

# Exhibit 5

Case No. 12012447-CI-011

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

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TERRY GENE BOLLEA professionally known as  
HULK HOGAN,

Plaintiff,

vs.

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

Defendants.

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CONFIDENTIAL - ATTORNEYS' EYES ONLY

VIDEOTAPED DEPOSITION OF  
DAVID HOUSTON

FRIDAY, APRIL 10, 2015

Reno, Nevada

Reported by: KIMBERLY J. WALDIE, NV CCR #720, RPR  
CALIFORNIA CSR #8696

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3 APPEARANCES OF COUNSEL:

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5 For the Plaintiff Terry Gene Bollea  
and Deponent David Houston:

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HARDER MIRELL & ABRAMS LLP  
7 BY: CHARLES J. HARDER, ESQ.  
1925 Century Park East  
8 Suite 800  
Los Angeles, California 90067

9

10 For the Defendant Gawker Media, LLC:

11 LEVINE SULLIVAN KOCH & SCHULZ, LLP  
BY: MICHAEL D. SULLIVAN, ESQ.  
12 1899 L Street NW  
Suite 200  
13 Washington, DC 20036

14

Also Present:

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James Case, Special Master

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17 Videographer:

18 Jeff Waldie, CCVS

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1 Q All right. And did he indicate that the tapes  
2 were of different lengths --

3 A I didn't ask him --

4 Q -- if he told that your client's on this  
5 individ- --

6 A No.

7 Q -- with this individuals (verbatim) on the tape  
8 for X minutes?

9 A No.

10 Q All right.

11 A I think that was something to be provided.  
12 That's the best of my recollection. It wasn't  
13 discussed, per se.

14 Q Uh-huh. Okay. Did he -- at this point in the  
15 second call, did he say to you that one of the tapes  
16 contained footage of Mr. Hogan using (redacted)  
17 language?

18 A Never even came up.

19 MR. HARDER: Request to redact that word.

20 THE WITNESS: That was --

21 SPECIAL MASTER CASE: Yes.

22 (Comments off the record by the reporter.)

23 THE WITNESS: That was never the subject matter  
24 of my discussions. He was selling a sex tape, and  
25 that's what he -- he seemed to concentrate on.

1 A I do.

2 Q Okay. In his October 22nd e-mail,  
3 Mr. Davidson writes: "By way of review, I was happy to  
4 discuss the tapes in detail."

5 Do you see that?

6 A I do.

7 Q Okay. And what was the detailed information  
8 that Mr. Davidson provided regarding the sex tapes?

9 A Again, I think we had talked about it a bit  
10 before when you were asking me the content of various  
11 conversations. The detail provided would have been that  
12 which I referred to before, as far as the tapes  
13 themselves, his discussion as to, in his opinion, the  
14 valuation, how he valued them, things of that nature  
15 primarily.

16 Q Okay. This -- the prior e-mail you are  
17 referring to was Defendant's Exhibit 251, and it was  
18 dated October 12. This is ten days later. Right?

19 A Right.

20 Q Okay. This is a subsequent call. Correct?

21 A Right.

22 Q Okay. But you are saying he went over the same  
23 content?

24 A Well, it would be the same plus the attempt at  
25 selling a little harder. In other words, attempting to

1 offer his goods, but at this point now discussing why in  
2 his opinion the valuation was appropriate, because in  
3 his past experience and having dealt with other  
4 celebrity sex tapes, what those tapes were sold for. I  
5 believe he was trying to up the dollar amount by virtue  
6 of his discussions.

7           As far as content specific of the tapes, it was  
8 pretty well established that he had sex tapes featuring  
9 my client, and, of course, there had been some  
10 discussion, at least from his opinion, that he felt it  
11 would be very damaging to my client's reputation to have  
12 himself portrayed sexually.

13           I think he even tried to sell the notion of  
14 being with another man's wife as though that wasn't  
15 some -- sort of the set-up initially. I don't know  
16 whether he believed that or what his story was, but I  
17 know he spent some time attempting to explain to me how  
18 his experience would lead him to know all, and,  
19 therefore, I should listen to what he had to say, if  
20 that makes sense.

21       Q     All right. What did you say on the  
22 October 19th call?

23       A     By that time, whatever he wanted to hear. My  
24 goal was to now bring him in to the point where we would  
25 hopefully be able to gather additional information, and

1 putting out there?

2 A He referenced, I believe, three tapes, although  
3 I'm not positive, but I believe so, two or three.

4 Q Okay. And in his effort to try to convince you  
5 about the value of these tapes, did he say anything  
6 about the tape, one of the tapes containing footage of  
7 Mr. Hogan, using -- making (redacted) comments?

8 MR. HARDER: Again, same request that the word  
9 (redacted) be redacted.

10 SPECIAL MASTER CASE: Correct.

11 MR. HARDER: Yes. Then in my question, same  
12 thing. I'm not trying not to use the word because you  
13 are redacting.

14 THE WITNESS: And I hesitate because I know it  
15 came up at some point. I just don't know specifically  
16 when. And it could have been not during the  
17 conversations, but at the final meeting. I'm just not  
18 sure.

19 Q MR. SULLIVAN: Okay. Okay. You don't have a  
20 specific recollection to place it in time?

21 A I know it was toward the end, but I can't tell  
22 you whether it was toward the end of final conversations  
23 or whether it was actually at the Sand Pearl Hotel in  
24 Clearwater, Florida, on the day everybody met. I think  
25 it was December 12th.

1 I would suggest to you that my brief viewing,  
2 of course, did indicate to me that it appeared to be  
3 someone similar to Mr. Bollea.

4 Q All right.

5 A I did not see the female in what I observed,  
6 literally, at all. I essentially saw the back of  
7 Mr. Bollea and then a bit of a side profile on the last.

8 Q Okay. Did you see any other persons who  
9 appeared on the tape other than Mr. Bollea?

10 A I don't remember.

11 Q Okay. Were you able to identify Heather Clem?

12 A You know, I wasn't familiar with Heather Clem.  
13 It would be, to me, like seeing someone you don't know,  
14 then someone later saying, "Were you able to identify  
15 them as a specific person?"

16 I think -- I -- I didn't know her, certainly  
17 facial features or otherwise, well enough to suggest  
18 that a brief viewing could result in an identification.

19 Q All right. Were you -- were you able to  
20 identify any of the persons who appeared on the video by  
21 voice?

22 A I don't think the audio was turned up, now that  
23 you mention it. I don't remember hearing the audio.

24 Q All right.

25 A I don't recall. And I think I'm safer with



1 you?

2 A Not by me.

3 Q Okay. Did you see a -- a man at any point  
4 other than Mr. Hogan in the portion you viewed?

5 A I do not recall seeing a man. That's  
6 something --

7 Q Okay.

8 A -- that I just don't remember seeing.

9 Q All right. On any tape that you viewed, did  
10 you ever hear the voice of Bubba Clem or the voice of  
11 who you believed to be Bubba Clem?

12 A No, I didn't hear any voices.

13 Q Okay. Mr. Houston, have you watched the entire  
14 sex tape that was sent to Gawker?

15 A No.

16 Q Have you watched the excerpts that were posted  
17 by Gawker on the Internet?

18 A And maybe I should clarify that. When you say  
19 "the entire sex tape sent to Gawker," I don't know what  
20 was sent to Gawker, and Gawker hasn't invited me in to  
21 see. So I don't know how to answer that other than  
22 "No."

23 Q Okay.

24 MR. HARDER: They produced a -- 30 minutes.

25 THE WITNESS: Right. I guess what I'm saying

1 I, KIMBERLY J. WALDIE, a Certified Shorthand  
2 Reporter licensed in the State of California and the  
3 State of Nevada, do hereby certify:

4 That on FRIDAY, APRIL 10, 2015, at the offices  
5 of Hoogs Reporting Group, 435 Marsh Avenue, Reno,  
6 Nevada, personally appeared DAVID HOUSTON, who was duly  
7 sworn to testify and deposed in the matter entitled  
8 herein; that, before the proceedings' completion, the  
9 reading and signing of the deposition were not requested  
10 by the parties; that said deposition was taken in  
11 verbatim stenotype notes by me, a Certified Shorthand  
12 Reporter, and thereafter transcribed into typewriting as  
13 herein appears;

14 That the foregoing transcript, consisting of  
15 pages 1 through 229, is a full, true and correct  
16 transcription of my stenotype notes of said deposition  
17 to the best of my knowledge, skill and ability.

18 I further certify that I am not a relative or  
19 employee of counsel of any of the parties, nor  
20 a relative or employee of any party involved in said  
21 action, nor financially interested in the action

22 Dated at Reno, Nevada, this 14th day of April,  
23 2015.

24 

25 KIMBERLY J. WALDIE, CSR No. 8696  
NV CCR #720, RPR