDMAN

ATTACHMENT "A"

An article in the October 2002 issue of *San Diego Magazine* quotes law enforcement sources as stating that the victim in this case was killed in her bedroom. The article's author states that information in the story--including the evidence that the victim was killed in her bedroom--was "at least triple checked." The defense did not learn law enforcement was in possession of this information until after the verdict; this information was not provided to the defense through discovery or otherwise. Information that the victim was killed in her bedroom, whether based on witness interviews, physical evidence or police opinions after investigation of the crime scene is material and relevant to the charged offenses of kidnapping, felony murder and the felony murder special circumstance allegation.