

# EXHIBIT 41-C

to the

**CONFIDENTIAL DECLARATION  
OF GREGG D. THOMAS  
IN SUPPORT OF PLAINTIFFS' OBJECTIONS**

DH: Dave Houston

[Redacted]

b6 -2  
b7C -2

UF: Unknown Female

VM: Voice Mail

Typing Key:

AV: Automated Voice

Auto: Automated Message

UI: Unintelligible

IA: Inaudible

PH: Phonetic

///: Speaking simultaneously

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10/22/2012) (00:42:26)

UF: [Redacted]

DH: Hi. This is Dave Houston calling for um [Redacted]

b6 -2  
b7C -2

UF: One second please Mr. Houston.

(Hold music plays)

[Redacted] Hey David.

b6 -2  
b7C -2

DH: Hello [Redacted] How are you?

[Redacted] Fine thanks.

DH: Um.

[Redacted] Um.

DH: Go ahead.

b6 -2  
b7C -2

[Redacted] You called me in my car so if there's a little background that's why.

DH: Alright, no problem. Um a couple of things come to mind. I'm gonna me meeting with Terry later. I, I heeded your advice. I didn't want to involve him in something that he may have an emotional reaction to so um you know I guess that might be understandable but one of the things.

[redacted]

Right.

b6 -2  
b7C -2

DH: That he you know has repeatedly stated to me is ah this idea of some of assurance um that these are truly originals because you know of course um we're bombarded with these various leaks on these various sites and these other sites claiming that they've seen them. (Someone coughs in background) I think you've got TMZ reporters out there claiming they've seen them so the end result we keep coming back to and that he wanted to actually be a part of this for concerned this idea of having originals as opposed to ah coming up with trying to, you know, buy these things and then we wind up literally with a pig in a poke and somebody else has got them out there and next thing you know we're reading about another one. And that's, that's the other thing that troubled me so that was my primary concern. I don't know how to tackle that [redacted] I've not been involved in one of these before so I rely upon um your suggestion as to how I might offer him some assurance.

b6 -2  
b7C -2

[redacted]

Okay um great I, I think that's, that's good um here's the assurance that I think you can have. Um I do not have um the, the, it's my understanding they are on three separate DVD roms, DVDs, okay?

DH: Okay.

[redacted]

And that the DVDs are labeled with a sharpie and the handwriting apparently of [redacted]

b6 -2  
b7C -2

DH: Okay.

[redacted]

So we can presume that it, I mean God only knows (pause) I guess I don't know if there's originals either and my client won't either um but we, what we can say is that they came from the hand of [redacted]

b6 -2  
b7C -2

DH: How do we know there's not copies out there?

[redacted]

Well we know that there's no copies um other than the cop, we know my client made no copies.

DH: Okay.

b6 -2  
b7C -2

[redacted]

What we know, what we know is that he had either an original or a copy that was made by [redacted]

DH: Okay. And, and again I mean I'm going back to the [ ] thing. For, for instance.

b6 -2  
b7C -2

[ ] Yep.

DH: We know that the original came from that location. I don't know who did what there. Obviously there's a bunch of different stories flying around but what I do know is the original starts there. Now from that point.

[ ] Right.

b6 -2  
b7C -2

DH: Whoever got hold of it that you represent either did or didn't make copies but what you're telling me essentially is your client can't tell me that there are no other copies out there so what are we buying? I guess that's the point then.

[ ] Yeah nah I think that's, that's appropriate. Um what, I think what you're buying is you're, I think, you're either buying the original or you're buying a copy that was made by [ ] Um and you'll have to talk to [ ] whether or not he made any copies.

b6 -2  
b7C -2

DH: Um.

[ ] I don't know if he did or not. I only know what my client did and my client made no copies.

b6 -2  
b7C -2

DH: Are these three separate events or are they just three separate CDs or do you know, or DVDs?

[ ] They are, they are three, three separate events um from beginning to end and the files on the DVDs are dated.

DH: Right.

[ ] And there are three separate.

b6 -2, 4  
b7C -2, 4

DH: I've never seen these obviously [ ] and I've heard people tell me that they have seen them, [ ] of TMZ in particular. Well what are we dealing with on, on these tapes and you know I ask that only because I think, as you're pretty much aware if you've seen the news or the reporting on this, that a lot of damage has already been done as far as Terry's reputation is concerned. I think we've dropped some sponsors already, the whole story. What are we dealing with? Are these just straight up sex videos or are we dealing with something, I've heard there's one with racial epithets involved and the whole story.

[ ] Yeah there are three, there's three.

b6 -2  
b7C -2

DH: Have you seen them all?

[redacted]

Yes I have.

b6 -2  
b7C -2

DH: Okay. What, what am I dealing with here? And I'll tell you why I ask um as you know Terry was best friends with [redacted] for a period of decades and I don't have a clue and neither does Terry as to when he got filmed by [redacted] so therefore trying to figure out what the content may be is pretty difficult for us. And again it goes back to okay what are we getting for the money essentially?

[redacted]

Um so (pause) I saw the three, the three videos first and then I went to Gawker and the three videos that I saw are all in the same bedroom and all with the same camera angle as (UI) so it's a stationary camera. It's not like um you know someone in the bed or someone around the bed who is manipulating the camera. It's just stationary, it's elevated and its pointing at the bed from what looks like behind some sort of plant.

b6 -2  
b7C -2

DH: Right.

[redacted]

Cause I think in the lower left hand corner you see some leaves that are you know some sort of greenery.

b6 -2  
b7C -2

DH: Right.

[redacted]

Um I think the camera's color um but the room is very, very dark so the colors are all very muted, it's almost grayish.

DH: (UI)

[redacted]

Yeah it does have audio um and it is clear from one of the tapes that both Heather and [redacted] knew that they were being, knew that the tape was running.

b6 -2  
b7C -2

DH: Right.

[redacted]

Um there's no indication at all that your client knew it was running.

DH: Is there anything.

b6 -2  
b7C -2

[redacted]

(UI)

DH: Is there anything on the beginning of the tape where there is any discussion of the filming? I know that the one that I've heard about, and again this is obviously I think a TMZ thing again, where they reported on the beginning of a tape or something Heather is talking about having to get this thing turned on or she's gonna be in a lot of trouble. Ah are you aware of that or have you heard anything like that>

Ah I heard of something like that you know through other channels. That's not in any of my tapes. I think that was allegedly with some other male other than your client.

b6 -2  
b7C -2

DH:

Okay yeah that's kind of the drift I got but I wasn't sure and I just wanted to make sure the three that you have there's not, you know, for instance three more of Terry out there so again we're not solving a problem. You know my goal is to solve a problem not simply make his bank account lighter so we can have the entertainment value of possessing something that really doesn't do us any good just because of the obvious damage that's out there and you know quite frankly damage is costly to him.

Yeah I agree. Ah I think as far as, because we started off we assurance, so let me shoot some other ideas out there um you know there can be a declaration by my client that he, how he came, the possession of it, what he's done with it since he came into possession with it, in fact that no other copies are out there, that he made no other copies. Sign that under penalty of perjury um we could do a polygraph or just a declaration.

b6 -2  
b7C -2

DH:

is there anything out there. . .

/// we can also.

DH:

Is there anything out there that presents that level of reliability, i.e. how he came to possession of them so that we know that we don't have some intervener out there or is that something you can or can't do?

b6 -2  
b7C -2

I think it's something we can do and he can prove, you know ah, I'll have to check with him but I think he can prove how he purchased the material, how he was ah you know, it was a good faith purchase or what have you.

DH:

Okay.

Then I think there's the last thing we can do is, assuming that there is a financial acquisition or settlement between our client that's confidential and that involves a non disparagement and all that kind of stuff, is we can put in um if my client is less than truthful we could put in a disgorgement clause. We could put in. . . .

b6 -2  
b7C -2

DH:

How do we get the money? (Chuckles) It's been my experience once you give money over, disgorgement clause, unless somebody is pretty well heeled, is not worth a lot. You know what I mean? I mean that money can be out of the country.

Yeah.

b6 -2  
b7C -2

DH:

In an immediate wire transfer.

Yeah I hear you but no one wants a judgment against them or someone running against or you know coming, coming after them. The other thing I think is the last thing you should probably do is spread out the payments so that if there is a breach or threatened breach then all payments stop.

b6 -2  
b7C -2

DH:

Right.

That there is a return of money that has already been paid then it can maybe get into a disgorgement of other profits, should he say sell this material twice or liquidate the damages.

DH:

Well and I guess. . .

And other than that like a, so I guess what just in review what we've talked about is a declaration under penalty of perjury, disgorgement, punitive damages, um so um periodic payments spread over time and in the case of breach, a threatened breach um stop with your payments and return of money that's already been paid.

b6 -2  
b7C -2

DH:

Right.

Other, other than that I, I don't know how we can assure, I mean I, in all these cases at some point both sides have to take a leap of faith.

DH:

Well here's a question for you that, that kind of was something I had wanted to talk to you about. There have been other websites, besides Gawker of course, I can't even remember who they are. I know um supposedly the Dirty.com was approached about these things and if, if you believe them, and there's some other website out there that claims they've got them as well. And I didn't know whether that was something that you were aware of or whether there's somebody else with these um particular tapes out there.

It's nothing that I'm aware of um you know I think it's something that, that we, we can find out um.

b6 -2  
b7C -2

DH:

Okay.

You know if there are other copies I can tell you that the way that I viewed them was, was through a ah through like a streaming service.

DH:

Right.

So I never fully acquired a copy of it so perhaps that's how other people may have viewed it, I'm not sure.

b6 -2  
b7C -2

DH: I know that in, in some of these instances that folks will go out to different ah you know internet service places and say okay well here's a snippet of it to try to build up some sort of, of market for it or something in the event that, let's, like the [redacted] [redacted] or [redacted] thing where if you believe them initially they were going to fight it but then of course it came out enough to the point where they kind of threw their hands up and said oh well I might as well sign off and commercialize this and you know rightfully so. They've made a lot of money. But I guess my question is, is your guy or girl or whomever your clients may be um folks that may have been going around trying to give people snippets of this so that they had a marketplace out there or do you know?

b6 -2, 4  
b7C -2, 4

[redacted] No I don't know. I didn't ask the question because quite frankly I don't, I don't want to know at this point um and, and I think that if we knew it would probably hinder resolution between you and I.

b6 -2  
b7C -2

DH: Well maybe and maybe, I'll tell you why not because that's honestly [redacted] what I'm worried about is we've got other folks out there that are trying to market this to other websites and I know at one point in time [redacted] over at Vivid got the call because um he actually had sent me an inquiry as to whether or not Terry would sign off because somebody was trying to sell him these tapes and you know if I know that your people are the ones that are doing the attempt at selling to other folks that at least I know that I don't have three or four different teams of players out there that are, you know, all in possession of this. And you know I can't imagine how that many people would get in possession of it but, you know, these are questions Terry's been, you know, sort of been hitting me between the eyes with so I'm just hoping you'll give me some guidance on it.

b6 -2, 4  
b7C -2, 4

[redacted] Right. b6 -2  
b7C -2

DH: Cause then it means that there's a viable product, otherwise it's a copy of, potentially a copy of a copy of a copy and you know I get back to the idea of financial issues and what they're worth and what they're worth to him and how do I stop the damage that he's getting hit with because of these tapes. And what I'm looking for I think is pretty much the same thing you've talked about and that is to try to achieve some final resolution here.

[redacted] Yeah I hear ya, I hear ya loud and clear and I understand your goal and all that but you know but I, I think at this point you know I'm, I don't know the answer to that question and um even appreciating what you've just said I still don't want to know the answer to that question.

b6 -2  
b7C -2

DH: Right.



I'm certainly not gonna um you know walk my client into a lawsuit you know that's.

b6 -2  
b7C -2

DH:

Right.

That's, that's not what I'm here for. What, what I do know is that I have. I never knew this client before this matter.

DH:

Right.

And I feel that you never know I mean sometimes (IA) is your own worst enemy.

b6 -2  
b7C -2

DH:

Sure I've had those.

(Chuckles) But um I have you know as a condition of my employment I have you know told them that they are to speak to no one about this and they are to do nothing with the product so long as I'm involved.

DH:

Right.

Um in, in order so that we can control the flow of information and everything else and they have assured me.

b6 -2  
b7C -2

DH:

(IA)

Um that I am the only person that they are talking to.

DH:

(IA) and a good question comes up from that, you, you indicated as long as you're involved you've got them kind of under control. Ah what if something breaks down here. Let's say we don't reach a deal, what are they, what's their next step?

I don't know.

b6 -2  
b7C -2

DH:

I mean are they planning to try to release more and just break, break him down to the point where he signs off commercially to produce this thing or I mean in order words he's asking me exactly these questions. If he doesn't reach a deal what happens next and I don't have an answer for him.

Yeah I don't either. I mean I think it's probably speculative.

DH:

Well can you talk to 'em?

That's really not something I would discuss.

b6 -2  
b7C -2

DH:

Okay.

You know um you know that kind of if, if or, you know, if, if it serves me no productive purpose.

b6 -2  
b7C -2

DH:

Okay. What if ah. . .

I don't, frankly I mean I, I mean I don't want to know.

DH:

Right. What if Terry wants to . . .

It's not my business, my, my business is to, to the extent possible um advise them as to their rights.

b6 -2  
b7C -2

DH:

Right.

Um and inform you what, what I believe my clients rights are and to, to negotiate a transfer of those rights.

DH:

Okay. What . . .

That's my goal here.

b6 -2  
b7C -2

DH:

What if Terry wants to look at the tapes? What's our shot at doing that or a chance of doing that?

Why? I mean I, I.

DH:

(UI)

I don't mean to be. . .

b6 -2  
b7C -2

DH:

I don't know, honestly I don't know.

Yeah.

DH:

And I guess one of the reasons would be in his brain if he's been with her six times and he sees the tapes then maybe he gets the idea okay well maybe I was only with three times cause I actually did two of the things I thought I did on one tape as opposed to two different tapes. You know I mean I don't know. I asked him the same question. He really doesn't have an answer other than he probably wants to make sure it's him, number one and number two.

Yeah.

b6 -2  
b7C -2

DH:

That he's trying to put together in his brain how many times he could have been taped and you know how people think okay well I did, and you know meaning no disrespect to my client, but I did this sort of circus act on this tape and maybe I did a different one on this next tape. If he sees the tape and they're both on one

tape then he's figured out okay well maybe there aren't two separate events because again we're going back over six years. I think you know that.

Yeah, yeah.

b6 -2  
b7C -2

DH:

And that's part of our problem. This is not current events stuff so that's why he's trying to figure out what the heck is on them and what essentially he's paying for cause I don't imagine they come cheap and if that's the case I think at least he ought to be able to see the tapes in order to justify whatever he's going to pay. I, I don't know anybody who would, you know, buy a pig in a poke cause again what if there's nothing on the tapes? What its some actor portraying him and he's paid a bunch of money, gets some tapes and it's a Hulk Hogan lookalike cause we don't know what's on them. See what I'm saying?

Yeah maybe I could make some sort of offer of proof or something like that. Let me think about that, talk to my client um um but I, I hear what you're saying and I, I'll, I'll, I'll give it earnest, some earnest thought to that and, and um present that to my client.

b6 -2  
b7C -2

DH:

Yeah it's just a . . .

Well I guess I can.

DH:

Here's, here's one thing. . .

b6 -2  
b7C -2

I can talk to you a little bit about the, you know my impression of the tapes.

DH:

Okay.

Um one, she's a very attractive girl.

b6 -2  
b7C -2

DH:

Yes.

That was the first thing that struck me.

DH:

(Chuckles) Yes she is very attractive, she is very attractive.

Two, she's um you know she's, she's very sexual.

DH:

Yeah.

b6 -2  
b7C -2

Um there, there are not close ups. The camera is stationary.

DH:

Right.

I think what you saw on Gawker is what, is you know everything I saw um and. . .

b6 -2  
b7C -2

DH: Yeah and there's no question.

[ ] Um other than, there's no wild sex by the way, I mean there was no a, you don't, it was.

b6 -2  
b7C -2

DH: This will help. You bring up something that helps me and probably gets a point across to him. One of the things he was concerned about the tapes and their authenticity meaning are they genuinely him but one of the things that he knows is the tape leaked by Gawker is him and.

[ ] Yeah.

b6 -2  
b7C -2

DH: If you guys are the ones that gave it to Gawker then I can pretty much tell him hey the Gawker has what Gawker has and that came from the folks we're dealing with so it's pretty reliable that that's you on those tapes Terry and that helps me out as well cause you know of course anybody could call anybody and say hey I've got tapes of your client and um you can't look at them until you buy "em but once you buy "em you may see that its some guy that looks like Hulk Hogan and isn't. If that's the Gawker leak tape then that's a genuine Terry Bollea tape, no question.

[ ] Yeah.

(Unknown sound in the background)

b6 -2  
b7C -2

But I can't tell you, you know, who, who did not leak it to Gawker. What I can tell you the tapes that I have seen are the same, you know, actors and the same cave and the same camera and the same bedroom that was on Gawker.

DH: Right.

[ ] Um you're, she seems very, the situation was, was weird. Um now I'm talking about the footage, alright, so the situation was weird um there are times during the sex, before, during and after the sex where um [ ] is walking in and out of the bedroom and chatting um you know with his wife and his best friend as they're having sex and they're chatting back. Um the sex is pretty straight. I mean there is no, there's, there's nothing that would be even remotely unusual or fetish like. It was pretty straight sex um.

b6 -2  
b7C -2

DH: Right.

[ ] Oral sex both ways um him on top, her on top and that's it um there's never even an occasion where he was behind.

b6 -2  
b7C -2

DH: Right.

[ ]

And then you know I think that it's pretty clear that, that he was going through and let me tell you too and I, I've been a fan of your client for years um.

DH:

Well he needs (IA)

b6 -2  
b7C -2

[ ]

(UI)

DH:

... which is not a graphic self [ ]

[ ]

(Laughs) Yeah he seems like just a really, really nice guy who was going through a really bad part in his life.

DH:

Yep.

[ ]

Um he, he confides in, mostly her so it's just talk a little the conversation is between your client and what's her name? Clem?

b6 -2  
b7C -2

DH:

Yeah Heather Clem, yeah.

[ ]

Yeah so he confides in Clem about the deteriorating condition of his marriage and you know the ins and outs of his marriage and he had some choice words for his ex-wife.

b6 -2  
b7C -2

DH:

(Chuckles) Yeah.

[ ]

Um and ah at one point he complains and confides in Clem about the deteriorating condition between the relationship between he and his daughter um and at some point you know they talk about that for an extended period of time.

DH:

Right.

[ ]

Um but both him, Clem and then after they have sex ah [ ] comes in and, and all three of them are talking about her and at some point its discussed that she is a thankless bitch, that she's choosing sides, she's going with her mother and they move to L.A. and there was some Thanksgiving where they had um Thanksgiving dinner and didn't invite him and um it was really heartbreaking for him and um you know someone mentioned something about throwing her to the, to the curb.

b6 -2  
b7C -2

DH:

Wow that would seem to authenticate the tape that it's him that's for sure. Because I mean a lot of what you're talking about I've sort of heard that same story. I've repped with him for about six years now so.

[ ]

Yeah.

b6 -2  
b7C -2

DH: (Sighs) I've, I've heard the same discussions you know in reference to the issues and he problems with the kids and you know, every, in the divorce courts everybody tries to pick sides or parents try to get kids to pick sides so that (IA)

[redacted] Then there was just some more discussion um seems like he has a very close relationship or had a very close relationship with his son and he was constantly mentioning his son and, and wanting to keep him close and happy and satisfied. Um there was some discussion about his son's girlfriend's sister calling him or texting him and, and wanting to um date him if his, if Hulk's marriage did in fact fall apart.

b6 -2  
b7C -2

DH: Right.

[redacted] Um and then she was seventeen or eighteen.

b6 -2  
b7C -2

DH: Yeah I think that, I think they put that one out on TMZ too but that came from (IA)

[redacted] And then the other um discussion really the, probably the most noteworthy thing or from your perspective is talking about, the same conversation where they're talking about um how thankless [redacted] was. He's talking about how much money he invested into her music career and I think he said it was something around two million.

b6 -2, 4  
b7C -2, 4

DH: Right.

[redacted] And that there was some billionaire in Miami who I get the impression that he was black.

DH: Right.

b6 -2, 4  
b7C -2, 4

[redacted] Um and that he thought that [redacted] was fucking this guy's son because he caught them kissing or cuddling or something like that and he's like his, look I'm driving I don't have my notes so don't quote me on this but the conversation went something like, now I'm not an outrageous, you know I don't care if you fuck, I mean I'm not two-faced like that you now fuck all you want. Um but I'd rather not you fuck a nigger and if you're gonna fuck a nigger ah you, you just assume I'd rather have you fuck a nigger that was a seven foot tall NBA um not you know, not some piece of shit seventeen year old kid.

DH: Right.

[redacted] And he said something about you know I'm not a racist um well maybe I am but no more than anybody else and they all got a chuckle out of that.

b6 -2  
b7C -2

DH: Right.

[redacted]

And that was pretty much the gist of that conversation.

b6 -2  
b7C -2

DH: Yeah that would not be a good thing.

[redacted]

So (pause) so there it is. I mean other and you know other than the methods I spoke about earlier as far as assurance um I don't have any other ideas.

DH: Right.

[redacted]

And the tape is, you know, it is what it is.

b6 -2  
b7C -2

DH: Well a couple of things come to mind. I mean referencing and assurances, you now, I and I haven't talk to you about money but I do want to talk to you about that because it may be so far out of our bar, our, our ballpark that you know it's just something I may have to say you know let you guys roll with it and do what they do with it but if we're in a situation where money is paid up then obviously we want to be in a situation to know that they're not going to be leaking other information from other tapes that we haven't bought. That would certainly be one concern and I, I need some assurance from them that as, as far as what they possess, they possess these three, that's only these three. They've got no more, we're not gonna hear about a fourth one that inadvertently showed up later after we cut some sort of a deal, that this would have to be. you know, all inclusive as referenced anything they have now or anything they get in the future cause I really don't want to be in that situation where somebody held one back or said oh no we just found this or this one just came up. And the other issue of course would be if, if we're talking money I know that ah there's a value to these. I just don't know in your mind what that value is. I haven't seen them, you have. I haven't had the luxury of being able to access the potential damage impact if these things get out and certainly you have and I'm assuming if there's conversation such as what we just talked about referencing [redacted] and you know who she's dating, that the racial issue certainly could cost him a great deal as far as sponsorships. I mean he's a national guy and he's got a certain image to maintain so I guess what I'm looking for here is what are we talking about money to make sure that doesn't happen.

b6 -4  
b7C -4

[redacted]

Look I, I don't care how you respond to my next question but I need you to start, start the negotiation off.

b6 -2  
b7C -2

DH: (Chuckles) Well then I'm negotiating against myself [redacted] I mean there's no

No, no, no you're not, you're, you're just starting, I don't care if you say a dollar.

DH:

Alright then I'll say a dollar.

b6 -2  
b7C -2

(Chuckles)

DH:

And I'm not trying to be . . .

Oh well don't.

DH:

Alright. I'm not trying to be flippant. I just need to know whether.

b6 -2  
b7C -2

No I understand, I understand but I don't want to get in a position where you know it comes back later that we demanded X and, and you never countered so now that you know, we started a negotiation per acquisition of my client's right.

DH:

Right. No I mean.

So.

DH:

As, as far as I'm concerned.

b6 -2  
b7C -2

I think we can talk later.

(Unknown sound in background)

DH:

I'm, I'm in an uncomfortable position for two reasons. Number one, I've never seen them. I don't know how damaging they are, like I said, I think you do. You certainly are better off in that sense than I am. Number two, I am in the comfortable position knowing something about his finances. I'm not his accountant by any means but I have some knowledge as to contracts and I'll be straight up with you. He's lost two major contracts since this thing broke open, one with Rent-A-Center and another with this health food vitamin company that was gonna sign him for a, a pretty good contract, they've pulled back and they pulled back because of these leaks that are out there so obviously if the leaks are gonna get worse in the event that we don't deal with it then that's certainly the incentive for him to want to deal with it but you know. I mean money is relative. Some people think that a million bucks is a lot of money, some people think it isn't. I frankly think it is and that's why I'm just trying to get some ballpark from you of where your head's at or your client's head at as far as the value of these things to them. As I keep saying, our goal is to make sure that this stuff doesn't get out there. This hurts him dramatically. I think everybody appreciates and knows that and that's what we're buying and essentially I don't know what value your client places on that.



[ ]

Well I think we would counter with, with a million dollars.

DH:

And I'm assuming a million dollars is negotiable? Or is it not? b6 -2  
b7C -2

[ ]

Yes.

DH:

Okay.

[ ]

It is.

DH:

Now, from the perspective of involving Terry, I mean do you want me just to go with him and say look they're talking a million bucks, we're gonna have another phone call, you sit down with me Terry and this way certainly I can give him an idea of what is on these tapes in the sense of the discussions about [ ] I've talked to him and I, I know I mentioned the racial issue to him and he was kind of blank on that like it wasn't ringing a lot of bells. This gives me the opportunity to at least present him with that information and maybe if you could, if, if you can look at these things and try to give me a better heads up as far as what we're seeing out there because you know I've told you my purpose here is to avoid the damage and stop the bleeding, literally. And if you can say to me hey Dave, you know, look there's some other stuff on here it allows me to at least advise him what I consider that value to him. Commercially, that value may or may not be, you know, in terms with what you guys are asking and I know we haven't reached a bottom line figure and you haven't hit that point where you said hey that's it, it doesn't get any lower than that but is that something you can do?

b6 -4  
b7C -4

[ ]

I would think so I mean, for, as far as viewing the tapes um you know at some point we're gonna have to have a show and tell. I could probably make an offer of proof of what exactly what it is. I think um then we can agree on price um then ah so long as the material is what I told you it is.

b6 -2  
b7C -2

DH:

Right.

[ ]

You know we close the deal and if the material is anything other than what I told you it was then you know the agreement that we had is off.

DH:

Okay.

[ ]

Um and, and look I don't mean to put myself in your shoes or how you talk to your client or what kind of relationship you have but I hope that you and I are dealing in a professional way that is truthful, open, candid. Um and I hope that ah I know that I appreciate that. I hope you do and I hope your client does and um it's not my intention here um to hold anybody over the fire um, um you know I hope I'm part of the solution here.

b6 -2  
b7C -2

DH: Can, can I ask you a question and you don't have to tell me the answer to this but this certainly helps me come to any understanding of whether this is maybe a copy of the original or the original. If [redacted] signature is on the CDs or whatever it is, DVDs, that suggests to me that those are originals. Now I don't think [redacted] and a, you know again I don't know but I don't think [redacted] went around and make a bunch of copies and handed them out to people. But how do you, are you comfortable believing that [redacted] name is in his handwriting?

b6 -2  
b7C -2

[redacted] Yeah.

DH: And if we go on that theory is there any way you can let me know, just even in general, how your clients got a hold of 'em. Is it something they were given or how did they wind up with 'em so again it goes back to whether these may be originals or might be a bunch of in a series of copies.

b6 -2  
b7C -2

[redacted] Yeah it, they, they purchased them um from a, from another individual, not, not from [redacted]

DH: Okay I mean is that person close to [redacted] do you know? And I'm not trying to put you on the spot [redacted]

[redacted] I, I believe he is yeah, I believe, I believe that the seller ah was close to [redacted]

b6 -2  
b7C -2

DH: Okay, alright.

[redacted] By the way I, I think you're, I think you're entitled to, to know exactly how this happened um you know before that check is cashed.

DH: Well and that's something I'm assuming you can fill us in on as how this happened, whose done what and that, you know. I mean look it's no secret that we filed a lawsuit against Gawker trying to get this thing off the air and you know.

[redacted] Right.

DH: Again the last thing I want to do is to be chasing every potential internet out there because we've put Gawker down, next thing you know we got three other sites showing this stuff and that's why I was concerned as to whether your clients were potentially taking this around and ah it, I don't know. You know I'm getting the impression from you you're telling me they're not but what, can you tell me that? Is that something you can share with me?

b6 -2  
b7C -2

[redacted] Well it's not me. I mean I, I can tell you what I've told them. I've told them to speak to no one ah to do nothing with those things ah put them in a safety deposit box.

DH: Okay and I mean.

They, they have assured, then they have assured me that they've done that.

DH:

Now do you think that that was something they might have done beforehand because I'm not saying its current as far as current events but I know somebody was shopping these two different sites for a while and if it was before this whole thing broke open I don't have a problem with it and I think most of it was. I would just like to know and maybe you can talk to your people and find out if it was them. That gives me a higher level of security to be able to tell Terry, Terry I know it went to other internet sites but in all probability it was the same folks that we're dealing with now. We don't have another team out there trying to get internet sites interested cause they've got them too. You know cause if somebody else has got 'em  obviously, they've got very little if any value to us.

Agreed, agreed.

DH:

And that's why I'm trying to get some sort of feel here for what's up out there.

Yeah you know it's, it's my understanding that these are the original tapes and that there are no other copies out there.

DH:

Okay well that makes me feel a lot better. I think then we've got something to talk about. Um what I'd like to do is you know I'm meeting with him later. I'd like to be able to get back with you once we have an opportunity to figure out what, you know and I, and I tell you one thing I hate. I hate this constant back and forth where somebody says you know I'll give you a dollar, you say a million. I say we'll give you a hundred thousand, you say nine, you know there's gotta be a point where there's a value in your head and I don't know whether we can get to that point on this call or not but if we can its gonna save a lot of the back and forth. I, I'd kind of rather go on with everybody's bottom line and say this is what it costs, let's not waste a lot of time, you're either in or you're out, meaning talking to Terry. And I'm very much a straight shooter with him. I don't usually you know waste a lot of time going back and forth in negotiations with him. I'll say look this is worth to them. It doesn't matter what you think its worth, this is what its worth to them. Can you do that for me?

I don't think that this conversation I can do that. You know I still need to talk to my people.

DH:

Okay.

Ah and then I think you know like look, you know we're not asking for two million, you know, you know that, you know that a million isn't firm, you know

b6 -2  
b7C -2

←

b6 -2  
b7C -2

b6 -2  
b7C -2

we're not asking for ten million so you know, knowing that our counter to your one dollar settlement was, was a million and it's not firm I think you should see if, you know, if we're, if we're (IA) so you know let's, let's put a little time aside ah let's have the people in authority within your shot.

DH: Right.

And, and then maybe in the next phone call let's see if we can't, can't get this done.

b6 -2  
b7C -2

DH: Okay do me favor and I'd like to offer some assurance to your folks and tell them we are interested um I don't want to out of frustration thinking they've gotta go out and do something to ah you know get our attention would be the best thing um that's not necessary. We get it, we're interested. We, as I've told you, are certainly well aware of the value to him in reference to his reputation and things like that and frankly I think his reputation has taken enough of a hit to get that point across just by what's going on in the news. Ah so please let them know that. It's a good faith dealing and if I had a, a definite figure I could give you certainly a quicker answer but I realize you gotta talk to them and see where they're coming from as well but just let them know that we're trying to accomplish is really get a chance to get some facts and figures together so that we can meet up, that we can talk, that we can see the tapes and I don't know how long that's gonna take to get there but you can imagine that you know it's pretty important to him because he's trying to get on with his life.

Yeah, right I get it.

b6 -2  
b7C -2

DH: Okay now is this.

I, I look forward to, I look forward to hearing back from you and um I think it's regrettable um that your client has taken a hit on this already. (UI)

DH: Yeah no kidding I mean he, he, I think you've summed it up, he's a good man. It's unfortunate but hey we all do dumb things but as far as getting taped though, that's a whole different story to me. I, I would hope that never happened to me.

Um yeah I (clears throat) I find the, the behavior of, of  to be detestable actually after watching it.

b6 -2  
b7C -2

DH: Yeah me too.

So.

DH: Hey is, hey can you give me a cell number so I can get you if I've gotta get you after hours?

[redacted]

Yeah [redacted]

b6 -2, 4  
b7C -2, 4

DH:

[redacted]

DH:

[redacted]

DH:

[redacted]

Okay and you've got mine obviously [redacted] so if you need me after hours don't hesitate to use it. Alright?

b6 -2  
b7C -2

[redacted]

You now I actually don't think I do.

DH:

Oh here, you got a pen handy? Or can you do while you're driving?

[redacted]

Sure, yeah, yeah, hold on one second. Alright, shoot.

DH:

It's seven seven five (775).

b6 -2  
b7C -2

[redacted]

Yeah.

DH:

Seven seven one (771).

[redacted]

Yeah.

DH:

Two eight seven four (2874) and then I think you've got the office number too.

b6 -2  
b7C -2

[redacted]

Right. Alright thanks David

DH:

Alright sir we'll be talking.

[redacted]

Alright, bye.

b6 -2  
b7C -2

DH:

Alright, bye.

(End of recording)