

EXHIBIT 4

to the

**PUBLISHER DEFENDANTS'
OPPOSITION TO PLAINTIFF'S MOTION IN LIMINE NO. 21
TO EXCLUDE TESTIMONY OF GAWKER WITNESSES ON
ISSUES ABOUT WHICH THEY LACK PERSONAL KNOWLEDGE**

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

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TERRY GENE BOLLEA, professionally know as
HULK HOGAN,

Plaintiff,
Case No.

-against- 12012447 CI-011

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

Defendants.

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April 14, 2015
10:12 a.m.

Videotaped Deposition of SCOTT KIDDER,
taken by Plaintiff, pursuant to Notice, at the
offices of Merrill Corporation, 1345 Avenue of
the Americas, New York, New York, before
William Visconti, a Shorthand Reporter and
Notary Public within and for the State of New
York.

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

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ALSO PRESENT:

ADAM KOWALCZYK, Videographer
HEATHER L. DIETRICK, Gawker Media

1	SCOTT KIDDER	14:38:07
2	Q. And if you want to see the pending	14:38:09
3	comments do you click on something that says	14:38:11
4	pending comments and then it will take you to a	14:38:13
5	different page with the pending comments?	14:38:16
6	A. I wouldn't call it a different	14:38:18
7	page. There is control and you can push it and	14:38:20
8	kind of what you see below the story will change.	14:38:23
9	Q. And then who is it that decides	14:38:25
10	which pending comments will become real comments	14:38:29
11	and which ones will not?	14:38:30
12	A. Generally it is up to the site.	14:38:34
13	Q. So is it the editor and chief or is	14:38:37
14	it the managing editor or is it just the different	14:38:40
15	editors writers?	14:38:42
16	A. It is probably a mix. Different	14:38:43
17	sites tend to handle it in different ways.	14:39:01
18	Q. The Gawker page that the Hulk Hogan	14:39:06
19	Hogan sex video, the original one written by A.J.	14:39:11
20	Daulerio, are you familiar with what I'm talking	14:39:13
21	about?	14:39:14
22	A. Yes.	14:39:14
23	Q. I believe you already testified to	14:39:15
24	that, that did not have any advertising added?	14:39:19
25	A. Not that I'm aware.	

1	SCOTT KIDDER	14:39:20
2	Q. That didn't have any commerce	14:39:22
3	added?	14:39:24
4	A. Not that I'm aware.	14:39:25
5	Q. Did it have any affiliate	14:39:28
6	marketing, affiliate program added?	14:39:29
7	A. Not that I'm aware.	14:39:32
8	Q. Is it Gawker Media LLC's position	14:39:34
9	that Hulk Hogan's damages would be zero based on	14:39:40
10	the fact that there was no advertising commerce	14:39:43
11	etc. at that page?	14:39:44
12	MS. SMITH: Objection, that is	14:39:45
13	outside the scope, but...	14:39:46
14	A. It sounds like a legal conclusion.	14:39:49
15	I'm not a lawyer, it is something that I didn't	14:39:53
16	prepare for today, I don't know.	14:39:54
17	Q. Is Gawker not taking a position on	14:39:59
18	what damages will be in this case?	14:40:02
19	MS. SMITH objection, that is	14:40:03
20	something that Gawker's legal team is dealing	14:40:06
21	with not this witness.	14:40:06
22	MR. HARDER: Is Gawker's legal team	14:40:08
23	going to testify or is a witness going to	14:40:10
24	testify?	14:40:10
25	MS. SMITH: The witness is	

1	SCOTT KIDDER	14:48:08
2	Q. As the corporate designee for	14:48:11
3	Gawker Media LLC, is it Gawker's position that	14:48:15
4	Gawker Media did or did not derive a benefit from	14:48:17
5	playing the Hulk Hogan sex video?	14:48:20
6	MS. SMITH: Objection. You may	14:48:21
7	answer if you know.	14:48:23
8	A. I'm not sure that Gawker has a	14:48:27
9	formal position that I'm aware of on that.	14:48:29
10	Q. If Gawker did derive a benefit,	14:48:39
11	does Gawker have a theory on how to calculate that	14:48:42
12	benefit?	14:48:44
13	MS. SMITH: Objection. If you know	14:48:46
14	you can answer.	14:48:47
15	A. I'm not aware of any theories of	14:48:51
16	how we would calculate the benefit of a specific	14:48:53
17	post. I think that generally we publish thousands	14:48:58
18	and thousands of items a month and it is very	14:49:01
19	difficult in the aggregate to narrow something	14:49:04
20	down to a single post, at least from my point of	14:49:10
21	view.	14:49:10
22	Q. So is it Gawker's position that it	14:49:13
23	is impossible to calculate damages from Gawker's	14:49:17
24	use of the Hulk Hogan sex video at Gawker.com?	14:49:22
25	MS. SMITH: Objection.	

1 SCOTT KIDDER 14:49:23

2 A. No, I don't think anything is 14:49:24

3 impossible. I'm just saying it is difficult. 14:49:26

4 Q. So if it is difficult what are the 14:49:33

5 ways that Gawker could determine the benefit that 14:49:36

6 it received from playing the Hulk Hogan sex video? 14:49:39

7 A. I mean the only possible benefit 14:49:43

8 that I, again I'm speaking personally for a moment 14:49:46

9 could imagine is that of the millions of people 14:49:48

10 who visited a story on Gawker.com, it is likely 14:49:53

11 that even if it is a small percentage, either if 14:49:58

12 it is another story on Gawker.com from that 14:50:01

13 session or it came back at a later point in time. 14:50:03

14 So I imagine one could look at -- 14:50:07

15 the problem is it is difficult to quantify that at 14:50:09

16 least in actuals with Google analytics and the 14:50:15

17 like it is more of an art than a science. But 14:50:17

18 there is some way that I think a reasonable person 14:50:20

19 could attempt to quantify that. 14:50:22

20 Q. In attempting to quantify it, what 14:50:25

21 conclusion would Gawker draw from making that 14:50:31

22 calculation in terms of damages? 14:50:33

23 MS. SMITH: Objection, I don't think 14:50:34

24 he testified they made a calculation. 14:50:38

25 A. I'm talking about to the extent

1	SCOTT KIDDER	14:50:40
2	there is a benefit I think it is negligible and to	14:50:44
3	the extent there is damages, I can't speak to	14:50:47
4	that.	14:50:47
5	Q. So just so we have a clear record,	14:50:50
6	it is your testimony that any benefit that Gawker	14:50:56
7	derived from playing the Hulk Hogan sex video is	14:51:00
8	negligible meaning virtually nil, virtually	14:51:05
9	nothing?	14:51:05
10	A. I didn't use the words virtually	14:51:08
11	nil. Marginal, negligible, not very large to the	14:51:12
12	total company and all of the sites.	14:51:16
13	Q. Does Gawker have any numbers at all	14:51:19
14	on how it calculates potential damages from the	14:51:24
15	use of the Hulk Hogan sex video, to your	14:51:27
16	knowledge, to the best of your knowledge?	14:51:28
17	MS. SMITH: Outside of whatever you	14:51:29
18	know from the lawyers.	14:51:30
19	A. To the best of my knowledge, no.	14:51:31
20	Q. Other than what you have just	14:51:39
21	testified to, do you have any theories on how	14:51:42
22	damages could potentially be calculated as to the	14:51:47
23	use of the Hulk Hogan sex video at Gawker.com?	14:51:50
24	MS. SMITH: Objection.	14:51:51
25	A. No, I mean I have never dealt with	

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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, WILLIAM VISCONTI, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That SCOTT KIDDER, 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 22nd day of April, 2015.



WILLIAM VISCONTI