

CONFIDENTIAL
EXHIBIT 21-C

to the

**JOINT OPPOSITION OF THE GAWKER DEFENDANTS AND THEIR
COUNSEL TO PLAINTIFF'S EMERGENCY MOTION TO CONDUCT
DISCOVERY CONCERNING POTENTIAL VIOLATION OF
PROTECTIVE ORDER, TO COMPEL TURNOVER OF CONFIDENTIAL
DISCOVERY MATERIALS AND FOR ORDER TO SHOW CAUSE**

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** CONFIDENTIAL - ATTORNEYS' EYES ONLY **
IN THE CIRCUIT COURT OF THE
SIXTH JUDICIAL CIRCUIT IN
AND FOR PINELLAS COUNTY, FLORIDA

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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.

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DEPOSITION OF
TONY BURTON
March 2, 2015
3:04 p.m.

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

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March 2, 2015

3:04 p.m.

Deposition of TONY BURTON, 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 Jersey.

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

HARDER MIRELL & ABRAMS, LLP
Attorneys for Plaintiff
1925 Century Park East
Los Angeles, California 90067
By: CHARLES HARDER, ESQ.

LEVINE SULLIVAN KOCH & SCHULZ, LLP
Attorneys for Defendants Gawker Media,
A.J. Daulerio and Nick Denton
1760 Market Street
Suite 1001
Philadelphia, Pennsylvania 19103
By: MICHAEL BERRY, ESQ.
PAUL J. SAFIER, ESQ.

DON BUCHWALD & ASSOCIATES, INC.
For the Witness
10 East 44th Street
New York, New York 10017
By: RICHARD BASCH,
Executive Vice President Business
Affairs

Also Present:

ERIC WINCHEL,
Don Buchwald & Associates, Inc.,
Broadcast Agent and Business Affairs
DEVERELL WRITE,
Videographer, Veritext Legal Solutions

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2 interested if Hulk Hogan had made (REDACTED)
3 comments?

4 A. I don't know what he would be
5 interested in. That's all I knew.

6 Q. Have you ever seen a DVD of Hulk
7 Hogan making (REDACTED) comments?

8 A. I have not.

9 Q. I would like to show you a document
10 that we'll mark as Deposition Exhibit 138.

11 (Deposition Exhibit 138, e-mail with
12 attachment, was so marked for
13 identification, as of this date.)

14 Q. Do you recognize this document?

15 A. I do.

16 Q. What is it?

17 A. It is an e-mail that was sent to me
18 from my client that had an attachment of a
19 rundown of what was on the Hulk Hogan sex tape.

20 Q. How many Hulk Hogan sex tapes?

21 A. It looks like there's two on here.

22 Q. Did you read the e-mail?

23 MR. HARDER: I'm going to interject
24 an objection. Lacks foundation.

25 THE WITNESS: I'm sorry?

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2 A. Correct.

3 Q. Did you provide Mike Berry or anyone
4 from his office any additional information beyond
5 what we talked about today?

6 A. I don't believe so.

7 Q. Did you have a conversation with Rich
8 Peirce ever regarding the Hulk Hogan sex tape?

9 A. I don't know who that is.

10 Q. Rich Peirce is the person whose
11 e-mail address appears at Exhibit 138.

12 A. No, I did not.

13 Q. Do you know who Rich Peirce is?

14 A. I do not.

15 Q. Did you have a conversation with Mike
16 Calta regarding the second page of Exhibit 138,
17 other than what you already testified to?

18 A. Not other than what we testified to.

19 Q. Was it Mike Calta who informed you
20 that there might be a second DVD of Hulk Hogan?

21 A. Yes.

22 Q. What do you recall Mike Calta saying
23 to you about --

24 MR. BERRY: Objection. Asked and
25 answered.

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2 JUDGE CASE: Last time.

3 A. I don't recall anything other than
4 him saying that there might be a second DVD and
5 there are (REDACTED) comments from Hulk Hogan on
6 it.

7 Q. How would Mike Calta know that? Did
8 he tell you how he knew that?

9 MR. BERRY: Objection.

10 A. I don't --

11 MR. BASCH: I was going to say the
12 second part of that question you could
13 probably answer, but the first part I
14 object to.

15 A. He didn't tell me how he knew that.

16 Q. You didn't ask?

17 A. No.

18 Q. Was Mike Calta referring to Exhibit
19 138, do you know?

20 A. I don't know.

21 Q. I'm talking about the e-mail
22 obviously, not the deposition exhibit.

23 MR. HARDER: I'm going to designate
24 the transcript as confidential, attorneys'
25 eyes only. We had a prior redaction of

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2 what is Exhibit 138 and I request that we
3 treat the document the same way that we
4 did in the prior deposition of Rich
5 Peirce. And also the testimony we treat
6 in the same way as we did with Rich
7 Peirce.

8 JUDGE CASE: Okay. Any objection?

9 MR. BERRY: This doesn't concern the
10 witness. Maybe we can take this up
11 afterwards.

12 MR. HARDER: Fine. We can excuse the
13 witness. Okay. I have no further
14 questions.

15 MR. BERRY: I have a bit of follow-up
16 about what Charles asked you about.

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2 THE WITNESS: You're welcome.

3 THE VIDEOGRAPHER: The time on the
4 video monitor is 4:02 p.m. We're off the
5 record. This is the end of the
6 deposition.

7 (The witness, Mr. Basch and Mr.
8 Winchel left the hearing room.)

9 MR. HARDER: We're on the record.
10 This is going to continue what we were
11 just discussing when the witness was in
12 the room, and now the witness and his
13 counsel have left.

14 When we had the deposition of Richard
15 Peirce, this same sort of comment in an
16 e-mail arose and what we worked out at
17 that time was that the word (REDACTED)
18 would be removed from the transcript, and
19 I think there was going to be some sort of
20 indication that it was redacted, there was
21 that one word that was redacted, and that
22 the exhibit document itself did not enter
23 into the deposition transcript. I believe
24 that that was pulled.

25 Here I don't have a problem keeping

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2 137 in, provided that the word is redacted
3 out and there's a stamp that says
4 redacted. That would allow us to be
5 consistent with what we've done so far and
6 consist with the protective order that's
7 entered into by the court.

8 MR. BERRY: For the record I would
9 make an objection. This is a third-party
10 witness testimony, third-party witness
11 documents. And --

12 JUDGE CASE: There's all the more
13 reason to be careful and cautious.

14 MR. BERRY: Right. I take your
15 point, this is testimony that has been
16 given, and I don't know that we need to --
17 I want to make sure the record is clear
18 what the witness testified to, and don't
19 want the official record --

20 JUDGE CASE: Delete the one
21 reference, two references that he
22 verbalized.

23 MR. BERRY: That's what I'm trying --
24 any time the word (REDACTED) is used we're
25 to put redacted in?

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2 JUDGE CASE: In connection with the
3 transcripts that are attached to Exhibit
4 38.

5 MR. HARDER: 137 and the deposition
6 transcript itself. He was essentially
7 just reading from the e-mail and he was
8 also recalling what Mike Calta had said to
9 him.

10 MR. BERRY: I understand that's going
11 to be the ruling, for the record we
12 object. I would just ask how we are going
13 to sort this all out.

14 JUDGE CASE: I suspect as a practical
15 matter you in your pre-trial meetings
16 among counsel can sort it out, if not when
17 you get to the pre-trial Judge Campbell
18 should know.

19 MR. BERRY: The practical issue I'm
20 wondering is if we start redacting out
21 words willy-nilly from the transcript, at
22 various points we won't have an accurate
23 record. My point -- I would caution as we
24 go forward there's only one accurate
25 record, and I want to make sure that we

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2 have an accurate record of what the
3 witness said.

4 JUDGE CASE: Even the most accurate
5 record that you're referring to is hearsay
6 to the jury.

7 MR. HARDER: He's talking about an
8 alleged DVD that he's never seen, that
9 Mike Calta never saw, that no one had ever
10 seen who's testified so far. Then there's
11 also the issue of the irrelevance of it.
12 It didn't appear in any DVD that you
13 received and it didn't appear in the
14 excerpts of the minute and 41 seconds that
15 you posted.

16 This is very far afield as well as
17 hearsay as well as has this kind of
18 damaging potential that is the impetus why
19 we brought the motion for protective order
20 in the first place.

21 JUDGE CASE: The word "irreparable
22 harm" comes to mind.

23 MR. HARDER: You're making my case
24 for me, Judge Case, I appreciate it.

25 JUDGE CASE: No, I'm not. I'm

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2 listening to both sides very carefully,
3 we've discussed this issue on more than
4 one occasion.

5 MR. BERRY: That's fine. I just want
6 to put my objection on the record.

7 JUDGE CASE: All right.

8 MR. HARDER: And the DVD I would like
9 to remain as attorneys' eyes only because
10 it has this redacted word in it and it
11 should stay that way.

12 JUDGE CASE: I agree. At some point
13 if it's going to be used at trial it will
14 be edited at various places anyway, so...

15 All right. Thank you, Mike.

16 (Time noted: 4:15 p.m.)

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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 Jersey, do hereby certify:

That TONY BURTON, 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 6th day of March, 2015.



Francine Sky