

EXHIBIT A

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** C O N F I D E N T I A L **
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,

-against-

Case No.

12012447-CI-011

HEATHER CLEM, GAWKER MEDIA, LLC
a/k/a GAWKER MEDIA, et al.,

Defendants.

-----X

DEPOSITION OF
ELIZABETH ROSENTHAL TRAUB
March 2, 2015
9:54 a.m.

Reported by:
Francine Sky, C.S.R.

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March 2, 2015

9:54 a.m.

Deposition of ELIZABETH ROSENTHAL TRAUB, taken by Defendants, pursuant to Subpoena, before Judge James R. Case, Senior Circuit Judge, Sixth Judicial Circuit, Florida, held at the offices of Levine Sullivan Koch & Schulz, LLP, 321 West 44th Street, Suite 1000, New York, New York, before Francine Sky, a Certified Shorthand Reporter and Notary Public within and for the State of New York.

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2 Facebook page, right?

3 A. I don't look at my Facebook page or
4 anything to really do with posting on it. So if
5 it's on there, so...

6 MR. HARDER: We could be here forever
7 if you ask her everything in the world
8 that has to do with her company that has
9 nothing to do with Hulk Hogan. She's here
10 as a third-party witness. She would like
11 to get out as quickly as possible. If
12 you're going to ask about everything she's
13 ever done for every client other than Hulk
14 Hogan, I don't see the point.

15 MR. BERRY: I wanted to try and get
16 some background information. The
17 questions I had would have lasted shorter
18 than this back and forth that we've had.

19 MR. HARDER: You can say what do you
20 do for your clients, I don't have a
21 problem with that.

22 Q. As a PR professional, what do you do?

23 A. Media relations.

24 Q. What does that mean?

25 A. It means press that deals --

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2 Q. Akin to the National Enquirer?

3 A. No. Not necessarily.

4 Q. Why do you think it's different?

5 A. I don't know. I just do. I don't
6 have -- my dealings with all these different
7 outlets are different for different situations.
8 It's too broad. It's too broad for me to give a
9 specific answer, quite honestly. Like I said,
10 it's different -- every situation is different.

11 Q. Would you ever pitch a client to be
12 featured on Radar Online?

13 A. In what sense?

14 Q. Have you ever pitched somebody to be
15 on Radar Online?

16 A. Liked pitch a client to be profiled
17 on Radar?

18 Q. Yes.

19 A. Not that I can remember.

20 Q. When did you first start doing
21 work -- PR work for Hulk Hogan?

22 A. 2004.

23 Q. How did that start?

24 A. I was working at Susan Blond, an
25 account executive who worked on Brooke's account

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2 was leaving and it was transferred over to me.

3 Q. Brooke is his daughter?

4 A. His daughter.

5 Q. What kind of work were you doing for
6 him at that time?

7 A. I was doing work for her at that
8 time, not for him.

9 Q. What was she doing at that time?

10 A. She was launching a singing career.

11 Q. How long did you work exclusively
12 with Brooke?

13 A. I don't recall when it changed.

14 Q. What's the first time that you recall
15 doing work for Hulk Hogan?

16 A. Well, I recall doing work for the
17 family when the reality show was premiering.

18 Q. Did you do all the PR for the family
19 from the time they started on the reality show?

20 A. In conjunction with VH1.

21 Q. That's the network that broadcast the
22 show?

23 A. Yes.

24 Q. What kind of PR work were you doing
25 for them at the time?

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2 Q. You can look at your phone.

3 THE WITNESS: Can I?

4 MR. HARDER: Yeah. It's all right.

5 A. I don't know it offhand.

6 REDACTED

7 Q. All one word, REDACTED

8 A. Yes.

9 Q. Do you ever exchange text messages
10 with him?

11 A. Yes.

12 Q. Of your individual personal clients,
13 is it fair to say that Hulk Hogan is your highest
14 profile client?

15 MR. HARDER: Vague. Objection as to
16 the form of the question.

17 JUDGE CASE: You can answer.

18 A. No. I have -- no.

19 Q. It's fair to say there's a lot of
20 media interest in him though, correct?

21 MR. HARDER: Objection. Vague, form
22 of the question.

23 A. I mean yes -- yes, I guess.

24 Q. Why do you think that is?

25 A. Did you grow up with Hulk Hogan? I

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2 mean...

3 Q. So why do you think that is?

4 A. Because he has a career that has
5 spanned 30 something years. He's a part of the
6 national conscience in a way.

7 Q. Do you have any other clients that
8 are part of the national conscience?

9 A. In that -- not for 30 years.

10 Q. What is Hulk Hogan's public image?

11 MR. HARDER: Vague. Calls for
12 speculation. Form of the question.

13 A. That is an extremely -- it's such
14 a -- it's too broad a question to answer
15 specifically.

16 Q. Well, what is he known for?

17 A. Wrestling.

18 Q. What else?

19 A. I mean, his shows, more wrestling,
20 switching wrestling and other -- his personal
21 drama.

22 Q. What do you mean by his personal
23 drama?

24 A. The personal things that have
25 happened in the last several years.

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2 realizes the new media -- the breadth of it.

3 Q. So what kind of media attention does
4 he generate?

5 MR. HARDER: Vague. Object to the
6 form.

7 Q. His wrestling work is covered by the
8 press?

9 A. Some press.

10 Q. He was in Madison Square Garden this
11 Friday, that got media attention, right?

12 A. I have no idea.

13 Q. That's what he's known for, his
14 wrestling work, you said?

15 A. Yes.

16 Q. His life in general is also covered
17 by the press?

18 A. At times.

19 Q. His personal life gets covered
20 sometimes?

21 A. At times.

22 Q. Press covers his family life, right?

23 A. At times.

24 Q. During the time he had his reality
25 show his family life was covered, right?

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2 MR. HARDER: Objection.

3 A. His family -- I mean it was in a
4 show, so that was what was in the show was out
5 there.

6 Q. So the press covered the show and
7 covered his family life at the time, right?

8 MR. HARDER: Compound. Asked and
9 answered. Vague and ambiguous.

10 THE WITNESS: I'm sorry, repeat it.

11 (The record was read.)

12 THE WITNESS: Correct.

13 Q. There was also a separate reality
14 show about his daughter, correct?

15 A. Correct.

16 Q. Hogan appeared on that show too,
17 correct?

18 A. I don't -- I believe so. I wasn't
19 part of that show.

20 Q. Are you aware that the show Brooke
21 Knows Best garnered press attention?

22 A. I wasn't part of that.

23 Q. He wrote a book about his personal
24 life, right?

25 A. He wrote a book.

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2 Q. Called My Life Outside the Ring?

3 A. Yes.

4 Q. That generated press attention,
5 right?

6 A. Yes.

7 Q. Did you do publicity surrounding the
8 book?

9 A. I did.

10 Q. Fair to say he's covered by the
11 tabloids?

12 A. At times.

13 Q. The press covered his marriage with
14 Linda at times, correct?

15 A. Correct.

16 Q. The press covered his divorce from
17 Linda?

18 A. Correct.

19 Q. I'm going to show you a document that
20 we will mark as 114.

21 (Deposition Exhibit 114, Printout
22 from website E! Online, was so marked for
23 identification, as of this date.)

24 (Witness reviews document.)

25 Q. Have you had an opportunity to look

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2 at it?

3 A. Yes.

4 Q. So Exhibit 114 is a printout from the
5 website E! Online, right?

6 A. Correct.

7 Q. Are you familiar with E! Online?

8 MR. HARDER: I object. You don't
9 know where this came from so you're making
10 some assumptions here. You have to be
11 careful with those types of questions.

12 A. He's correct. I mean I don't...

13 Q. I will represent to you, we can
14 assume for these purposes this is a printout from
15 E! Online with the web address that's stated at
16 the bottom of the page.

17 Are you familiar with E! Online?

18 A. Yes.

19 Q. What kind of website is E! Online?

20 A. An entertainment website.

21 Q. It covers celebrities?

22 A. Yes.

23 Q. And it covers their personal lives,
24 correct?

25 A. At times, yes.

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2 Q. This is an example of one of the
3 times you mentioned that Hulk Hogan's divorce was
4 covered by the press, correct?

5 A. Yes.

6 Q. The press also covered his affair
7 with Christiane Plante, correct?

8 MR. HARDER: I object. Calls for
9 speculation. Lacks foundation.

10 A. I mean the press dubbed it an affair.
11 I wouldn't say that. They covered his, whatever,
12 his relationship with her. Whatever.

13 Q. And you are aware of that, the press
14 coverage?

15 A. I don't recall specific press
16 coverage. Bringing it up, I recall that it
17 happened.

18 Q. I'm going to show you a document that
19 we'll mark as Exhibit 115.

20 (Deposition Exhibit 115, Document,
21 was so marked for identification, as of
22 this date.)

23 MR. HARDER: Also this is a violation
24 of the protective order. Sexual
25 relationships with people other than Hulk

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2 Hogan, Terry Bollea and the Clems is
3 outside of the scope of discovery. I'm
4 going to ask that the prior question and
5 answer be stricken and that there be no
6 further questions relating to the sexual
7 relationships other than the Clems and
8 Terry Bollea.

9 MR. BERRY: Can we have this
10 discussion outside the presence of the
11 witness?

12 JUDGE CASE: Certainly.

13 MR. HARDER: Shall we take a break?

14 MR. BERRY: We can take a break to
15 let Ms. Traub step outside.

16 MR. HARDER: Okay.

17 (Recess taken)

18 (Witness steps out)

19 MR. BERRY: So I assume she's not a
20 percipient witness to any sexual activity.
21 I'm not going to be asking about that.
22 The press coverage of these allegations
23 and similar allegations were exactly what
24 the DCA held was relevant in holding this
25 as a matter of public concern. It noted

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2 that it's specifically about Christiane
3 Plante in its decision and the discussion
4 in his book about it. This is all public
5 press material.

6 I'm not asking about sexual
7 relationships in any way that Judge
8 Campbell is concerned about. I'm afraid
9 our inability to take this would impinge
10 on the argument that we had which the DCA
11 has already accepted that is protected
12 speech based on the amount of public
13 concern that this and similar articles
14 have generated.

15 MR. HARDER: Judge Campbell issued an
16 order that there's to be no question and
17 answer. The fact that you sent an alleged
18 article to the DCA before there was any
19 discovery, and I don't remember if it was
20 before or after Judge Campbell issued the
21 protective order, her protective order
22 covered the discovery in this case.

23 The DCA didn't make a ruling that now
24 discovery in this case allows questions
25 regarding everybody that Hulk Hogan slept

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2 with. In fact you propounded discovery
3 asking for every single relationship he
4 ever had. That's where the Judge drew the
5 line. So this is crossing that line.

6 MR. BERRY: Your Honor, if we can't
7 ask questions about press coverage about
8 things the plaintiff himself has talked
9 about and other people talked about that
10 bear on whether this is a matter of
11 legitimate public concern. The DCA held
12 that's relevant and that's the basis for
13 saying that the article is protected by
14 the First Amendment. If we can't go
15 there, what the DCA said --

16 MR. HARDER: I think you're
17 misinterpreting what the DCA said. The
18 fact that you put it out there and they
19 mention there's this laundry list of stuff
20 and they overturned a temporary injunction
21 before there was any discovery I think is
22 apples to oranges. It doesn't mean that
23 now Judge Campbell's protective order does
24 not stand and it's fair game of every
25 person he ever slept with and every press

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2 that ever happened. This isn't relevant
3 to the claims in the case. We're not
4 suing on anything, on any press alleged
5 regarding this Christiane person.

6 MR. BERRY: So there's going to be --

7 MR. HARDER: It's almost limitless if
8 you want to ask questions about every
9 single person he's ever slept with and
10 every press speculation that's ever
11 happened. Just because somebody
12 speculates about something doesn't mean
13 it's fair game for discovery in this case.
14 The Judge already made that very clear in
15 her order.

16 JUDGE CASE: My reading of the
17 opinion in the Second District to which
18 you're referring, the subject matter of
19 his public persona with respect to his
20 personal life to me appears to be rather
21 dicta rather than any part of the analysis
22 or the reasoning of the conclusion.

23 I also notice that your opinion had
24 some editorial side to it as well. I'm
25 constrained with Judge Campbell's

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2 restrictions saying that no other sexual
3 activity with anyone other than the Clems
4 has anything to do with this case.

5 MR. SAFIER: The question isn't did
6 they have sexual relations, the question
7 is we're asking about what was reported in
8 this case.

9 JUDGE CASE: You asked her about --
10 the witness says I don't know. You're
11 showing me an article, it is what it is.

12 MR. HARDER: But the protective order
13 was sexual relations with people other
14 than Bollea and the Clems is outside the
15 scope of permissible discovery. You can't
16 bootstrap it by saying, oh, what about
17 press regarding sexual relations, that
18 relates to the sexual relations or the
19 alleged sexual relations.

20 MR. BERRY: Your Honor, we can print
21 out the DCA opinion and go through it,
22 this affair was mentioned in the DCA
23 opinion, as was discussions about his sex
24 life that was covered by the press. The
25 whole question of whether this is a matter

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2 of legitimate public concern rests on the
3 issue whether his sex life was a matter of
4 legitimate public concern.

5 Charles may take a narrower view.
6 That's a question that the DCA resolved as
7 a matter of law. That's what this case is
8 about.

9 JUDGE CASE: Let me ask you this
10 question. This is probably -- 114 is
11 probably one of several that you have in
12 your folders over there of different --

13 MR. BERRY: Yes. There are a handful
14 of examples that I intend to use.

15 JUDGE CASE: Do you honestly think
16 that Judge Campbell would permit questions
17 and answers based on this media --

18 MR. BERRY: I certainly hope so. It
19 is the central question of the case, and
20 if she doesn't --

21 MR. HARDER: You think this is the
22 central question of our case?

23 MR. BERRY: Whether his sex life is a
24 matter of legitimate public concern is the
25 issue. If you claim this is an invasion

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2 of privacy as a matter of black letter
3 First Amendment law, you have to show that
4 this is not a matter of legitimate public
5 concern.

6 If the press is discussing his sex
7 life at length for years, we should be
8 permitted to argue not only to the Court
9 but to the jury that these are not private
10 matters.

11 MR. HARDER: Mike, the question in
12 the case is whether your company's
13 publication of a sex tape is protected by
14 the First Amendment, not whether E! Online
15 is allowed to speculate about whether he
16 did or didn't sleep with somebody. It's
17 two completely different issues.

18 I know you want to litigate an issue
19 that's a lot easier for you, but that's
20 not what we're litigating. We're not
21 litigating anything about Christiane.

22 MR. BERRY: The question in the case
23 is whether his sex life, including the
24 Gawker video --

25 MR. HARDER: That's the part.

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2 MR. BERRY: Right. That's what you
3 would like the part to be, that question.

4 MR. HARDER: I'm not saying --

5 MR. BERRY: I let you finish.

6 MR. HARDER: I'm not saying that this
7 is a violation of the First Amendment.
8 I'm not saying that. Our case is not
9 about that. Judge Campbell made a very
10 clear ruling, you can't ask questions
11 about his sex life generally. You ask
12 questions about the sex that happened --
13 that relates to the sex video that is at
14 issue in the case.

15 MR. BERRY: The question before Judge
16 Campbell, we went over this again and
17 again.

18 JUDGE CASE: I read it several times.

19 MR. BERRY: The question was could we
20 take discovery from the plaintiff about
21 every single person he slept with in some
22 period of time. That's not what we're
23 asking about here. What we're asking
24 about -- I don't know if she knows whether
25 Christiane Plante and the plaintiff slept

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2 together. That's not what my question is.
3 My question is, is this generated press
4 coverage sufficient that this becomes a
5 matter of public concern, and that's the
6 question in the case.

7 JUDGE CASE: It appears you're trying
8 to come in the back door of Judge
9 Campbell's ruling that narrows this to any
10 sexual relations to Bollea and Clem. She
11 wasn't very tolerant about going outside
12 of that. And by parading these online
13 tabloid-ish stuff to this witness is an
14 attempt to do exactly what Judge Campbell
15 said she did not want to have happen. I'm
16 going to sustain the objection.

17 MR. BERRY: For the record I'm not
18 trying to go through the back door.

19 JUDGE CASE: You're welcome to
20 proffer them as part of the record.
21 Obviously if you want to revisit it with
22 Judge Campbell.

23 MR. BERRY: Should I do it through
24 the witness?

25 JUDGE CASE: Do it between us here

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2 today.

3 Why don't we take a break to think
4 about it.

5 MR. HARDER: Your Honor, to clarify,
6 the questions went back about two or three
7 questions. All the questions regarding
8 Christiane Plante are going to be stricken
9 from the deposition transcript and the
10 answers obviously.

11 MR. BERRY: Because she's an out of
12 state witness, we don't have another shot.
13 If we take this issue up with Judge
14 Campbell, I mean Charles represents her,
15 will she come back again?

16 MR. HARDER: Sure.

17 JUDGE CASE: All right.

18 MR. BERRY: Let's take a break.

19 JUDGE CASE: Five minutes.

20 THE VIDEOGRAPHER: The time on the
21 video monitor is 10:58 a.m. We're off the
22 record.

23 (Recess taken)

24 THE VIDEOGRAPHER: We're back on the
25 record. The time on the video monitor is

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2 11:07 a.m.

3 BY MR. BERRY:

4 Q. That's an example of a question you
5 don't have to answer for now.

6 MR. BERRY: Judge Case, Paul and I
7 conferred, we'll attach this exhibit to
8 the deposition, with Your Honor's ruling?

9 JUDGE CASE: Okay.

10 MR. BERRY: We won't go through any
11 other media at this point that bear on the
12 issues we discussed based on Charles'
13 representation that Ms. Traub would come
14 back if necessary. We would just
15 represent that we would offer additional
16 media coverage of issues pertaining to the
17 plaintiff's sex life.

18 JUDGE CASE: Thank you.

19 MR. BERRY: Changing gears slightly.

20 Q. When was the last time you spoke with
21 Terry?

22 A. Ten days ago maybe. The week before.

23 Q. What did you all discuss?

24 A. Us Weekly wanted him to do a feud.

25 Like bear feuds page, he judges two situations

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C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

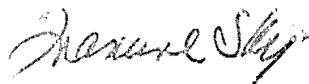
COUNTY OF NEW YORK)

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

That ELIZABETH ROSENTHAL TRAUB, the witness whose deposition is hereinbefore set forth, was sworn and that such deposition is a true record of the testimony given by such 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 4th day of March, 2015.



Francine Sky