

**CONFIDENTIAL
EXHIBIT 112-C**

to the

**SUPPLEMENTAL CONFIDENTIAL AFFIDAVIT OF RACHEL E. FUGATE IN
SUPPORT OF THE PUBLISHER DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT**

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

TERRY GENE BOLLEA,
 professionally known as HULK
 HOGAN,

Plaintiff,

vs.

Case No.
 12-012447-CI-011

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

Defendants.

VIDEOTAPED

DEPOSITION OF: HEATHER COLE,
 formerly known as
 HEATHER CLEM

DATE: January 26, 2015

TIME: 10:07 a.m. to 1:59 p.m.

PLACE: Bajo, Cuva, Cohen & Turkel, P.A.
 100 North Tampa Street
 Suite 1900
 Tampa, Florida

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

REPORTED BY: Aaron T. Perkins, RPR
 Notary Public, State of
 Florida at Large

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APPEARANCES:

CHARLES J. HARDER, ESQUIRE
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- and -

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- and -

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Attorneys for Plaintiff

CONTINUED:

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APPEARANCES CONTINUED AS FOLLOWS:

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Attorneys for Defendant Gawker Media, LLC,
et al.

MICHAEL W. GAINES, ESQUIRE
The Barry A. Cohen Law Group
201 East Kennedy Boulevard
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Attorney for Defendant Heather Clem

ALSO PRESENT:

Mike Byrd, videographer
Terry Gene Bollea
Judge James R. Case

1 Q. Do you recall the period of time -- well,
2 strike that.

3 Did you have an interest in having sexual
4 relations with Terry Bollea before it occurred?

5 A. No.

6 Q. It was Bubba's desire?

7 A. I can't answer that for him.

8 Q. But Bubba stated that that was his desire?

9 A. He asked a question.

10 Q. Do you recall how many occasions Bubba
11 discussed with you this issue of you having sexual
12 relations with Terry Bollea?

13 A. I do not recall.

14 Q. Can you give me an estimate? Was it more
15 than five times?

16 A. I would estimate five or less.

17 Q. You eventually had sexual relations with
18 Mr. Bollea?

19 A. Yes.

20 Q. Do you recall the number of the encounters
21 that you had with him?

22 A. To the best of my knowledge, I can think of
23 three times that I remember.

24 Q. Do you recall where those sexual encounters
25 occurred?

1 A. Yes.

2 Q. And where?

3 A. Once at my -- at our house when I was married
4 to Mr. Clem; once at Mr. Bollea's house; once in a
5 hotel room.

6 Q. Which hotel?

7 A. I don't recall the name.

8 Q. Was it located in the Tampa Bay area?

9 A. No.

10 Q. Where was it located?

11 A. Tennessee.

12 Q. Which happened first? Was it the house that
13 happened first?

14 MR. BERRY: Objection.

15 THE WITNESS: Can you be more specific?

16 BY MR. HARDER:

17 Q. Okay. Was it -- was the first encounter that
18 you had with Mr. Bollea at your house?

19 A. No.

20 Q. Was it at Mr. Bollea's house?

21 A. To the best of my knowledge, yes.

22 Q. What do you recall about that encounter?

23 A. That we had sex.

24 Q. Do you recall any communications before you
25 had sex?

1 Prior to the third sexual encounter, do you
2 recall any communications that you had with either
3 Mr. Clem or with anyone else regarding having sex with
4 Terry Bollea a third time?

5 A. No, I do not recall.

6 Q. What do you recall about the third sexual
7 encounter that you had with Terry Bollea?

8 A. That we had sex.

9 Q. Do you recall anything else during the time
10 that you had sex -- well, strike that.

11 Other than the fact that you had sex, do you
12 recall anything else about the third sexual encounter
13 with Terry Bollea?

14 A. No.

15 Q. Do you recall any communications that you had
16 with Bubba Clem or Terry Bollea or anyone else after
17 the third sexual encounter regarding the third sexual
18 encounter?

19 A. Yes.

20 Q. What do you recall?

21 A. At some point after the encounter at our
22 house with Mr. Bollea, Mr. Clem showed me a videotape
23 of myself and Mr. Bollea having sex.

24 Q. How long did you watch that footage? Was it
25 a few seconds or a few minutes or the whole thing?

1 A. I did not watch it. It was brief.

2 Q. What was your response to Mr. Clem when he
3 showed you that?

4 A. I was upset.

5 Q. Do you recall what you said to Mr. Clem or
6 what Mr. Clem said to you?

7 A. I recall being upset.

8 Q. Did you shout?

9 A. I don't recall.

10 Q. I assume that you had no idea before the
11 third sexual encounter that it was going to be filmed?

12 A. Can you ask me that in a question?

13 Q. Sure.

14 Did you have any idea before the sexual
15 encounter happened that it was going to be filmed?

16 A. No.

17 Q. The first time that you learned of the
18 filming of any sexual encounter with Terry Bollea was
19 after the third encounter, correct?

20 A. Yes.

21 Q. Did you ever have any communications with
22 Terry Bollea regarding sex after the third sexual
23 encounter?

24 A. Not that I recall.

25 Q. You never told Terry Bollea that the

1 Mr. Clem inform you that he had -- he was the one who
2 filmed you? Well, let me -- let me strike that, and I
3 will reask the question. I want to be as clear as I
4 can.

5 What do you recall of your conversation with
6 Mr. Clem immediately after the third encounter
7 regarding how it was filmed?

8 A. I don't recall a conversation immediately
9 after the third encounter.

10 Q. When did the conversation take place that you
11 had with Mr. Clem after the third encounter regarding
12 the filming?

13 A. I was shown the video. I immediately asked
14 for it to stop. I don't remember a specific
15 conversation. I do remember being very upset.

16 Q. Do you recall if you asked him to destroy the
17 video?

18 A. At a later time, yes.

19 Q. Let me get a sense of the timing.
20 Approximately how much time took place between the
21 third sexual encounter and when you were shown the
22 video of it?

23 A. I don't recall.

24 Q. What's your best estimate? Was it a day, a
25 week, a month, somewhere in between there?

1 A. I would guess several weeks.

2 Q. Do you recall having any conversations with
3 Bubba Clem regarding that sex video after that first
4 time he showed it to you?

5 A. At our mediation in our divorce, there was a
6 discussion where I asked for personal items that had
7 been told to me had been destroyed. I was trying to
8 ensure that they no longer existed, and I was told in
9 mediation that they did not.

10 MR. GAINES: Let's go off the record for just
11 a minute. Let me just ask her something to save
12 you some time here.

13 THE VIDEOGRAPHER: Off the record at 10:34
14 a.m.

15 (A recess was taken.)

16 THE VIDEOGRAPHER: On the record at 10:36.

17 MR. GAINES: This is Michael Gaines on behalf
18 of Heather Cole. Just to the extent we went off
19 the record for a minute, it was just to clarify
20 that the marital settlement agreement is
21 confidential. It was my understanding that the
22 confidentiality order that was entered in this
23 case supercedes that and covers it. So with that
24 understanding and to that extent, then Ms. Cole is
25 going to answer questions about the divorce and

1 A. I know that the people that we were friends
2 with and close to listened to it.

3 Q. And why did they listen to it?

4 A. I don't know.

5 Q. Okay. From what I understand, Mr. Clem's
6 radio show can be controversial at times, right?

7 A. I think that's a fair assumption.

8 Q. Does he court controversy?

9 A. In my opinion, yes.

10 Q. Why is that your opinion? I guess, what
11 gives you reason to think that he courts controversy?

12 A. In the time we were involved in a
13 relationship, there was much controversy with his radio
14 show and his personal life.

15 Q. Can you give me an example?

16 A. He fought with friends; he fought with
17 competing radio stations. He had one, that I remember
18 specifically, lawsuit during his stint at Sirius. He
19 discussed it on the air.

20 Q. Which lawsuit was that?

21 A. I think it was one involving a woman named
22 Brooke Skye.

23 Q. And tell me just a little bit about that.

24 A. From what I remember, she sued him for
25 forcing her to perform a sex act on air.

1 Q. Did she sue him here in Tampa?

2 A. I think so, yes.

3 Q. Do you know what happened with that case?

4 A. I think he settled.

5 Q. Did Mr. Clem have any views about publicity
6 for himself?

7 A. Yes.

8 Q. What were those?

9 A. I remember him saying that there is no such
10 thing as bad publicity, as long as they spell your name
11 right.

12 Q. And during the time that you-all were dating
13 and married, was that kind of a creed that he operated
14 by?

15 A. In my opinion, yes.

16 Q. Describe what Mr. Clem is like as a person.

17 A. He can be fun, funny, giving, loving. He can
18 be equally manipulative, selfish, intimidating, and
19 hurtful.

20 Q. Tell me an example of him being giving.

21 A. When he cares about a situation, he will
22 donate money.

23 Q. Like the charitable stuff he talks about on
24 the air?

25 A. Correct.

1 A. Yes.

2 Q. When you had run into him, did Bubba come up
3 at all?

4 A. No.

5 Q. You had mentioned earlier that during Bubba's
6 radio show, he talks about his personal life. When he
7 talks about his life on the show, is he being truthful?

8 A. Sometimes.

9 Q. But other times he's not?

10 A. Correct.

11 Q. Was that the case when you-all were dating?

12 A. I don't know. I would assume it was the
13 same.

14 Q. But then it was sometimes truthful and
15 sometimes not when you were married?

16 A. Correct.

17 Q. When you listened to his show, how could you
18 tell if Bubba was being truthful?

19 A. I didn't know all of the time until I was
20 personally involved in a situation he spoke about.

21 Q. So even when you were married, you couldn't
22 tell whether -- one way or another whether he was being
23 truthful on the air at times?

24 A. Most times, no.

25 Q. When you-all were married, did -- did Bubba

1 ever discuss your-all's sex life on the air?

2 A. Yes.

3 Q. Just in general terms, do you recall what he
4 said?

5 A. Not -- I don't recall every occasion. I do
6 remember some details, yes.

7 Q. What kind of stuff?

8 A. Stories of me, what I did.

9 Q. What you did when you were intimate with him?

10 A. Sometimes, yes.

11 Q. And other times?

12 A. Maybe just general comments about our sex
13 life.

14 Q. Did he ever discuss on the air whether
15 you-all had an open relationship?

16 A. Not that I recall.

17 Q. Did you ever appear on the show?

18 A. Yes.

19 Q. When you were on the show, did you talk about
20 your relationship with Bubba?

21 A. Sometimes.

22 Q. Did you ever discuss your sex life with Bubba
23 on the air?

24 A. As it pertained to he and I, I think so.

25 Q. Was it your impression that discussion of

1 Q. Sorry.

2 A. I'm not aware if Bubba ever told anyone that
3 there may have been a camera in our bedroom.

4 Q. Do you know who knew how to operate that
5 camera?

6 A. Other than maybe Bubba, no.

7 Q. And, I take it, from what you had indicated
8 earlier in talking to Charles, you didn't know how to
9 use the camera?

10 A. No.

11 Q. Do you know whether the camera recorded 24
12 hours a day?

13 A. I don't know.

14 Q. So you don't know whether someone actually
15 needed to actually start and stop the recording?

16 A. I don't know.

17 Q. Do you know whether video that was being
18 captured from the camera could be watched while it was
19 recording?

20 A. I'm not aware.

21 Q. Do you know whether the video that was
22 captured from that camera was actually being recorded?

23 A. I don't know.

24 Q. Earlier you had talked about watching a disk
25 of a sexual encounter involving you and Mr. Bollea. Do

1 MR. GAINES: Asked and answered.

2 MR. HARDER: He actually asked about the
3 first encounter. I think what he's getting
4 at is --

5 BY MR. BERRY:

6 Q. It's like over the -- from the first to the
7 last, what period of time?

8 MR. GAINES: My notes indicate that was
9 discussed already. If she remembers, she can
10 answer it one more time, I guess.

11 THE WITNESS: I don't remember.

12 BY MR. BERRY:

13 Q. Do you recall whether you and Mr. Bollea ever
14 had a sexual encounter at Bubba's radio station?

15 A. Yes.

16 Q. Did you?

17 A. An encounter.

18 Q. Relative to the -- in time to the other three
19 encounters you had talked about with Charles earlier,
20 when was that one?

21 A. I don't know in what order.

22 Q. Was anybody else at the radio station?

23 A. Bubba.

24 Q. Was that something that happened at night?

25 A. I don't recall.

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REPORTER'S CERTIFICATE

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I, Aaron T. Perkins, Registered Professional Reporter, certify that I was authorized to and did stenographically report the deposition of HEATHER COLE, formerly known as HEATHER CLEM; that a review of the transcript was requested; and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 30th day of January, 2015.



Aaron T. Perkins, RPR