

Exhibit 41_C

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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, Case No.
12-012447-CI-011

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

VIDEOTAPE
DEPOSITION OF: BUBBA THE LOVE SPONGE CLEM
DATE: March 3, 2014
TIME: 12:09 p.m. to 3:07 p.m.
PLACE: Thomas & LoCicero, P.L.
601 South Boulevard
Tampa, 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: Aaron T. Perkins, RPR
Notary Public, State of
Florida at Large
Volume 1
Pages 1 to 182

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Attorney for Bubba the Love Sponge Clem

ALSO PRESENT:

Honorable James Case
Mike Byrd, videographer
Terry Gene Bollea

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1 together first come up?
 2 MR. DIACO: Object to the form to the extent
 3 that it involves a confidential communication
 4 between you and Heather. If it doesn't involve a
 5 confidential communication between you and
 6 Heather, I think it's fair game.
 7 THE WITNESS: It's involved a conversation
 8 that she and I had.
 9 MR. BERRY: We'll come back to this.
 10 MR. DIACO: Okay. Let me ask, Was there
 11 anyone else present when you guys had that
 12 conversation?
 13 THE WITNESS: No.
 14 MR. DIACO: Okay.
 15 BY MR. BERRY:
 16 Q. Have you ever talked about that conversation?
 17 MR. GOLD: With anybody other than your
 18 lawyer?
 19 MR. BERRY: Yeah. Sorry.
 20 BY MR. BERRY:
 21 Q. With anybody other than your lawyer and
 22 Heather?
 23 A. Just Heather and I.
 24 Q. Okay. Whose idea was it?
 25 MR. DIACO: Same objection, Judge.

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1 MR. GOLD: Marital privilege.
 2 MR. DIACO: Marital privilege.
 3 MR. BERRY: I think it's going to come out
 4 eventually here that some of this has been
 5 discussed publicly. But at that time, we'll go
 6 back and revisit all of these things. But if you
 7 want to assert the marital privilege, then we can
 8 move forward.
 9 MR. DIACO: I mean, as it relates to a
 10 confidential communication, I'm going to assert it
 11 always and protect my client's confidences. If
 12 you have some other document or some other
 13 publication or something else that you want to
 14 refer to, like a Twitter message or a text message
 15 or something else that you believe is something
 16 outside the context of a confidential
 17 communication, I will certainly allow him to talk
 18 about it. I don't think that would be covered by
 19 privilege, and I don't think that would be a
 20 proper objection on my part.
 21 BY MR. BERRY:
 22 Q. Tell me how the idea of Heather having sex
 23 with Hulk first came up with Hulk?
 24 MR. DIACO: Same objection. Spousal
 25 privilege.

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1 MR. BERRY: No. With Hulk.
 2 MR. DIACO: Oh, I'm sorry. I apologize.
 3 Do you understand the question?
 4 THE WITNESS: No. Could you ask --
 5 BY MR. BERRY:
 6 Q. How did the idea of Heather having sex with
 7 Hulk first come up with him?
 8 A. I think -- I think I asked him.
 9 Q. When was that?
 10 A. Probably the day of or night of or moments
 11 before.
 12 Q. And tell me about what you recall about that
 13 conversation with him?
 14 A. I don't really recall much, other than if he
 15 wanted to.
 16 Q. And that was the first time that you talked
 17 to him about it?
 18 A. Yeah, the best I can -- yeah. The best of my
 19 knowledge, yes.
 20 Q. And how in the context of you-all talking did
 21 this come up?
 22 A. I don't know the -- I don't know the
 23 situation as to how it came up or, you know --
 24 Q. Did he bring it up or did you?
 25 A. No, no. I did.

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1 Q. And what did you say to him?
 2 A. I just said, you know, Heather has been --
 3 MR. GOLD: Objection.
 4 MR. DIACO: Objection. Objection. Please
 5 try to --
 6 MR. BERRY: But he's talked about -- he's
 7 talked about --
 8 MR. DIACO: Hold on a second. Hold on a
 9 second. Excuse me. Hold one second, just one
 10 second.
 11 JUDGE CASE: Gentlemen, let's let the witness
 12 answer the question.
 13 MR. DIACO: Okay. And I just want to -- and
 14 I just want to caution him that the marital
 15 spousal privilege goes two ways. And so it's not
 16 his position to violate it as it relates to
 17 Heather either. And so I just want to caution you
 18 that the privilege goes both ways. It goes for
 19 you and Heather.
 20 THE WITNESS: Yes.
 21 MR. DIACO: And so if it's a conversation
 22 that you had, a confidential conversation with
 23 Heather, pending --
 24 THE WITNESS: Yeah.
 25 JUDGE CASE: Mr. Diaco, I think you're

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1 or not or it just was a spontaneous-type thing. I
2 don't -- I can't give you my mindset as to if I had
3 that mindset or not.

4 Q. Prior to them having sex, did you know that
5 it was going to be recorded?

6 A. No. Again, my testimony is I didn't have
7 that mindset per se at the time. It was a spontaneous
8 thing. And again, my room is under surveillance at all
9 times, so I had a certain amount of days, however long
10 my hard drive, whether it was 14 days or 18 days, to
11 captivate that and to save that particular thing. So
12 my testimony would be, no, it was not premeditated at
13 the time that I asked him. I -- I would never do that.

14 Q. Did Heather understand at that time that she
15 was being filmed?

16 MR. DIACO: Object to the form of the
17 question.

18 THE WITNESS: I don't know. I don't know.

19 You might want to ask her.

20 BY MR. BERRY:

21 Q. Did you think that she knew she was being
22 recorded?

23 A. I would assume that she did. I would say the
24 only person who didn't know would be Terry.

25 Q. And when did -- was the first time that he

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1 have checked on it a few times to make sure it was done
2 or what have you. But I didn't watch it when it was
3 being transferred from hard drive to disk.

4 Q. And when -- and when Heather and Hulk had
5 sex, was it arranged that they would do it in the
6 bedroom to ensure that it was being taped?

7 A. No. I mean -- no. It wasn't prearranged,
8 no. Not like that, no.

9 Q. Was it ever discussed where they would have
10 sex?

11 A. No.

12 Q. Why did you burn the DVD?

13 A. I don't know. Obviously, you know, it was
14 very much an error in judgment, and so I can't
15 necessarily tell you why other than it's the biggest
16 mistake I have made in my life.

17 Q. But what were you thinking at that point?

18 A. I don't know. I don't know. Obviously, I
19 wasn't thinking clearly.

20 Q. Did you ever discuss it with anybody else?

21 A. Not to my knowledge.

22 Q. How soon after they had sex did you burn that
23 DVD?

24 A. You know, I can't recall what my time period
25 with the unit as to how many days before it recorded --

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1 learned that it was filmed?

2 A. Probably when the TMZ -- I think in the
3 chronological, the way time -- the way things happened,
4 I think TMZ broke it that you guys had it, and it was
5 still images. And then I think the actual minute,
6 however long -- I have never seen the tape in its
7 entirety -- was broke by you guys shortly thereafter.
8 So I'm assuming Mr. Hogan knew about this when TMZ had
9 screen shots of it.

10 Q. Okay. When you download something from that
11 DVR recording device that you were talking about with
12 these cameras, do you need a monitor to do that?

13 A. Yes.

14 Q. And so at that point, did you -- when you
15 decided to download this, were you able to see them
16 having sex on the recording?

17 A. No, not per se. I -- I had a DVD burner that
18 had a small flip-up monitor to it. And all you'd have
19 to do is scroll through the hard drive, find time
20 points as to where it was and know approximately how
21 long it was. I mean, I guess if you physically stayed
22 in the room and watched it download and record real
23 time, you could watch the whole thing. I, obviously,
24 don't have that much time, so I -- when I captivated
25 this particular element, it had a start. And I could

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1 (that it went over itself. So it was within, I would
2 say -- safely say within 14 days of it, because I
3 think -- the best I can recall, I think my DVR taped
4 over itself or hard-driven over itself 14 to 16 days.
5 (So it was within that time period.)

6 Q. But you don't have a better recollection of
7 whether it was that night, the next day --

8 A. No.

9 Q. -- two days later?

10 A. No. I don't have a recollection as to
11 actually within that time period. It would be safe to
12 say within two weeks.

13 Q. Did Heather know that you burned that DVD?

14 A. Yeah, I think so.

15 Q. At what point did she learn that?

16 A. I don't know when we had that discussion, but
17 she knew.

18 Q. Was it within that same two-week time frame?

19 A. Yes.

20 Q. And what was -- how did it come up that she
21 knew?

22 MR. GOLD: Objection to the extent it calls
23 for a discussion of a marital privilege/
24 communication.

25 MR. DIACO: Join.

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1 chance to read the whole e-mail?

2 A. Yes.

3 Q. Okay. Seeing this now, does that refresh
4 your recollection about the contact that you had with
5 David Houston on April 19th?

6 A. No. I know that I -- again, as I testified
7 earlier, I corrected myself by saying I may have had
8 conversations with Mr. Houston about this. So, no, I
9 don't specifically remember the conversation he and
10 I -- Mr. Houston and I had. Obviously, if you read
11 this, it was obviously about the -- this tape.

12 Q. Okay. So between April 19th and today, do
13 you recall the substance of any conversation that you
14 had with Mr. Houston in connection with the sex tape?

15 A. No. I have had some, but I can't recall the
16 content.

17 Q. Do you recall ever telling Mr. Houston that
18 you did not have any involvement in recording the tape?

19 A. Yes.

20 Q. What do you recall about that?

21 A. Let me tell you something. I have vehemently
22 denied to all of Hogan's people, whomever would listen,
23 that I didn't have anything to do with this,
24 Mr. Houston, to Terry. I never spoke to Mr. Harder,
25 per se, but predominantly Terry and Mr. Houston. I

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1 yesterday, Matt Loyd?

2 A. No. I have not had any contact with
3 Mr. Houston or Mr. Hogan for a long, long time, so
4 this -- them -- me telling -- I don't know if they have
5 discovered what I have discovered in their due
6 diligence, but they don't have any idea -- they may
7 know, but it would be on their own discovery, not mine.

8 Q. Okay. But at this point, Heather knew about
9 the tape, right?

10 A. Well, she knew -- obviously, she was in the
11 tape, so she knew about the tape. I don't know if she
12 knew that it had been stolen and distributed. I don't
13 know what her mindset was there. We weren't together
14 anymore.

15 Q. Right.

16 But you knew at that point that it had been
17 taken out of your possession, right?

18 A. Well, obviously, yes.

19 Q. Okay. So why did you tell her that they have
20 contacted the Florida State Attorney General and will
21 be pressing full criminal charges?

22 A. I don't know. It probably was a conversation
23 that Mr. -- as I said, I think you can read -- read
24 this and maybe decipher what Mr. Houston and I spoke
25 about. I can't testify that I can remember that

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1 never, up until yesterday, really stepped up and told
2 the truth.

3 Q. Okay. And so the story that you told
4 Mr. Houston up until yesterday was you had nothing to
5 do with this?

6 A. Correct.

7 Q. Okay. And so what you wrote to Heather: He
8 has informed me that there may be some kind of sex
9 video with you and Terry being shopped around by
10 someone.

11 Did you think that was news to Heather at
12 that point?

13 A. I don't know. I -- I -- I can't speculate
14 what she knew and didn't know.

15 Q. Do you recall whether Mr. Houston asked for
16 you to get in touch with Heather?

17 A. No, I do not.

18 Q. At that point in time, did you tell Houston
19 that you knew that it was your bedroom?

20 A. Again, sir, I don't know that the content or
21 the extent of what the content was of me and
22 Mr. Houston. I do know one thing. The only thing I
23 can tell you for sure, that I was not honest with
24 Mr. Houston with regards to who was -- who taped it.
25

Q. And did you ever mention to him, until

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1 conversation.

2 Q. And -- right. I don't care about your
3 conversation with Mr. Houston. I'm asking about this
4 particular sentence and why you sent it to Heather.
5 You knew that she wasn't the one who had the tape,
6 right?

7 A. Yeah. Well, hold on. I have all along never
8 implicated Heather. I have never thought that she did
9 that, truthfully. So I think that -- there may have
10 been a time when I was trying to cover my ass with
11 Terry that I tried to implicate Heather when we were
12 broke up, to still try to be dishonest and to cover my
13 ass. But truthfully, I knew she had nothing to do with
14 it. I knew where it had come from.

15 Now, what I told Mr. Hogan early on when we
16 still were texting may be -- may be contrary to that.

17 Q. Why did you say to her: If you have any idea
18 who is behind this, please express to them releasing
19 this is criminal.

20 MR. DIACO: Shopping the tape. Object to the
21 form. In the interest of completeness, read the
22 whole sentence, please.

23 BY MR. BERRY:

24 Q. The sentence says: If you have -- read
25 the -- read the --

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- 1 A. It's just my opinion.
 2 Q. I know. But what do you mean?
 3 A. You want my opinion on it?
 4 Q. Yeah. How do you think that they weren't
 5 being honest?
 6 A. Well, they didn't obtain the tape in the
 7 correct manner. They received or bought a stolen tape
 8 that was one person's property, mine, and I didn't give
 9 it to them, didn't authorize anybody to give it to
 10 them. And so I'm not a judge or a cop, but I think if
 11 you receive stolen property and publish it or try to
 12 destroy somebody's life, that's -- I don't know what
 13 your big, fancy federal judge ruled, but that's not
 14 correct in any way, shape, or form.
 15 Q. If Gawker told folks how they obtained the
 16 tape, would they have been being honest?
 17 A. So I can go out and steal somebody's car and
 18 because I let them -- because I wrote them a letter on
 19 how I stole it, is that okay? I mean, is that what
 20 you're saying? Because you -- because you disclose
 21 where -- that you got it from an anonymous source?
 22 I've used that before in media. The anonymous source
 23 kind of deal, when really I'm not man enough to tell
 24 you where I got it from and how I got it. That doesn't
 25 make it any more right.

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- 1 [redacted] I know that there were three people that --
 2 that were on that tape, two of which knew about it, one
 3 of which didn't, and none of the three gave it to you
 4 guys, nor would ever give it to you guys. And it's
 5 destroyed all three people's lives. And two people
 6 knew about it and one didn't. I don't know where you
 7 come from, but where I come from, that's not cool.
 8 Q. In your opinion, do you think that Hulk Hogan
 9 made a public spectacle of this by talking about it in
 10 the press so often?
 11 A. No.
 12 Q. At what point do you think -- at what point
 13 do you think that Hulk's feelings about you changed?
 14 A. It doesn't matter, because his feelings -- in
 15 fact, they should have changed sooner, because I lied
 16 to him for a year about this, so it doesn't matter when
 17 his feelings about me changed. His -- his feelings
 18 about not being -- not trusting me were valid all
 19 along, so they were probably later than sooner. They
 20 should have been a lot sooner, because had I manned up
 21 and said to Terry the truth all along, you know, he
 22 would have obviously known about it sooner.
 23 Q. Do you know what caused his feelings to
 24 change?
 25 A. Yeah. I think that Terry was able to

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- 1 determine that I was -- that I had -- that I had lied
 2 to him and that I had taped this without his knowledge.
 3 Q. Do you know how he was able to determine
 4 that?
 5 A. No. I mean, I'm sure him and his attorneys
 6 pretty much figured it out. I wasn't part of his
 7 investigative team, but the truth of the matter is,
 8 they are correct.
 9 Q. But you weren't the one who went and told him
 10 that?
 11 A. No.
 12 Q. And at that point, did it make sense to you
 13 why he suddenly got mad at you?
 14 A. Yeah, absolutely, absolutely.
 15 Q. Again, because you realized that he had
 16 figured it out and you had been hiding the ball all
 17 along?
 18 A. I had been -- I had just done two things: I
 19 had lied to my best friend, and I had done something
 20 behind his back that at the end of day has cost him --
 21 all the things he's been through in life and all the
 22 places he's traveled, this has been, single-handedly,
 23 one of the worst things that's ever happened to him.
 24 One of the most dirty crossed, double agent shit ever
 25 happened to him, and that's solely on his best friend.

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- 1 I'm humiliated by it.
 2 Q. Did he ever tell you that?
 3 A. I'm pretty smart. I can figure it out. No,
 4 I don't think we had that conversation, per se.
 5 Q. And so you think that he was -- and continues
 6 to be sincerely angry at you?
 7 A. Yeah, yeah.
 8 Q. And that he was sincerely upset by the
 9 posting on Gawker?
 10 A. Absolutely.
 11 Q. Was he embarrassed by it?
 12 A. We all are.
 13 Q. What did he ever say to you about being
 14 embarrassed by it?
 15 A. It -- I wish you were sitting in my shoes
 16 right now and this had been done to you. I really do,
 17 because I don't even know if there is a word past
 18 embarrassment -- humiliated, embarrassed, foolish.
 19 It's easy for you to ask me this question.
 20 It's -- this is the worst thing that you could do to
 21 somebody, and I did it to my best friend. And it's --
 22 it's just the -- I wish I could find something greater
 23 than embarrassed.
 24 Q. When did you first learn that he might sue
 25 you?

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1 here. I will go ahead and mark this as Exhibit 65.
 2 (Exhibit No. 65 was marked for
 3 identification.)
 4 BY MR. BERRY:
 5 Q. And I'll just tell you -- and I guess
 6 Mr. Harder can correct me if I'm wrong -- this is a
 7 copy of the complaint that was filed against you and
 8 Heather Clem on October 15th, 2012, as it says on the
 9 first page. If you'd like to take a minute and just
 10 flip through it, you are welcome to.
 11 A. Okay. I have got it.
 12 Q. Have you had a chance to look at it?
 13 A. Yes.
 14 Q. And in looking at it now, do you recall ever
 15 seeing this before?
 16 A. Yeah. I briefly saw this when Tom had showed
 17 it to me.
 18 Q. When was that?
 19 A. I'm assuming it was roughly a few days after
 20 that October 15th file date.
 21 Q. And what did Tom tell you about the lawsuit?
 22 A. That we, you know, needed to be concerned
 23 about this. Again, I don't remember the exact
 24 conversation other than it was very disturbing on our
 25 behalf.

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1 Q. In what way?
 2 A. In the fact that I had -- that this lawsuit
 3 was correct, the fact that I did the majority of what
 4 they alleged.
 5 Q. What did you not do that was alleged?
 6 A. I can't go point by point. I just know that
 7 I -- that I recorded Mr. Hogan unbeknownst to him, and
 8 he was not aware of it, and --
 9 Q. And --
 10 A. That's the -- that's the crux of this.
 11 Q. Did Tom Bean tell you how you should respond
 12 to this lawsuit?
 13 A. I can't recall the tactics that we spoke
 14 about and what we needed to do.
 15 Q. Did he give this to you before or after you
 16 went on the air?
 17 A. Oh, I would assume that it was after we spoke
 18 about it. He wouldn't hand me this before.
 19 Q. Okay. We've talked a little bit -- quite a
 20 bit -- about why you were sued. Do you know why -- why
 21 Heather was sued?
 22 A. No. I don't have any idea.
 23 Q. What do you think?
 24 MR. DIACO: Object to the form of the
 25 question.

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1 THE WITNESS: I can't speculate. I don't
 2 know. I'm not a lawyer.
 3 BY MR. BERRY:
 4 Q. Did you ever -- after you got sued, did you
 5 ever have any contact with Heather about the lawsuit or
 6 the sex tape?
 7 A. I don't think so.
 8 Q. No conversation with her?
 9 A. I don't think so.
 10 Q. No e-mails or texts?
 11 A. I don't think so.
 12 MR. DIACO: Do you mean outside the context
 13 of, like, normal divorce stuff?
 14 MR. BERRY: Just about the lawsuit or the sex
 15 tape.
 16 MR. DIACO: Thank you for that clarification.
 17 THE WITNESS: I think we were going through a
 18 divorce at this time, so I don't think we spoke
 19 about this sex tape.
 20 BY MR. BERRY:
 21 Q. I just want to ask you about a couple
 22 paragraphs, and we'll just turn to page 4 here.
 23 First, I will ask about paragraph 18. It
 24 says: The defendants, without plaintiff's knowledge --
 25 and plaintiff is Hulk Hogan -- without his knowledge or

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1 consent, have grossly invaded plaintiff's protected
 2 rights of privacy as recognized under the United States
 3 Constitution, Florida Constitution, and common law, by
 4 filming plaintiff in or about 2006 engaged in
 5 consensual intimate sexual relations with Ms. Clem in a
 6 private bedroom.
 7 Is it true that you filmed him in or about
 8 2006 engaged in consensual intimate sexual relations
 9 with Ms. Clem in a private bedroom?
 10 A. Yes.
 11 MR. HARDER: I am going to object.
 12 MR. DIACO: Join.
 13 MR. HARDER: Part of that lacks foundation,
 14 assumes facts not in evidence, and it's a -- it's
 15 a compound question. There are a lot of facts in
 16 there.
 17 BY MR. BERRY:
 18 Q. Do you admit that you filmed plaintiff
 19 engaged in consensual -- do you admit that you filmed
 20 plaintiff engaged in consensual intimate sexual
 21 relations with Ms. Clem in a private bedroom?
 22 MR. DIACO: Asked and answered.
 23 THE WITNESS: Yes.
 24 BY MR. BERRY:
 25 Q. You did that without his knowledge or