

Exhibit 4
to the Affidavit of
Alia L. Smith

In The Matter Of:

TERRY GENE BOLLEA

v.

HEATHER CLEM

CARMICHAEL, EMMA - Vol. 1

March 5, 2015

MERRILL CORPORATION

Legalink, Inc.

20750 Ventura Boulevard
Suite 205
Woodland Hills, CA 91364
Phone: 818.593.2300
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IN THE CIRCUIT COURT OF THE
SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA

-----x
TERRY GENE BOLLEA, professionally known as HULK
HOGAN,

Plaintiff,

Case No. 12012447 CI-011

-against-

HEATHER CLEM, GAWKER MEDIA, LLC AKA GAWKER
MEDIA; GAWKER MEDIA GROUP, INC. AKA GAWKER
MEDIA; et al.,

Defendants.

-----x

March 5, 2015

1:06 p.m.

Videotaped Deposition of EMMA CARMICHAEL,
pursuant to notice, at the offices of Merrill
Corporation, 1345 Avenue of the Americas, 17th
Floor, New York, New York, before Mark Richman,
a Certified Shorthand Reporter, Registered
Professional Reporter and Notary Public within
and for the State of New York.

1 A P P E A R A N C E S:

2

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13 BY: SETH D. BERLIN, ESQ.
14 AND: ALIA L. SMITH, ESQ.
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13

14

15 ALSO PRESENT:
16 HON. JAMES R. CASE,
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18

19 HEATHER L. DIETRICK, Esq.
20 President and General Counsel
21 Gawker Media Group

20

21 ADAM KOWALCZYK, Videographer,
22 Merrill Legal Solutions

22

23

24

25

1 EMMA CARMICHAEL

2 narrative embellishments and 13:56:55

3 exaggerations then that was included in 13:56:58

4 the post. 13:57:00

5 Q. So you thought that Gawker's 13:57:01

6 post of -- that accompanied the Hulk 13:57:05

7 Hogan sex video was good? 13:57:09

8 A. Yes. 13:57:10

9 Q. And you thought that -- excuse 13:57:11

10 me, strike that. 13:57:14

11 And you thought that 13:57:15

12 Gawker.com posting the Hulk Hogan sex 13:57:17

13 video was good? 13:57:20

14 A. Yeah, I was very comfortable 13:57:21

15 with the way we framed the story and the 13:57:23

16 context we gave the story. 13:57:25

17 Q. But besides the story I'm 13:57:26

18 talking about the video. You think that 13:57:28

19 it was a good thing that Gawker.com 13:57:32

20 posted the Hulk Hogan sex video? 13:57:34

21 A. I think Gawker is not in the 13:57:37

22 business of holding back information that 13:57:39

23 we have for our readers and this was a 13:57:40

24 case where we published information that 13:57:43

25 we had and that included the video. 13:57:44

1 EMMA CARMICHAEL

2 things before Gawker.com posted the 14:01:18
3 video, that specifically the people in 14:01:24
4 the video would feel upset, hurt, 14:01:25
5 violated, distressed over it? 14:01:29

6 A. I did think about it. I also 14:01:31
7 knew that we were with a public figure 14:01:34
8 who had contextual stories related to 14:01:37
9 this incident that were already out in 14:01:40
10 the public and we had information related 14:01:41
11 to those contextual stories that we felt 14:01:44
12 we had the right to publish. 14:01:46

13 Q. So you were aware that Hulk 14:01:48
14 Hogan and the female in the video likely 14:01:55
15 would feel distressed, hurt, upset, 14:01:59
16 embarrassed, and you ran the story 14:02:02
17 anyway? 14:02:06

18 MR. BERLIN: Objection to the 14:02:06
19 compound nature of the question but 14:02:07
20 you can answer it. 14:02:08

21 A. Yes. And I think that's a 14:02:10
22 risk that comes with a lot of work in 14:02:12
23 journalism. You're not always writing 14:02:13
24 glowing profiles of public figures and 14:02:16
25 sometimes you have the risk of not making 14:02:21

1 EMMA CARMICHAEL

2 friends with the stories that you 14:02:23

3 publish. 14:02:24

4 Q. And you're a public figure, 14:02:25

5 right? 14:02:26

6 A. I'm not sure I would call 14:02:27

7 myself a public figure, but I myself have 14:02:29

8 been criticized publicly. 14:02:31

9 Q. You're the editor-in-chief of 14:02:33

10 one of the biggest female news blogs in 14:02:35

11 the world, correct? 14:02:39

12 A. Correct. 14:02:40

13 Q. And you don't think that makes 14:02:41

14 you a public figure? 14:02:43

15 MR. BERLIN: Objection because 14:02:44

16 there's a legal piece to that but 14:02:45

17 you can answer the question. 14:02:46

18 A. I don't think of myself as a 14:02:48

19 public figure. I can understand why 14:02:49

20 others might. 14:02:51

21 Q. Have you ever given an 14:02:54

22 interview? 14:02:56

23 A. Yes. 14:02:56

24 Q. How many times? 14:02:56

25 A. I can't say exactly. 14:02:57

1 EMMA CARMICHAEL

2 Q. If a person is engaged in 14:22:44
3 revenge porn, that's a newsworthy thing, 14:22:53
4 right? 14:22:56

5 A. Yes. 14:22:56

6 Q. If it's newsworthy that 14:22:56
7 someone is engaged in revenge porn, is it 14:23:02
8 also newsworthy the video? 14:23:04

9 A. It depends. 14:23:06

10 Q. It depends on what? 14:23:07

11 A. Context, who the figure is, 14:23:08
12 what the story is, what the commentary 14:23:11
13 is. 14:23:13

14 Q. So if it's a person you've 14:23:13
15 heard of, it's newsworthy, you could post 14:23:15
16 it? 14:23:17

17 A. It might be. I can't say for 14:23:17
18 sure. 14:23:19

19 Q. If it's someone you've never 14:23:20
20 heard of and is not famous, still could 14:23:24
21 be newsworthy, you could post the porn, 14:23:26
22 revenge porn video? 14:23:29

23 A. One could. I can't speak to 14:23:30
24 that myself. 14:23:32

25 Q. But it's newsworthy? 14:23:32

1 EMMA CARMICHAEL

2 A. Sometimes. 14:23:34

3 Q. So if somebody is engaged in 14:23:35
4 revenge porn and they want to get around 14:23:38
5 the criminal laws against revenge porn, 14:23:40
6 couldn't they just send the video to news 14:23:42
7 organizations and hope that a news 14:23:45
8 organization will publish it and that it 14:23:46
9 would get protection under the law? 14:23:48

10 A. I suppose that would be an 14:23:52
11 option for someone looking to engage in 14:23:54
12 revenge porn. 14:23:55

13 Q. Do you think that's what 14:23:56
14 somebody did with the Hulk Hogan sex 14:23:59
15 video? 14:24:01

16 A. I can't say. 14:24:01

17 Q. Did you ever talk to John 14:24:13
18 Cooke about the had sex video? 14:24:14

19 A. I don't recall. 14:24:18

20 Q. Did you ever talk to Nick 14:24:18
21 Denton about the Hulk Hogan sex video? 14:24:20

22 A. I don't recall. 14:24:21

23 Q. After the Hulk Hogan sex video 14:24:22
24 was posted to Gawker.com, what 14:24:33
25 conversations do you recall having with 14:24:36

1 EMMA CARMICHAEL

2 A. Two to three months, I believe 14:26:21

3 that's right. 14:26:22

4 Q. Was A.J. asked to leave 14:26:23

5 Gawker? 14:26:26

6 A. No. 14:26:26

7 Q. What were the circumstances 14:26:26

8 upon which A.J. Daulerio left Gawker? 14:26:29

9 A. As best as I understood them, 14:26:32

10 he felt like he was ready to move on and 14:26:33

11 had exciting job offer. I can't recall 14:26:36

12 exactly what it was. 14:26:38

13 Q. Do you recall where A.J. 14:26:39

14 Daulerio went after Gawker? 14:26:40

15 A. My best memory, it was Buzz 14:26:42

16 Media -- Spin Media, but I don't know 14:26:46

17 exactly. 14:26:48

18 Q. Have you ever read a story 14:27:00

19 about an employer who secretly tapes his 14:27:02

20 female employees in the showers or the 14:27:07

21 bedroom or bathrooms? 14:27:09

22 A. Not one I can think of. 14:27:13

23 Q. I'll represent to you that 14:27:17

24 there was a front page story in the Tampa 14:27:25

25 Bay Times a few months ago, front page, 14:27:26

1 EMMA CARMICHAEL

2 an employer in the Tampa area filmed his 14:27:29

3 female employees showering and in the 14:27:32

4 bathroom. Newsworthy story, correct? 14:27:35

5 A. Yes. 14:27:39

6 Q. If the video was sent to the 14:27:40

7 Tampa Bay Times, do you think it would be 14:27:44

8 appropriate for the Tampa Bay Times to 14:27:46

9 play the video on its website? 14:27:48

10 A. To post it on its website? 14:27:50

11 Q. Yes. 14:27:52

12 A. Perhaps with proper 14:27:52

13 censorship. 14:27:54

14 Q. What kind of censorship? 14:27:55

15 A. Blurring, changing voices, 14:27:57

16 that kind of thing. 14:27:59

17 Q. Did Gawker.com blur any aspect 14:28:00

18 of the Hulk Hogan sex video? 14:28:06

19 A. No, we did not. 14:28:08

20 Q. Is there a reason why not? 14:28:09

21 A. Yeah. I think we're rarely in 14:28:10

22 the business of obscuring information 14:28:15

23 that we are already reporting and once we 14:28:17

24 knew we were publishing the video, taking 14:28:20

25 that measure didn't seem like a necessary 14:28:22

1 EMMA CARMICHAEL

2 step. 14:28:25

3 Q. So in the scenario of an 14:28:26
4 employer who films his female employees 14:28:29
5 in the showers and in the bathrooms, do 14:28:31
6 you think it would be acceptable if a 14:28:40
7 news organization made the editorial 14:28:41
8 decision to play the video without 14:28:44
9 blurring? 14:28:47

10 A. I think it's up to the news 14:28:49
11 organization in question. 14:28:51

12 Q. So if the news organization 14:28:53
13 does it you think it's fine? 14:28:54

14 A. If they can create some kind 14:28:55
15 of, you know, argument or context for why 14:28:57
16 they would do that and explain it 14:29:00
17 thoroughly, I would understand that 14:29:02
18 reasoning. 14:29:05

19 Q. Is it hard to come up with a 14:29:05
20 context of why someone can post an 14:29:08
21 unedited video of somebody naked? 14:29:12

22 A. Yes. 14:29:14

23 Q. You think it's hard to come up 14:29:15
24 with that? 14:29:17

25 A. It can be, sure. 14:29:17

1 EMMA CARMICHAEL

2 Q. If the news organization said 14:29:18
3 here is footage of a local employer who 14:29:22
4 filmed his female employees and here's a 14:29:27
5 clip from that tape, it's newsworthy, 14:29:29
6 we're playing it, that's acceptable to 14:29:34
7 you, correct? 14:29:36

8 A. Within the context of a larger 14:29:38
9 reported story I could see it being an 14:29:39
10 acceptable reporting step. And perhaps 14:29:41
11 with permission of the women in question 14:29:46
12 if it was their wish that, you know, this 14:29:48
13 journalism went somewhere. 14:29:50

14 Q. So the news organization would 14:29:52
15 need to get the permission of the subject 14:29:54
16 of the video, correct? 14:29:56

17 A. No, I didn't say that. I said 14:29:57
18 perhaps. 14:29:59

19 Q. So if the news organization 14:29:59
20 didn't get the permission of the subject 14:30:01
21 of the video it's okay, correct? 14:30:02

22 A. If they have information and 14:30:05
23 they believe they can make a valid 14:30:06
24 argument for posting it, I can understand 14:30:10
25 why they would post it. 14:30:12

1 EMMA CARMICHAEL

2 Q. And then it would be okay to 14:30:13
3 you, correct? 14:30:14

4 A. Mm-hmm. Yes. 14:30:15

5 Q. Do you think that's supportive 14:30:16
6 of women's rights if women can be filmed 14:30:26
7 without their knowledge, without their 14:30:29
8 permission, and a news organization plays 14:30:31
9 video of them naked in their employment? 14:30:33

10 A. Certainly. If it's -- if the 14:30:37
11 journalism is meant to keep this from 14:30:41
12 happening again, that's certainly an 14:30:44
13 argument for women's rights. I mean 14:30:45
14 that's a question of workplace 14:30:48
15 harassment. 14:30:50

16 Q. You don't think it's 14:30:50
17 harassment to film somebody and then for 14:30:51
18 that video to be played so that all the 14:30:54
19 world could see it? 14:30:55

20 A. I think it's harassment to 14:30:57
21 film someone and to play it without 14:30:59
22 context. I think if a news organization 14:31:00
23 chose to publish that video with context 14:31:03
24 and with the argument that this is wrong, 14:31:06
25 X, Y, Z then that's an editorial decision 14:31:08

1 EMMA CARMICHAEL

2 Q. What's journalism? 14:34:43

3 A. Reporting and sharing stories 14:34:45

4 with the world. 14:34:46

5 Q. Did you ever have a 14:34:47

6 conversation with Nick Denton about that 14:34:48

7 subject in the broadest sense? 14:34:51

8 A. Yes. 14:34:52

9 Q. What did Nick Denton say as 14:34:53

10 best you can recall? 14:34:54

11 A. As best as I can recall, we 14:34:56

12 would have casual conversations about how 14:34:58

13 we had approached stories, how he might 14:35:00

14 have packaged it differently, what kinds 14:35:03

15 of things we're working on, hires we're 14:35:05

16 making and that sort of thing. 14:35:08

17 Q. It's Nick Denton's philosophy 14:35:10

18 that just about anything is fair game in 14:35:12

19 journalism, correct? 14:35:17

20 A. In a general sense, I'm not 14:35:20

21 sure I would agree with that. I think he 14:35:23

22 believes that Gawker should be a bold 14:35:26

23 and, and unflinching news resource. 14:35:30

24 Q. And expose secrets, correct? 14:35:34

25 A. Yes, sometimes. 14:35:36

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C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, MARK RICHMAN, a Certified
Shorthand Reporter, Certified Realtime Reporter
and Notary Public within and for the State of
New York, do hereby certify:

That EMMA CARMICHAEL, the witness
whose deposition is hereinbefore set forth, was
duly sworn by me and that such deposition is a
true record of the testimony given by the
witness.

I further certify that I am not
related to any of the parties to this action by
blood or marriage, and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 10th day of MARCH, 2015.

Mark Richman

MARK RICHMAN, C.S.R., C.R.R.