

EXHIBIT D

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY

TERRY GENE BOLLEA, professionally
known as HULK HOGAN,

Plaintiff,

No. 12-012447-CI-011

vs.

HEATHER CLEM; GAWKER MEDIA, LLC,
aka GAWKER MEDIA, et al.,

Defendants.

VOLUME 2

CONTINUED VIDEOTAPED
DEPOSITION OF: TERRY GENE BOLLEA

DATE: March 6, 2014

TIME: 1:58 p.m. to 5:47 p.m.

PLACE: Riesdorff Reporting Group
601 Cleveland Street
Suite 600
Clearwater, Florida

PURSUANT TO: Notice by counsel for
Defendants for purposes of
discovery, use at trial or
such other purposes as are
permitted under the Florida
Rules of Civil Procedure

REPORTED BY: Susan C. Riesdorff, RPR, CRR
Notary Public, State of
Florida

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1 MR. BERLIN: Okay.

2 THE VIDEOTAPE SPECIALIST: Off the record at
3 4:41.

4 (Recess taken from 4:41 p.m. to 4:56 p.m.)

5 THE VIDEOTAPE SPECIALIST: On the record at
6 4:56.

7 THE WITNESS: I'm still under oath.

8 BY MR. BERLIN:

9 Q. Thank you for answering my next question.

10 Let me just ask if you can turn to the last
11 page. Is that your signature there?

12 A. On the top, yes, it is.

13 Q. That's what I mean.

14 Did you review this document before you
15 signed it?

16 A. To the best of my recollection, I did.

17 Q. And after you turn back -- the pages are not
18 numbered. But from the back, the sixth page from the
19 back, at the top of the page, it says, Confidential
20 Supplement Response to Interrogatory 9.

21 A. Fifth page? Sixth page?

22 Q. Sixth page from the back. And it says,
23 Confidential -- there's a big heading that says,
24 Confidential Supplemental Response to Interrogatory 9.

25 A. Yes, I see it.

1 Q. All right. That says, "Subject to and
2 without waiver of the objections, responding party does
3 not remember the exact number of sexual encounters with
4 Heather Clem. To the best of responding party's
5 recollection, there were at least two and possibly
6 three sexual encounters with Heather Clem in her
7 private bedroom at the Clems' residence and one brief
8 sexual encounter with Heather Clem at the radio station
9 of Todd Clem's radio program. To the best of
10 responding party's recollection, these encounters all
11 occurred in approximately late spring or early summer
12 of 2007, after responding party had separated from his
13 wife."

14 Is this still your recollection about how
15 many times you had sex with Heather?

16 A. To the best of my recollection, yes.

17 Q. Did all of the sexual encounters take place
18 in close proximity time-wise to each other?

19 A. What would you call close proximity?

20 Q. Well, let me ask you that. How far apart
21 were they?

22 A. I seem to remember one encounter was four or
23 five days apart from another one. And then another
24 encounter was like two weeks apart. So it varied.

25 Q. And do you know when exactly they occurred?

1 A. No, I don't.

2 Q. Is there anything that you could consult,
3 like a calendar, to find out?

4 A. They happened before I met Jennifer and
5 before my son's accident. As far as a calendar, I
6 don't have stars or dates written down of when I had
7 encounters with Heather.

8 Q. And was the first time that this happened in
9 the Clems' bedroom or at the radio station?

10 A. In their bedroom.

11 Q. In the bedroom.

12 Was the radio station the last one or
13 somewhere in the middle?

14 A. To the best of my recollection, it was the
15 last one.

16 Q. All right. And do you know how much longer
17 after the last time in the bedroom the one at the radio
18 station was?

19 A. No, I don't.

20 Q. But is it still sort of in the neighborhood
21 of a week or two, not --

22 A. Yes.

23 Q. As opposed to a month or two?

24 A. Yes.

25 Q. All right. And so if we're talking about --

1 person recalls something else, it doesn't mean
2 that somebody is lying. I don't know what --

3 MR. BERLIN: I'm asking from his point of
4 view.

5 THE WITNESS: My point of view is if he
6 doesn't remember it, he's not lying. If he does
7 remember it, he is lying. I don't know which it
8 is.

9 BY MR. BERLIN:

10 Q. He also said that there was no sexual
11 encounter between you and Heather Clem at the radio
12 station. Was he present for that as well?

13 MR. HARDER: Wait. Objection, misstates
14 prior testimony. You just said no sexual
15 encounter at the radio station.

16 MR. BERLIN: I said that Bubba Clem testified
17 that there was no sexual encounter at the radio
18 station.

19 MR. HARDER: The question was, you also said
20 that there was no sexual -- maybe you meant to say
21 Bubba.

22 MR. BERLIN: It's possible that I misspoke.

23 MR. HARDER: Okay. I'm not trying to
24 interfere with you. I'm just trying to have a
25 clear record.

1 MR. BERLIN: Thank you.

2 BY MR. BERLIN:

3 Q. The -- Mr. Clem also stated during his
4 deposition that there was no sexual encounter between
5 you and Heather Clem at the radio station.

6 Do you remember that?

7 A. Yes, I do.

8 Q. Was he present for that one?

9 A. I don't know if he was or not.

10 Q. So he may not know about that one?

11 A. We pulled up to the radio station and he
12 unlocked the door and we all went in. And he left
13 Heather and I in the room where he does his radio show.

14 Q. The actual studio?

15 A. Yes. And he said, you guys have fun. I got
16 some stuff to do. So I don't know what he knows.

17 Q. How did the idea of you having sex with
18 Heather first come up?

19 A. To the best of my recollection, it was a
20 phone call from Bubba where he put Heather on the
21 phone. And she started asking me to have sex with her
22 on the phone.

23 Q. And how much before the first time that you
24 and she had sex was that?

25 A. To the best of my recollection, it would

1 probably be a year and a half to two years.

2 Q. And did you have subsequent conversations
3 with either Mr. Clem or Mrs. Clem about that subject?

4 A. Yes.

5 Q. How many such conversations would you say?

6 A. Over a year-and-a-half period, between -- on
7 the phone and between -- gosh, I wouldn't even know
8 where to go with this. Between 20 and 40 maybe, maybe
9 more. I don't know. Not more than 40, but between 20
10 and 40. They kept bringing it up.

11 Q. Did you ever talk about it with Mr. Clem in
12 person?

13 A. Yes.

14 Q. How many times did you talk about it with him
15 in person?

16 A. I recall a couple times in my gym, he kept
17 telling me that Heather really wanted to have sex with
18 me or Heather really wanted to see me naked. And I
19 just -- and it was in a joking way. I just kept
20 telling him, knock it off. It was -- you know, it was
21 to the point it was almost like if you were to poke
22 somebody. He just kept poking me. Like it got to the
23 point of I thought they were serious at first, which
24 was a little weird. But then it got to be almost like
25 a joke, you know, like they would tease me all the

1 THE WITNESS: At this point, I don't know who
2 all the players are. So it could have been out of
3 loyalty for Bubba. It could be her sexual
4 appetite. It could be some type of perversion for
5 watching tapes. It could be maybe wanted to make
6 money on a tape. Could be all of the above or
7 none of the above. I really don't know the answer
8 to that yet.

9 BY MR. BERLIN:

10 Q. What did you think at the time about why she
11 was willing to have sex with you?

12 A. At the time, I just was under the
13 understanding that it was an open marriage and that
14 was okay with them.

15 Q. Have you watched the full sex tape that was
16 supplied to Gawker and provided to your attorneys in
17 discovery?

18 A. No.

19 Q. Do you know whether what's on that tape was
20 the first time or a later time?

21 A. I've never watched it. So I would have no
22 idea.

23 Q. Without attempting to be graphic, the tape
24 that we have starts essentially in mid act and Ms. Clem
25 is already naked.

1 Do you know how the encounter started?

2 A. I don't recall.

3 Q. Is there anything that you can recall about
4 how you went from talking about this to actually
5 engaging in sexual relations with Ms. Clem?

6 A. No.

7 Q. After the first time that you had sex with
8 Mrs. Clem, who initiated the subsequent encounters?

9 A. I don't recall.

10 Q. Was it you?

11 A. I don't recall.

12 Q. Each of the times that you had sex with
13 Heather, was it with Bubba's blessing?

14 A. Yes.

15 Q. So he knew each time?

16 A. To the best of my recollection, yes.

17 Q. And how did that work? Would you and Heather
18 decide to have sex and then ask for Bubba's permission,
19 or would you and Bubba discuss having sex with Heather
20 and Bubba would then try and persuade Heather to do it?

21 MR. HARDER: Compound.

22 THE WITNESS: Explain the question to me, or
23 questions.

24 BY MR. BERLIN:

25 Q. Sure.

1 I'm trying to understand whether you and
2 Heather would decide to have sex and then go ask
3 Bubba's blessing.

4 A. Heather and I never decided to have sex and
5 would ask for Bubba's blessing.

6 Q. All right. Would you and Bubba discuss your
7 having sex with Heather and then Bubba would try and
8 persuade Heather to go along?

9 A. I don't recall that.

10 Q. At that time, did you think you were the only
11 person Bubba had permitted to have sex with his wife?

12 A. No.

13 Q. Why not?

14 A. I was assuming that I was not the first one
15 to possibly be in that position with an open marriage.

16 Q. Have you discussed publicly that the Clems
17 had an open marriage?

18 A. I don't recall.

19 Q. Have you discussed publicly that you knew
20 that the Clems had an open marriage?

21 A. I don't recall.

22 Q. Did Bubba Clem tell you that the Clems had an
23 open marriage before you and Heather had sex?

24 A. I'm not sure if he told me or I heard it on
25 the radio first. I don't recall.

1 leaving.

2 Q. And when he walked in, were you engaged in
3 some sort of sexual act with Heather?

4 A. To the best of my recollection, I think we
5 were talking.

6 Q. And was he present in any way for any of the
7 other times?

8 A. He was in the house. He wasn't in the room.
9 I think he was in the house. He left the room. I
10 don't know where he went.

11 Q. Do you recall during one of the encounters
12 telling Heather a story about an argument that you got
13 into with some Coast Guard guys at a strip club and how
14 they ended up throwing a lit cigarette in your gas
15 tank?

16 A. I don't recall telling her that.

17 Q. Do you recall the incident itself?

18 A. Yes.

19 Q. Focusing specifically on the sexual encounter
20 at the radio station, I think you said it was in
21 Bubba's studio?

22 A. Yes.

23 Q. And where was that at the time?

24 A. Bubba's studio?

25 Q. Yeah. Where was the -- like where was it --

1 where was the -- was it at a station or was it --

2 A. Yeah. He owned his own -- own building.

3 Q. Do you know where that was?

4 A. No. It was in Tampa back behind the airport.

5 I remember it was back by the interstate between

6 Westshore and the airport exit back in like a

7 densely-wooded area.

8 Q. And in the studio where this occurred, were
9 there any windows or glass?

10 A. I don't recall.

11 Q. And why were you at the studio that day?

12 A. It was at night. It was very late at night.

13 Heather and Bubba came by and picked me up, wherever I

14 was staying, and took me to dinner. And then we went

15 to a couple bars. And Bubba was driving and I was

16 sitting in the back seat, Heather was sitting in the

17 front. And for whatever reason, we stopped by the

18 radio station for whatever. I don't recall what for.

19 Q. So it was not in connection with a radio
20 broadcast?

21 A. No, not at all.

22 Q. In the document in the fourth line, it

23 describes it as one brief sexual encounter with

24 Heather Clem at the radio station.

25 What do you mean by brief sexual encounter?

1 A. It was a situation where Bubba left me in the
2 room and Heather performed oral sex on me.

3 Q. Was anybody else at the radio station when
4 that took place?

5 A. To the best of my knowledge, no, but I didn't
6 check around. It was real late at night. I mean -- I
7 mean, it wasn't at nine o'clock at night. It was more
8 like midnight or 1:00 or 2:00 in the morning.

9 Q. Do you know whether that encounter was
10 filmed?

11 A. I have no idea.

12 Q. Do you know whether the other encounters in
13 the bedroom were filmed?

14 A. I have no idea.

15 Q. Did you ever tell anybody else about your
16 sexual encounters with Mrs. Clem?

17 A. Not that I can recall.

18 Q. Whether in the bedroom or at the radio
19 station?

20 A. Not that I can recall.

21 Q. Did anybody ever talk to you about it?

22 A. No.

23 Q. So nobody -- you didn't get the sense from
24 something anybody said to you that either Bubba or
25 Heather had told anybody else?

1 A. No.

2 MR. HARDER: Is there a time period you're
3 talking about?

4 MR. BERLIN: At any time.

5 MR. HARDER: After October 4th, 2012?

6 BY MR. BERLIN:

7 Q. Prior to 2012.

8 A. Prior to 2012?

9 Q. Right.

10 A. No.

11 Q. When you were having -- I think I know the
12 answer to this from your earlier testimony, but let me
13 just ask.

14 When you were having sex with Heather, did
15 you know you were being recorded?

16 A. No.

17 Q. Were you concerned that you might be
18 recorded?

19 A. No.

20 Q. During any of the encounters, do you remember
21 Bubba flipping on a camera?

22 A. No.

23 Q. Did Bubba tell you you could only have sex
24 with Heather if you agreed to let it be taped?

25 A. No.