

# EXHIBIT 33

to the

**THE GAWKER DEFENDANTS' MOTION TO DISMISS  
ON THE GROUNDS OF FRAUD ON THE COURT**

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,

Case No.

12-012447-CI-011

vs.

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

Defendants.

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CONTINUED VIDEOTAPED  
DEPOSITION OF: BUBBA THE LOVE SPONGE CLEM

DATE: March 3, 2014

TIME: 3:21 p.m. to 6:02 p.m.

PLACE: Thomas & LoCicero, P.L.  
601 South Boulevard  
Tampa, Florida

PURSUANT TO: Notice by counsel for Defendants  
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

Volume 2  
Pages 183 to 345

## 1 APPEARANCES:

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

8 - and -

9 KENNETH G. TURKEL, ESQUIRE  
10 Bajo Cuva Cohen & Turkel, P.A.  
11 100 North Tampa Street  
12 Suite 1900  
13 Tampa, Florida 33602

14 - and -

15 DAVID R. HOUSTON, ESQUIRE  
16 Law Office of David R. Houston  
17 432 Court Street  
18 Reno, Nevada 89501

19 Attorneys for Plaintiff

20  
21 CONTINUED:  
22  
23  
24  
25

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2

3 MICHAEL BERRY, ESQUIRE  
4 PAUL J. SAFIER, ESQUIRE  
5 Levine Sullivan Koch & Schulz, LLP  
6 1760 Market Street  
7 Suite 1001  
8 Philadelphia, PA 19103

9 - and -

10 SETH D. BERLIN, ESQUIRE  
11 Levine Sullivan Koch & Schulz, LLP  
12 1899 L Street, N.W.  
13 Suite 200  
14 Washington, D.C. 20036

15 - and -

16 RACHEL E. FUGATE, ESQUIRE  
17 Thomas & Locicero, PL  
18 601 South Boulevard  
19 Tampa, Florida 33606

20 - and -

21 HEATHER L. DIETRICK, ESQUIRE  
22 General Counsel  
23 Gawker Media  
24 210 Elizabeth Street  
25 Third Floor  
New York, New York 10012

Attorneys for Defendant Gawker Media, LLC,  
et al.

CONTINUED:

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25

MICHAEL GOLD, ESQUIRE  
Barry A. Cohen Law Group  
201 East Kennedy Boulevard  
Suite 1000  
Tampa, Florida 33602

Attorney for Defendant Heather Cole (Clem)

JOSEPH F. DIACO, JR., ESQUIRE  
Adams & Diaco, P.A.  
101 East Kennedy Boulevard  
Suite 2175  
Tampa, Florida 33602

Attorney for Bubba the Love Sponge Clem

ALSO PRESENT:

Honorable James Case  
Mike Byrd, videographer  
Terry Gene Bollea

1 recordings could come to?

2 A. All four cameras went to there.

3 Q. Was this recording device ever kept anywhere  
4 other than the --

5 A. No.

6 Q. -- spot you marked?

7 A. No.

8 Q. You talked about -- you talked about how you  
9 could get images off of the recording device. Did it  
10 have a DVD burner on it? How -- how would you do that?

11 A. I had a DVD burner, because I do audible and  
12 a lot of those things. I have a DVD burner that if I  
13 had an instance and I wanted to download something I  
14 would bring.

15 Q. And so you could just plug it right into  
16 the --

17 A. Yes.

18 Q. -- recording device?

19 A. Yes.

20 Q. How many times did you burn a DVD off of the  
21 recording device?

22 A. The best of my knowledge, three or four.

23 Q. Tell me what each of those instances were.

24 A. One instance is I wasn't successful. I --  
25 some kids had egged my house, and I wasn't able to

1 get -- they didn't come close enough to the front door.  
2 Another instance is I had a pool guy in the back area,  
3 I felt as if stole some stuff. I, again, I didn't  
4 captivate that either. Another instance was actually  
5 my hot water heater broke in the -- in the middle of  
6 the night, and I did get that footage from the garage,  
7 and then Heather and Mr. Bollea's excursion.

8 Q. And when did the house egging happen?

9 A. Oh, I don't -- years, years ago. I don't  
10 know what day.

11 Q. Prior?

12 A. It was, obviously, in Halloween. It was  
13 probably early November, late October, but I can't tell  
14 you what year.

15 Q. Was that before or after the Hulk and  
16 Heather's --

17 A. Before.

18 Q. How about the pool guy?

19 A. Before.

20 Q. And the hot water heater?

21 A. Before.

22 Q. Any other times that you downloaded?

23 A. I can't remember of any, no. I can't  
24 specifically recall. Those are the four that stick  
25 out.

1 Q. Well, no. I'm just curious.

2 A. It's just a play on words. It's just a big  
3 contraceptive, walking thing, you know. I don't know.  
4 It's just a play on words, Bubba the Love Sponge. It  
5 doesn't really mean anything.

6 Q. But out of all the things you could have  
7 picked, how did you pick that one?

8 A. I don't know, buddy. I don't know. I don't  
9 know.

10 Q. Does anybody still call you Todd?

11 A. No.

12 Q. When you were married to Heather, did she  
13 take the name Love Sponge Clem?

14 A. Uh-huh (Indicates affirmatively).

15 Q. Did -- did Hulk know that you had cameras in  
16 your house?

17 A. No.

18 Q. Were there cameras in the house when you  
19 lived there?

20 A. Yes. In those areas, yes.

21 Q. In the four areas we talked about earlier?

22 A. Yes.

23 Q. Did you ever discuss the cameras with him?

24 A. No.

25 Q. Did you ever point them out to him?



1 A. No.

2 Q. When he lived with you, was he ever in your  
3 bedroom?

4 A. He may have. I mean, I specifically remember  
5 one -- let me -- let me -- let me retract that. I  
6 think there was one particular Thanksgiving that he  
7 came over to -- to hang out with us, and we were  
8 watching a movie. All of us together were watching a  
9 movie in my bedroom, and so I -- that's the one  
10 particular time I remember. But I don't think that --  
11 that was certainly not during the time he lived with  
12 me. But he had -- he could have very well been in my  
13 bedroom when he lived with me, but I can't give you any  
14 instances per se.

15 Q. When you say that all of us were in the  
16 bedroom watching a movie, who is all of us?

17 A. Tyler, Julia, Heather, Terry, maybe my  
18 sister. I forget what was on, maybe -- it might --  
19 what was that movie with James Cameron, the special?  
20 Avatar? It might have been Avatar, I think, maybe.

21 Q. Okay. And just to clarify, Julia is  
22 Heather's daughter?

23 A. Heather's daughter, yes.

24 Q. Okay.

25 A. I think she's 12. I think she's 12 now.

1 or not or it just was a spontaneous-type thing. I  
2 don't -- I can't give you my mindset as to if I had  
3 that mindset or not.

4 Q. Prior to them having sex, did you know that  
5 it was going to be recorded?

6 A. No. Again, my testimony is I didn't have  
7 that mindset per se at the time. It was a spontaneous  
8 thing. And again, my room is under surveillance at all  
9 times, so I had a certain amount of days, however long  
10 my hard drive, whether it was 14 days or 18 days, to  
11 captivate that and to save that particular thing. So  
12 my testimony would be, no, it was not premeditated at  
13 the time that I asked him. I -- I would never do that.

14 Q. Did Heather understand at that time that she  
15 was being filmed?

16 MR. DIACO: Object to the form of the  
17 question.

18 THE WITNESS: I don't know. I don't know.  
19 You might want to ask her.

20 BY MR. BERRY:

21 Q. Did you think that she knew she was being  
22 recorded?

23 A. I would assume that she did. I would say the  
24 only person who didn't know would be Terry.

25 Q. And when did -- was the first time that he

## 1 REPORTER'S CERTIFICATE

2 STATE OF FLORIDA  
3 COUNTY OF HILLSBOROUGH4  
5 I, Aaron T. Perkins, Registered Professional  
6 Reporter, certify that I was authorized to and did  
7 stenographically report the deposition of  
8 BUBBA THE LOVE SPONGE CLEM; that a review of the  
9 transcript was not requested; and that the transcript  
10 is a true and complete record of my stenographic notes.  
1112  
13 I further certify that I am not a relative,  
14 employee, attorney, or counsel of any of the parties,  
15 nor am I a relative or employee of any of the parties'  
16 attorney or counsel connected with the action, nor am I  
17 financially interested in the action.  
1819  
20 Dated this 14th day of March, 2014.  
21  
22  
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25  
Aaron T. Perkins, RPK

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

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professionally known as HULK  
HOGAN,

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Defendants.

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CONTINUED  
VIDEOTAPED

DEPOSITION OF: BUBBA THE LOVE SPONGE CLEM

DATE: March 4, 2014

TIME: 12:07 p.m. to 3:10 p.m.

PLACE: Thomas & LoCicero, P.L.  
601 South Boulevard  
Tampa, Florida

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Florida at Large

Volume 3  
Pages 346 to 519

## 1 APPEARANCES:

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

7 - and -

8 KENNETH G. TURKEL, ESQUIRE  
9 Bajo Cuva Cohen & Turkel, P.A.  
10 100 North Tampa Street  
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13 - and -

14 DAVID R. HOUSTON, ESQUIRE  
15 Law Office of David R. Houston  
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5 Levine Sullivan Koch & Schulz, LLP  
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18 601 South Boulevard  
19 Tampa, Florida 33606

20 - and -

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22 General Counsel  
23 Gawker Media  
24 210 Elizabeth Street  
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New York, New York 10012

Attorneys for Defendant Gawker Media, LLC

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201 East Kennedy Boulevard  
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Tampa, Florida 33602

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Adams & Diaco, P.A.  
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Suite 2175  
Tampa, Florida

Attorney for Bubba the Love Sponge Clem

ALSO PRESENT:

Honorable James Case  
Mike Byrd, videographer  
Terry Gene Bollea

1 highly inflammatory, and I think the motivation on  
2 the other side to get at this information is  
3 calculated to do more harm to Mr. Hogan, when  
4 enough harm has already been done to him.

5 MR. BERRY: I will try it a different way and  
6 we'll see if we get -- we'll address this without  
7 the objection.

8 THE COURT: Okay.

9 BY MR. BERRY:

10 Q. Looking back at this exhibit here, which was  
11 the April 26th publication of The Dirty, it says at the  
12 bottom: Terry, do you remember what you said about  
13 black people on the sex tape? You are not Dog the  
14 Bounty Hunter.

15 Having seen that, do you recall whether Hulk  
16 Hogan ever used the "N" word?

17 MR. HARDER: Again, Your Honor, I'm objecting  
18 on the same grounds. That has nothing to do with  
19 whether Mr. Hogan knew or didn't know that he was  
20 being filmed, knew or didn't know about the  
21 distribution of the tape, was involved in  
22 anything. Those are the subjects of the case.  
23 The subject of the case is not a witch hunt about  
24 whether he ever used a racial comment or not.

25 MR. DIACO: Judge, I would just also add that



1 in the wake of what's happened in the Paula  
2 Deen recently, with the leak of one time using the  
3 "N" word inappropriately, albeit in a confidential  
4 communication with her husband, and seeing what  
5 that did to her career, I just think that this  
6 needs to be treaded around very lightly,  
7 especially when this is not a quote from either  
8 Mr. Hogan, nor from Mr. Clem, that's referenced on  
9 Exhibit No. 63. It's an anonymous quote. I don't  
10 think it's fair game.

11 MR. HARDER: Your Honor, on the Paula Deen  
12 issue, that was in a videotaped deposition.  
13 That's where it ended up coming out and became an  
14 issue at trial when it ended up costing her dearly  
15 financially.

16 So what we're trying to do is prevent Gawker  
17 from doing the same thing that happened to Paula  
18 Deen when there is zero relevance to that in this  
19 case.

20 MR. BERLIN: Your Honor, if I can be heard on  
21 that?

22 THE COURT: Certainly.

23 MR. BERLIN: One of the issues that  
24 Mr. Harder omitted from his list of issues that  
25 are at issue in this case is whether what's on

1           this tape, and if there are other tapes, is  
2           newsworthy. We've had a whole bunch of litigation  
3           about that. That's been up to the court of  
4           appeals, which has ruled on this subject.

5           The question that's being asked is,  
6           obviously, something that would go to whether it's  
7           being newsworthy. The subject -- we have a whole  
8           bunch of litigation in this case about whether  
9           this deposition can be recorded, whether it would  
10          be under seal, or the recording needs to be under  
11          seal. There is a series of protections that are  
12          in place to protect that.

13          But to be able to get at what's actually  
14          going on here, including the motivations for  
15          various people about disseminating or not  
16          disseminating what's on this tape is key. And  
17          that, coupled with somebody who would be a  
18          celebrity making what would obviously be  
19          newsworthy comments, is something that we need to  
20          be able to explore.

21          And it's not something that we're just making  
22          up. It's something that's based on published  
23          reports that came -- that were already in the  
24          public discussion long before Gawker came on the  
25          scene.

1           MR. HARDER: Your Honor, about the content of  
2 the tape. There is two tapes. One is the minute  
3 40 seconds that Gawker posted on the Internet.  
4 There is nothing about anything racial at all in  
5 that. And they produced to us a 30-minute video.  
6 There is nothing racial that has to do with that.

7           What we're talking about here is  
8 thedirty.com, which is making some sort of an  
9 allegation about the content of the tape, that I  
10 assume that they are talking about the tape that  
11 they provided to us that doesn't have any of this.

12           So now it's become this -- this effort to try  
13 to find something to pin on him that's outside of  
14 the scope of the case, has nothing to do with  
15 newsworthiness, because if they are claiming that  
16 something in that tape is newsworthy, they never  
17 put it up on their website and they never produced  
18 it to us.

19           So this is something that's outside of that  
20 scope.

21           MR. BERLIN: We -- we don't know what's on  
22 the full tape. We know what's on the tape that  
23 was provided to us, which is not necessarily the  
24 full tape. And we're trying to get to the bottom  
25 of this.

1 THE COURT: If you don't know, then we don't  
2 know.

3 MR. BERLIN: One of the questions -- that's  
4 why we're asking the question. If there is  
5 nothing there, then let the witness answer the  
6 question and say, There is no air there.

7 MR. BERRY: And, Judge Case, if I may just  
8 interject. These images on The Dirty are not the  
9 images that are on the full DVD.

10 THE COURT: Okay. Objection sustained.

11 MR. HARDER: Thank you.

12 MR. BERRY: This would be a good place to  
13 break.

14 THE VIDEOGRAPHER: Off the record at 1:33.

15 (A recess was taken.)

16 THE VIDEOGRAPHER: On the record at 1:47.

17 BY MR. BERRY:

18 Q. Before the break, we were talking about the  
19 time period following the April Internet reports on The  
20 Dirty and on TMZ. You talked a little bit about the  
21 summer period.

22 I'd like to fast forward now, if we could, to  
23 the October 2012, when Gawker posted the -- its story  
24 and the excerpts from the sex tape. How did you find  
25 out that Gawker has published those excerpts?

## 1 REPORTER'S CERTIFICATE

2 STATE OF FLORIDA  
3 COUNTY OF HILLSBOROUGH

4  
5 I, Aaron T. Perkins, Registered Professional  
6 Reporter, certify that I was authorized to and did  
7 stenographically report the deposition of  
8 BUBBA THE LOVE SPONGE CLEM; that a review of the  
9 transcript was not requested; and that the transcript  
10 is a true and complete record of my stenographic notes.

11  
12 I further certify that I am not a relative,  
13 employee, attorney, or counsel of any of the parties,  
14 nor am I a relative or employee of any of the parties'  
15 attorney or counsel connected with the action, nor am I  
16 financially interested in the action.

17  
18 Dated this 15th day of March, 2014.

19  
20   
21 Aaron T. Perkins, RPK

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IN AND FOR PINELLAS COUNTY, FLORIDA  
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DATE: March 4, 2014

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PLACE: Thomas & LoCicero, P.L.  
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Notary Public, State of  
Florida at Large

Volume 4  
Pages 520 to 658

## 1 APPEARANCES:

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

7 - and -

8 KENNETH G. TURKEL, ESQUIRE  
9 Bajo Cuva Cohen & Turkel, P.A.  
10 100 North Tampa Street  
11 Suite 1900  
12 Tampa, Florida 33602

13 - and -

14 DAVID R. HOUSTON, ESQUIRE  
15 Law Office of David R. Houston  
16 432 Court Street  
17 Reno, Nevada 89501

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20 - and -

21 HEATHER L. DIETRICK, ESQUIRE  
22 General Counsel  
23 Gawker Media  
24 210 Elizabeth Street  
25 Third Floor  
New York, New York 10012

Attorneys for Defendant Gawker Media, LLC

CONTINUED:



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APPEARANCES CONTINUED:

MICHAEL GOLD, ESQUIRE  
Barry A. Cohen Law Group  
201 East Kennedy Boulevard  
Suite 1000  
Tampa, Florida 33602

Attorney for Defendant Heather Cole (Clem)

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Attorney for Bubba the Love Sponge Clem

ALSO PRESENT:

Honorable James Case  
Mike Byrd, videographer  
Terry Gene Bollea

1 went on the Howard Stern show the next day, right?

2 A. I think. I don't know. Did I? I don't  
3 remember if I did or not.

4 Q. Do you recall that you and Howard Stern  
5 simulcast each other shows?

6 A. Yeah, we've done that before.

7 Q. Do you recall doing that on October 17th,  
8 after receiving this letter?

9 A. Not necessarily. I don't recall that. But  
10 if you say I did, I may have.

11 Q. All right. I'm going to play you a clip from  
12 the October 17th broadcast of your shows. That's Hour  
13 3, Segment 1, Track 1. We'll mark this as Exhibit 69.

14 (Exhibit No. 69 was marked for  
15 identification.)

16 MR. DIACO: Your Honor, we're doing exactly  
17 what he said he wasn't going to do.

18 JUDGE CASE: How much more of this is there?

19 MR. BERRY: I would like to play him this to  
20 refresh his recollection so that we can get an  
21 answer to the question I just --

22 JUDGE CASE: All right.

23 MR. BERRY: -- was asking him, and we'll play  
24 that one clip.

25 JUDGE CASE: Okay.

1 MR. DIACO: Which question does he need his  
2 recollection refreshed?

3 MR. BERRY: Well, he said he didn't recall  
4 whether he went on the Howard Stern show the next  
5 day.

6 MR. DIACO: Okay.

7 MR. BERRY: So we'll play a clip, and then --  
8 and what we'll play here is a clip from 38:22 to  
9 39:53.

10 (Whereupon, an audio clip was played as  
11 follows:)

12 MR. CLEM: Let me tell you about Hulk Hogan.  
13 He wants to send me cease and desists that I can't  
14 even talk about this issue on my show right now,  
15 so --

16 HOWARD STERN: You like -- do you on some  
17 level like this?

18 MR. CLEM: Brent, did we not -- did we not  
19 just get this, Brent?

20 BRENT: Yes, we did.

21 MR. CLEM: No, I hate this, Howard. This is  
22 the worst time of my life right now.

23 HOWARD STERN: Do you think he on some level  
24 likes it, because he's never --

25 MR. CLEM: No.

1           HOWARD STERN:  -- been big in the news.

2           MR. CLEM:  Well, I mean, had he shut up after  
3 your show --

4           HOWARD STERN:  Yeah.

5           MR. CLEM:  I realize he had to do your show  
6 for his wrestling Pay-per-view.

7           HOWARD STERN:  Yeah.

8           MR. CLEM:  And I appreciate that.  Okay?

9           HOWARD STERN:  Right.

10          MR. CLEM:  Had he shut up, this would be gone  
11 by now had he privately --

12           (Interrupted.)

13          MR. DIACO:  Do you want to ask him if it  
14 refreshes his recollection?

15          MR. BERRY:  I wanted this -- a place for --

16          MR. DIACO:  Of course.

17           (Clip continues.)

18          MR. CLEM:  You know, you don't go to the  
19 federal courthouse at 5:00 p.m. with the -- all  
20 the news cameras there and call a press conference  
21 when you're going to sue somebody federally.

22          HOWARD STERN:  I tell you why you do it.  
23 Let's say he really is embarrassed by this.  Let's  
24 say everything that they are reporting, these  
25 rumors that the "N" word is being said --

1 MR. CLEM: But he said it.

2 HOWARD STERN: But wait a second. Let's say  
3 he really wants to stop the -- the outcome of the  
4 tape going public, and he's very embarrassed by  
5 what might or might not be on there, and he just  
6 is ashamed. So how does he --

7 MR. CLEM: As we all are.

8 HOWARD STERN: As they're shaking in their  
9 boots, he wants to show the world that he's  
10 serious, that he will litigate, that he will go  
11 after --

12 MR. CLEM: So you're going to include your  
13 friend who is part of this, and you all three knew  
14 it was going on. So you're going to --

15 HOWARD STERN: Right.

16 MR. CLEM: You're going to throw me to the  
17 wolves as well?

18 HOWARD STERN: In other words, everyone knew  
19 there was even taping equipment in the house. You  
20 say, Hey, any guy living in my house knew that.  
21 And you were -- you were always very vocal about  
22 your taping equipment.

23 MR. CLEM: I have always been very vocal  
24 about everything.

25 HOWARD STERN: And now he can't say, Hey, I'm

1           upset that it got out there, because it -- you  
2           always run the risk if you know you're being  
3           taped.

4                       (Audio clip concluded.)

5 BY MR. BERRY:

6           Q.    All right.  So does that refresh your  
7           recollection that you were on Howard Stern?

8           A.    Yes.

9                       MR. HARDER:  Your Honor, I would just like to  
10           move to strike the racial portion of this, because  
11           it's use was stated in the last objection.

12                      THE WITNESS:  They got it in.

13                      MR. BERRY:  That's fine.  We can redact that  
14           out of the transcript.

15                      JUDGE CASE:  Okay.

16 BY MR. BERRY:

17           Q.    So you got this letter from Mr. Harder  
18           telling you to cease and desist making those three  
19           statements, right?

20           A.    Yes.

21           Q.    And at least on this clip, you made a couple  
22           of them again, right?

23           A.    I don't know at what time Mr. Harder had sent  
24           this over the day before.  I don't know -- I don't know  
25           if I had seen it yet.  I don't know if I had seen it

## 1 REPORTER'S CERTIFICATE

2  
3 STATE OF FLORIDA  
4 COUNTY OF HILLSBOROUGH5 I, Aaron T. Perkins, Registered Professional  
6 Reporter, certify that I was authorized to and did  
7 stenographically report the deposition of  
8 BUBBA THE LOVE SPONGE CLEM; that a review of the  
9 transcript was not requested; and that the transcript  
10 is a true and complete record of my stenographic notes.11 I further certify that I am not a relative,  
12 employee, attorney, or counsel of any of the parties,  
13 nor am I a relative or employee of any of the parties'  
14 attorney or counsel connected with the action, nor am I  
15 financially interested in the action.16  
17 Dated this 14th day of March, 2014.  
18  
1920  
21   
22 Aaron T. Perkins, RPK  
23  
24  
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