

EXHIBIT H

to the

**GAWKER DEFENDANTS' MOTION FOR ACCESS TO CORRECTED AND
UNREDACTED DVDS PRODUCED BY THE FBI**

Confidential - For Attorney's Eyes Only

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,

vs.

Case No.
12-012447-CI-011

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

Defendants.

_____/

CONFIDENTIAL

VIDEOTAPED

DEPOSITION OF: HEATHER COLE,
formerly known as
HEATHER CLEM

DATE: January 26, 2015

TIME: 10:07 a.m. to 1:59 p.m.

PLACE: Bajo, Cuva, Cohen & Turkel, P.A.
100 North Tampa Street
Suite 1900
Tampa, Florida

PURSUANT TO: Notice by counsel for Defendant
Gawker Media, LLC, 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

Pages 1 to 125

1 APPEARANCES:

2

3 CHARLES J. HARDER, ESQUIRE
4 Harder Mirell & Abrams, LLP
5 1925 Century Park East
6 Suite 800
7 Los Angeles, California 90067

8 - and -

9

10 DAVID R. HOUSTON, ESQUIRE
11 Law Office of David R. Houston
12 432 Court Street
13 Reno, Nevada 89501

14 - and -

15 KENNETH G. TURKEL, ESQUIRE
16 Bajo, Cuva, Cohen & Turkel, P.A.
17 100 North Tampa Street
18 Suite 1900
19 Tampa, Florida 33602

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21 Attorneys for Plaintiff

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25 CONTINUED:

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APPEARANCES CONTINUED AS FOLLOWS:

MICHAEL BERRY, ESQUIRE
PAUL J. SAFIER, ESQUIRE
Levine Sullivan Koch & Schulz, LLP
1760 Market Street
Suite 1001
Philadelphia, PA 19103

Attorneys for Defendant Gawker Media, LLC,
et al.

MICHAEL W. GAINES, ESQUIRE
The Barry A. Cohen Law Group
201 East Kennedy Boulevard
Suite 1950
Tampa, Florida 33602

Attorney for Defendant Heather Clem

ALSO PRESENT:

Mike Byrd, videographer
Terry Gene Bollea
Judge James R. Case

1 Q. Do you recall the period of time -- well,
2 strike that.

3 Did you have an interest in having sexual
4 relations with Terry Bollea before it occurred?

5 A. No.

6 Q. It was Bubba's desire?

7 A. I can't answer that for him.

8 Q. But Bubba stated that that was his desire?

9 A. He asked a question.

10 Q. Do you recall how many occasions Bubba
11 discussed with you this issue of you having sexual
12 relations with Terry Bollea?

13 A. I do not recall.

14 Q. Can you give me an estimate? Was it more
15 than five times?

16 A. I would estimate five or less.

17 Q. You eventually had sexual relations with
18 Mr. Bollea?

19 A. Yes.

20 Q. Do you recall the number of the encounters
21 that you had with him?

22 A. To the best of my knowledge, I can think of
23 three times that I remember.

24 Q. Do you recall where those sexual encounters
25 occurred?

1 A. Yes.

2 Q. And where?

3 A. Once at my -- at our house when I was married
4 to Mr. Clem; once at Mr. Bollea's house; once in a
5 hotel room.

6 Q. Which hotel?

7 A. I don't recall the name.

8 Q. Was it located in the Tampa Bay area?

9 A. No.

10 Q. Where was it located?

11 A. Tennessee.

12 Q. Which happened first? Was it the house that
13 happened first?

14 MR. BERRY: Objection.

15 THE WITNESS: Can you be more specific?

16 BY MR. HARDER:

17 Q. Okay. Was it -- was the first encounter that
18 you had with Mr. Bollea at your house?

19 A. No.

20 Q. Was it at Mr. Bollea's house?

21 A. To the best of my knowledge, yes.

22 Q. What do you recall about that encounter?

23 A. That we had sex.

24 Q. Do you recall any communications before you
25 had sex?

1 Q. The second sexual encounter at the hotel room
2 in Tennessee, to your knowledge, it was just you and
3 Mr. Bollea in the room?

4 A. Correct.

5 Q. And was it your understanding that it was a
6 private sexual encounter just between you and
7 Mr. Bollea?

8 A. Yes.

9 Q. And the third sexual encounter in your
10 bedroom, it was just you and Mr. Bollea in the room,
11 correct?

12 A. To the best of my knowledge.

13 Q. And to the best of your knowledge, it was a
14 private sexual encounter between you and Mr. Bollea and
15 no one else was watching and no one was filming it,
16 correct?

17 A. Can you restate the question, please?

18 Q. Sure.

19 [REDACTED] The third sexual encounter that you had with
20 [REDACTED] Mr. Bollea, to the best of your knowledge at the time
21 [REDACTED] of the encounter, it was a private encounter between
22 [REDACTED] you and Mr. Bollea and, to your knowledge, nobody was
23 [REDACTED] watching and nobody was filming?

24 [REDACTED] A. Correct.

25 [REDACTED] Q. After the third sexual encounter, did

1 Mr. Clem inform you that he had -- he was the one who
2 filmed you? Well, let me -- let me strike that, and I
3 will reask the question. I want to be as clear as I
4 can.

5 What do you recall of your conversation with
6 Mr. Clem immediately after the third encounter
7 regarding how it was filmed?

8 A. I don't recall a conversation immediately
9 after the third encounter.

10 Q. When did the conversation take place that you
11 had with Mr. Clem after the third encounter regarding
12 the filming?

13 A. I was shown the video. I immediately asked
14 for it to stop. I don't remember a specific
15 conversation. I do remember being very upset.

16 Q. Do you recall if you asked him to destroy the
17 video?

18 A. At a later time, yes.

19 Q. Let me get a sense of the timing.
20 Approximately how much time took place between the
21 third sexual encounter and when you were shown the
22 video of it?

23 A. I don't recall.

24 Q. What's your best estimate? Was it a day, a
25 week, a month, somewhere in between there?

1 A. I would guess several weeks.

2 Q. Do you recall having any conversations with
3 Bubba Clem regarding that sex video after that first
4 time he showed it to you?

5 A. At our mediation in our divorce, there was a
6 discussion where I asked for personal items that had
7 been told to me had been destroyed. I was trying to
8 ensure that they no longer existed, and I was told in
9 mediation that they did not.

10 MR. GAINES: Let's go off the record for just
11 a minute. Let me just ask her something to save
12 you some time here.

13 THE VIDEOGRAPHER: Off the record at 10:34
14 a.m.

15 (A recess was taken.)

16 THE VIDEOGRAPHER: On the record at 10:36.

17 MR. GAINES: This is Michael Gaines on behalf
18 of Heather Cole. Just to the extent we went off
19 the record for a minute, it was just to clarify
20 that the marital settlement agreement is
21 confidential. It was my understanding that the
22 confidentiality order that was entered in this
23 case supercedes that and covers it. So with that
24 understanding and to that extent, then Ms. Cole is
25 going to answer questions about the divorce and

1 specific, that would be appreciated.

2 (Whereupon, a video clip was played as
3 follows:)

4 TERRY BOLLEA: So, anyway, so where we're at
5 now is, you know, at the end of the day, I did
6 this. I wasn't on drugs. I made a choice. But
7 the "woe is me" story is on a personal level.
8 Dude, my life was already screwed --

9 SWAY CALLOWAY: Yeah.

10 TERRY BOLLEA: -- with my situation. I was
11 at an all-time low. These two people, that I pray
12 to God are friends of mine, you know, for two
13 years they were going, Hey, you know, I want to
14 get with you; I want to do this.

15 And then my boy is going, Yeah, It's cool;
16 it's cool.

17 I was like, No, man.

18 SWAY CALLOWAY: Are you talking about a
19 threesome or a --

20 TERRY BOLLEA: No, no, no. Him offering his
21 wife to me.

22 SWAY CALLOWAY: His wife to you?

23 TERRY BOLLEA: Yeah.

24 SWAY CALLOWAY: Okay.

25 TERRY BOLLEA: Yeah. And --

1 SWAY CALLOWAY: You didn't think that was
2 weird the first time he offered you his wife?

3 TERRY BOLLEA: Well, I knew they partied, you
4 know.

5 SWAY CALLOWAY: Oh, okay.

6 TERRY BOLLEA: I knew they partied, and I had
7 heard stories, and his wife was gorgeous.

8 And she kept, I want to get with you; I want
9 to do this and that and the other stuff; and I
10 want to have sex with you.

11 And I said, No, no, no, no.

12 So at the end of the day I kind of bottomed
13 out --

14 SWAY CALLOWAY: Uh-huh (Indicates
15 affirmatively).

16 TERRY BOLLEA: -- you know. I was with my
17 boy, you know. We went back to the house. And
18 when I was at my all-time low, I just said, The
19 hell with it; let's do this thing.

20 (Video clip concluded.)

21 BY MR. BERRY:

22 Q. Did you ever say to Mr. Bollea, I want to get
23 with you; I want to do this and that and the other
24 stuff; I want to have sex with you?

25 MR. GAINES: That's been asked and answered

1 already.

2 You can answer it one more time.

3 THE WITNESS: Not that I recall.

4 BY MR. BERRY:

5 Q. When Mr. Bollea says that he knew that you
6 and Bubba party and he had heard stories, do you know
7 what he meant by "party"?

8 A. I can't speculate what he knows and what he
9 doesn't know.

10 Q. Do you know what kind of stories he might
11 have had -- heard?

12 A. I do not know.

13 Q. I'm going to ask you some questions now to
14 follow up on some of the questions that Charles had
15 asked you earlier about the nature of your relationship
16 with Mr. Clem.

17 Did Mr. Clem generally pick who you had sex
18 with?

19 A. On the occasion that I had sex with someone
20 other than him, yes.

21 Q. Did you feel pressured to have sex with other
22 men?

23 MR. HARDER: I'm just going to object. There
24 is a protective order that no one is supposed to
25 be testifying about sex other than as it relates

1 I felt -- or I wished that the other people
2 involved would behave the same way.

3 BY MR. BERRY:

4 Q. In your experience, is Mr. Bollea somebody
5 who likes publicity?

6 A. In my opinion, yes.

7 Q. Are there any specific instances that stand
8 out in your mind that give rise to that opinion?

9 A. What he does for a living.

10 Q. But --

11 A. Clearly, if you're in entertainment, you are
12 aware of and want publicity.

13 Q. Is there any instance that you're aware of
14 that he has specifically sought out publicity in a
15 circumstance that surprised you?

16 A. Not specifically.

17 Q. Are there any statements that you heard or
18 read that he had made in the press about the tapes that
19 stand out in your mind?

20 A. Yes.

21 Q. What was that?

22 A. What you have discussed and what I heard on
23 that audio clip, that I -- I don't know the exact
24 word -- but constantly called and harassed and wanted
25 to have sex with him.

1 Q. And why does that stand out in your mind?

2 A. Because I didn't do that.

3 Q. When did you first learn that Mr. Bollea
4 might sue you?

5 A. Obviously, when I received -- when I was
6 served.

7 Q. Was that how you first learned about the
8 lawsuit?

9 A. This lawsuit, yes.

10 Q. When did you first hear that he had filed any
11 lawsuit in connection with the tape?

12 A. When Stephen Diaco called me. I guess he --
13 I don't know that he had filed a lawsuit, but I saw the
14 potential for something; otherwise, Stephen Diaco would
15 not be calling me.

16 Q. What was your reaction to finding out that he
17 had sued you?

18 A. I was upset.

19 Q. Did you think he had any reason to sue you?

20 A. Can you be more specific, please?

21 Q. Well, when you got his lawsuit, did you think
22 that there was any reason for him to be suing you?

23 A. No.

24 Q. Why not?

25 A. I read through the lawsuit. I saw the things

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SIGNATURE PAGE

Please attach to the deposition of HEATHER COLE, formerly known as HEATHER CLEM taken on January 26, 2015, in the case of TERRY GENE BOLLEA, professionally known as HULK HOGAN and HEATHER CLEM; GAWKER MEDIA, LLC, aka GAWKER MEDIA, et al.

PAGE LINE CORRECTION AND REASON THEREFOR

I HAVE READ THE FOREGOING PAGES AND, EXCEPT FOR ANY CORRECTIONS OR AMENDMENTS INDICATED ABOVE, I HEREBY SUBSCRIBE TO THE ACCURACY OF THIS TRANSCRIPT.

HEATHER COLE, formerly
known as HEATHER CLEM

DATE

WITNESS TO SIGNATURE

DATE