

1 ROUGH DRAFT/CONTAINS CONFIDENTIAL EXCERPTS

2 (Premarked Plaintiff's Exhibit 1 and 2 and 3 )

3 VIDEOGRAPHER: We are now going on the

4 record at approximately 10:12 a.m.. This is the

5 videotape deposition of witness Rita Cosby taken in

6 the U.S. District Court for the Southern District of

7 New York. The case number is 107 CIV 8536 DV,

8 Howard K. Stern versus Rita Cosby et al. Deposition

9 is being held today, November 15, 2007 at offices of

10 Davis write, 1633 Broadway in New York, New York.

11 I am Kevin Gallagher, videographer.

12 Court reporter is Debby Stevens both from the

13 independent firm of Tankoos Reporting. Counsel will

14 now identify themselves for the record.

15 MR. WOOD: My name is Lin wood. I

16 represent Howard K. Stern, the plaintiff.

17 MS. HABER: Lisa DiPoala Haber, attorney

18 for plaintiff.

19 MR. PATTON: Jay Patton, attorney for

20 plaintiff. Elizabeth Mc Namara of Davis Wright

21 Tremain for Rita Cosby.

22 MR. CUTI: John Cuti of Davis Wright

23 Tremain for Rita Cosby.

24 MR. MAYNARD: Douglass Maynard for

25 Defendant Hachette Book Group.

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2 Q. Give me the person's name?

3 A. The individual that you are speaking  
4 about is Don Clark.

5 Q. So Don Clark was in fact the source for  
6 the information in your book specifically -- do you  
7 want to see a copy of it?

8 A. Thank you.

9 MS. McNAMARA: I have it here.

10 Q. Okay. Page 203, I believe. 204. The  
11 paragraph that begins "without knowing what Jackie  
12 Hatten had seen Anna's nannies -- I won't miss  
13 pronounce their name -- Alexis and Alex sigh, last  
14 name, accompanied by their attorney, told private  
15 investigator some details about Howard and Anna's  
16 home life." It goes on to talk about a videotape  
17 that allegedly Anna nil coal Smith would stay in bed  
18 and watch that included gay sexual activities  
19 between my client, Mr. Stern, and Larry Birkhead.

20 And it is your testimony today that the  
21 investigator who provided you with that information,  
22 found at page 204, was in truth and in fact Don  
23 Clark. Am I right?

24 A. Correct. I did receive that information  
25 from him.

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2 Q. From him. Did you receive it from anyone  
3 else?

4 A. Yes, I did.

5 Q. Who else gave you that same information?

6 A. I have been -- I had been asked by that  
7 individual (I have) not to release the name unless  
8 subpoenaed or court ordered.

9 Q. Well, I think I already got it under  
10 subpoena. Are we talking about Wilma Vicedome?

11 A. Where is your subpoena, Mr. Wood?

12 Q. It is in Texas right now. One has  
13 already been served on her for a deposition?

14 A. In this particular case?

15 Q. No. In another piece of litigation.

16 A. I have been told by my source, unless  
17 there is a subpoena or court order, that person is  
18 readily available to testify (fix name).

19 Q. So, that person -- so there are two  
20 people, Don Clark and this person who you say is  
21 ready to testify but wants a subpoena. Right? So  
22 we got two?

23 A. Correct.

24 Q. Any other individuals that you attribute  
25 that information to as sources other than Mr. Clark

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2 investigator?

3 A. I can't give out specifics about my

4 source.

5 Q. Was this individual with Don Clark when

6 he interviewed the nannies?

7 A. I can't give out the specifics about my

8 source.

9 Q. Is this individual employed by John

10 O'Quinn (check) or the O'Quinn law firm?

11 Q. I?

12 A. I can't give out information about my

13 source.

14 Q. Is this individual Wilma Viccdome?

15 A. I can't give out information about my

16 source.

17 Q. Do you know Wilma Viccdome?

18 A. Yes, I know who she is.

19 Q. Have you spoken with her since

20 August 31st, 2007?

21 A. Yes.

22 Q. Tell me what you discussed with her?

23 A. A variety of things.

24 Q. Have you discussed with her her presence

25 when Mr. Clark interviewed the nannies?

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2 A. I am not going to go into details.

3 Q. Why not?

4 A. I have I asked her about her specific  
5 presence at that --

6 Q. Yes, ma'am.

7 A. Yes, I have asked her.

8 Q. Tell me what she discussed with you.

9 What did she say to you when you asked her about it?

10 A. She said exactly what Don Clark had said.

11 Q. So she is not the other source for the  
12 book.

13 A. I am not saying who my source is Mr. Wood.

14 Q. Well, you have told me what she said, so  
15 we got Wilma and we have got Don. Do we have any  
16 other source for that statement on page 204?

17 A. I am not at liberty to go into detail. I  
18 will just tell you, I have two sources, Mr. Wood.

19 Q. Well, Wilma and Don are both sources you  
20 tell me, right?

21 A. Mr. -- Mr. Clark definitely gave me that  
22 information and confirmed it to me and I have spoken  
23 with Wilma Vicedome since and asked her about her  
24 meeting.

25 Q. Are you telling me that you have spoke

1       ROUGH DRAFT/CONTAINS CONFIDENTIAL EXCERPTS

2       tone a third person about that meeting?

3       A. I am not going to go into detail.

4       Q. I have got to know that in order to know

5       whether we have a battle to fight with the court or

6       not, Ms. Cosby.

7               Is there a third person out there that

8       you say is willing to testify if ordered by the

9       court?

10      A. I am not going to go into specifics,

11      Mr. Wood.

12      Q. I am not asking you specifics, please,

13      Ms. Cosby. Is there a third person other than Wilma

14      and Don?

15      A. I am not going to go into specifics.

16      What I will tell you is that Mr. Clark was the

17      investigator you referred to, the 25-year

18      investigator.

19      Q. I understand that. That is not what I am

20      asking you. I want to know if -- we are here to

21      talk about your conduct as it relates to potentially

22      efforts to obstruct justice and influence witnesses.

23      You know that. You have read the court's order?

24      A. Absolutely.

25      Q. I have got to know the names of these

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2       people to know what you have done and whether you  
3       have tried to pay other people for access and  
4       affidavits or information.

5               I need to know whether there is a third  
6       person out there other than Wilma Vicedome and Don  
7       Clark who you claim was the source for the  
8       information we have been over at page 204 of your  
9       book "Blonde Ambition". Either yes, there is,  
10      Mr. Wood, or no, there is not, but I need an answer  
11      to that.

12             I understand you are not going to give me  
13      an identity but I am entitled to an answer to that,  
14      please.

15             A. I would like to consult with my counsel  
16      if I could very briefly.

17             MR. WOOD: Let the record reflect that  
18      once again we have got to adjourn for another  
19      conference.

20             THE WITNESS: Thank you.

21             VIDEOGRAPHER: Now going off the record  
22      approximately 12:45 p.m..

23             (Recess.)

24             VIDEOGRAPHER: Going back on the record  
25      now approximately 12:51 p.m..

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2 Q. Before we took that adjournment, I asked  
3 you a question, whether there is a third individual  
4 other than Vicedome and Don Clark, who you claim has  
5 been or was the source for information published at  
6 page 204 of your book "Blonde Ambition".

7 Is there a third individual or not?

8 A. I have been -- because you had mentioned  
9 that there was a subpoena given to this individual.

10 Q. And there has been.

11 A. That there is no third person.

12 Q. You were aware as you sit here today, you  
13 know Don Clark works for John O'Quinn?

14 A. Yes.

15 Q. And Wilma works for Don Clark?

16 A. Yes. She has a relationship with Don  
17 Clark, yes.

18 Q. Well, that is what she was doing in the  
19 Bahamas with him; John O'Quinn was paying for it.

20 You knew that?

21 A. She was can Don Clark, right.

22 Q. It was all being paid for by O'Quinn.

23 You knew that?

24 A. I assume. I don't know what their  
25 financial arrangements are.

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2 Q. You know there are some financial  
3 arrangement between done O'Quinn, Wilma and Don  
4 Clark (John) true?

5 A. True.

6 Q. Have you taught to obtain an affidavit  
7 from Wilma Vicedome since the 31st of August, 2007?

8 A. No.

9 Q. \*\*have you seen Don Clark on national  
10 television since that date denying that he was the  
11 source about the sex video you make in your book?

12 A. I did see that.

13 Q. Do you know he was lying about that on  
14 TV?

15 A. I don't know why. You'd have to ask him  
16 whatever phrasing he chose.

17 Q. Have you spoken to Don Clark since  
18 August 31, 2007 as we sit here today at any time?

19 A. Yes.

20 Q. How many times?

21 A. I don't know how many times.

22 Q. When was the last time?

23 A. I spoke with him last night.

24 Q. How long did you speak with him last  
25 night?

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2 appreciate I have heard that but it seems to me that  
3 you should first maybe establish whether there has  
4 been any communications with these people after  
5 August 31st, so that at least then we can establish  
6 a record as to that relevancy.

7 MR. WOOD: I appreciate that but I don't  
8 think I am required to do that. I am trying to find  
9 out who the potential witnesses are and whether  
10 there was any type of efforts to influence them.

11 Q. Who were the private investigators  
12 referenced in page 10?

13 MS. McNAMARA: And I have that standing  
14 objection. If you ask for any questions regarding  
15 activities or events that occurred prior to August  
16 31st, I am objecting to those questions.

17 Q. Who are the private investigators you are  
18 referring to on page 10?

19 A. I did not list them.

20 Q. I am sorry. Who are they is my question.

21 A. Who are the private investigators?

22 Q. Yes.

23 A. It is Wilma Vicedome and Don Clark (she  
24 said just VICE, not the whole name.

25 Q. Page 12, half way down, "Mow told private

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2 investigators. Is that also Wilma Vicedome and Don

3 Clark?

4 A. Correct.

5 Q. Anyone else (against just VICE)? Are

6 those the only private investigators?

7 A. In that reference, yes.

8 Q. Page 230, now told private investigators

9 he felt guilty. Don Clark and Wilma?

10 A. Correct.

11 Q. No one else. Right?

12 MS. McNAMARA: He has a question to you.

13 A. Correct.

14 Q. Page 232 when private investigators asked

15 'Tas how as a nurse -- again, are those private

16 investigators you are referring to there Don Clark

17 and Wilma Vice?

18 A. Correct.

19 Q. And it is your testimony today that you

20 have never made any monetary payments to Wilma Vice?

21 A. Correct.

22 Q. Have you ever made any types of --

23 covering expense reimbursement or anything of that

24 nature?

25 A. I can't think of anything.

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2 Q. Never paid her a dime?

3 A. I can't think of anything.

4 Q. And not any money to Mr. Clark?

5 A. I can't think of anything.

6 Q. Have you received any money from either

7 one of those two individuals yourself?

8 A. No.

9 Q. Did you consult with John O'Quinn or  
10 anyone in his office about your trip to the Bahamas?

11 A. Did I consult?

12 Q. Yes. Talk. Speak with them?

13 A. I did not speak to John O'Quinn.

14 Q. Anyone in his office?

15 A. Anyone in his office? About when? Prior  
16 to or after?

17 Q. Either one.

18 A. I had -- I don't believe so.

19 Q. You were telling me you believe you had  
20 done what?

21 A. I believe I mentioned beforehand that I  
22 may be going down.

23 Q. To who?

24 A. To possibly to -- possibly to Wilma, I  
25 believe.

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2 Q. Did you mention it to anyone else that  
3 was connected with John O'Quinn other than Wilma?

4 A. Not that I believe, sir.

5 Q. Did you discuss the trip while you were  
6 there with anyone connected with John O'Quinn or his  
7 law firm?

8 A. No.

9 Q. How about after you came back?

10 A. Yes. I spoke, as I mentioned, I remember  
11 talking to Don Clark.

12 Q. But not to Wilma?

13 A. No. I am sure I spoke with her, too, but  
14 I --

15 Q. About the --

16 A. Yes. I remember when I came back I was  
17 very surprised.

18 Q. Very surprised about what?

19 A. Again, about the request for money.

20 Q. Why were you surprised?

21 A. Because, it wasn't mentioned going down  
22 there. And I came back and was -- came back and  
23 asked, you know, what they had experienced.

24 Q. You asked Don Clark what he had  
25 experienced?

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2 some individuals in the Bahamas, too.

3 Q. But I need other names?

4 A. Not offhand, sir.

5 Q. You don't know their names? Ms. Cosby?

6 You don't know their names?

7 A. I believe in this case I know that -- I

8 know that these statements were in part made by Don

9 Clark and Wilma and some others but I believe also I

10 know that speaking to officers down there -- I do

11 have -- I do have some notes.

12 Q. So you think your notes would indicate

13 who those people were?

14 A. I know that these were statements made by

15 a number of investigators down there.

16 Q. Including Don Clark and Wilma?

17 A. Yes.

18 Q. Then you have a specific quote here "as

19 one investigator put it." Who is that referring to?

20 A.

21 (Pause.)

22 MS. McNAMARA: If you recall.

23 A. I have to go back and check my notes

24 specifically, sir.

25 Q. But you think you have that in your

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2 making offers of money?

3 A. They were the ones making offers of  
4 money.

5 Q. How much did they offer you?

6 A. Forgive me. They were the ones asking  
7 for money.

8 Q. You were the one offering?

9 A. Yes.

10 Q. To witnesses, right?

11 You say the first time Don Clark ever  
12 told you that allegedly the nannies made demands on  
13 him through their representatives for money was  
14 after the public airing had occurred of the audio  
15 tapes by Mr. Bain?

16 A. Yes, I believe. I believe so.

17 Q. Had you ever had a face to face  
18 conversation with Don Clark about his version of the  
19 nannies interview before that date?

20 A. No.

21 Q. So the only information you ever got from  
22 Don Clark was by telephone?

23 A. About the nannies, yes.

24 Q. And the only information you ever got  
25 from Wilma about the nannies was an in telephone

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2 conversations, too?

3 A. Correct.

4 VIDEOGRAPHER: Now going off the record

5 at 5:09. This is the end of tape 7.

6 (Recess.)

7 VIDEOGRAPHER: Beginning of tape number

8 8. Going back on the record approximately 5:22 p.m.

9 Q. Have you reviewed the addendum A to Judge

10 Chin's order of November 6, 2007, which has been

11 identify for purposes of your deposition as

12 Plaintiff's Exhibit Number 2?

13 A. Where is that?

14 MS. McNAMARA: It is here.

15 Q. Is that your copy?

16 MS. McNAMARA: It is not her copy. It is

17 a copy that has been provided to her by counsel.

18 Q. But the markings?

19 MS. McNAMARA: The markings are not hers.

20 Q. Did you read addendum A?

21 A. Yes.

22 Q. As part of your preparation for your

23 deposition?

24 A. Yes. I believe shall-yes, I have.

25 Q. Do you deny making those statements to

1       ROUGH DRAFT/CONTAINS CONFIDENTIAL EXCERPTS

2       there to validate what you put into the book?

3       A. Not to validate. Just to have an

4       additional piece of information.

5       Q. Well, when you said, well, that is some

6       of it, what did you think you were saying that in

7       response to?

8       A. I just was a little taken aback by what

9       was going on because she was very confrontational

10      and I didn't expect her to be such and I just

11      remember when I went down there she was feeding

12      words into me and I was a little taken aback by what

13      she was saying.

14             You can see I quickly say, you know,

15      separate then them, we have people in the book and

16      we are comfortable.

17      Q. Who are you referring to?

18      A. I am referring to the people I spoke to

19      that I mentioned to you.

20      Q. Well, who were those?

21      A. That is Don Clark and Wilma Vice.

22      Q. Anybody else?

23      A. Not on this -- not on this particular

24      point.

25      Q. But you have never tried to get an