

EXHIBIT A

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 C.A. No. 05-40170 FDS

4 * * * * *

5 STEPHANIE HOFER and DOUGLAS HOFER, *

6 Plaintiffs *

7 v. *

8 THE GAP, INC., EXPEDIA, INC. and *

9 TURTLE BEACH TOWERS, *

10 Defendants *

11 * * * * *

12 VOLUME I

13 PAGES 1-144

14

15 VIDEOTAPED DEPOSITION OF DOUGLAS

16 HOFER, a witness called on behalf of the

17 Defendant The Gap, Inc., pursuant to the

18 Federal Rules of Civil Procedure, before

19 Jessica L. Williamson, Registered Merit

20 Reporter, Certified Realtime Reporter and

21 Notary Public in and for the Commonwealth of

22 Massachusetts, at the Offices of Morrison,

23 Mahoney, LLP, 250 Summer Street, Boston,

24 Massachusetts, on Tuesday, July 11, 2006,

25 commencing at 10:04 a.m.

1 involved?

2 A. No.

3 Q. Was there any such information volunteered
4 by Ms. LaBelle?

5 A. I don't recall.

6 Q. Were there any discussions with Ms. LaBelle
7 about the fact that your wife had actually
8 been inside of the turtle pond earlier that
9 day?

10 A. No.

11 Q. Did Ms. LaBelle share with you what Ms.
12 Hofer and she did upon arrival to Jamaica
13 from the time they hit the airport to the
14 time of the incident?

15 A. I believe that she said it was a long ride
16 to the resort, and I believe they went and
17 grabbed dinner.

18 Q. Did she say anything else?

19 A. No.

20 Q. Did you ask Ms. LaBelle whether the two of
21 them had been drinking --

22 A. No.

23 Q. -- alcoholic beverages?

24 A. No.

25 Q. Yesterday we asked Mrs. Hofer -- I asked

1 Mrs. Hofer this question, and I'm going to
2 ask you whether you agree with her response:
3 I said "Mrs. Hofer, looking at the
4 experience that you've been through with
5 your injury, your rehabilitation, the pain
6 issues that you have, do you think that the
7 injury and your response to it have brought
8 you closer to your husband?" Her response
9 was "Yes."

10 Do you agree with that?

11 A. I would say we're definitely close, yes.

12 Q. And do you agree with your wife that in a
13 strange way this incident has strengthened
14 your marriage?

15 MS. MINCHOFF: Objection. You can
16 answer.

17 A. I would say we have a stronger bond, but at
18 the same time it has put a strain on our
19 marriage that we can no longer do things
20 that we used to do.

21 Q. And how has it put a strain on your
22 marriage, then?

23 A. It's just -- it limits us to the things we
24 used to do together.

25 Q. And how has that put a strain on your

1 marriage?

2 A. It's just stressful that you can't do things
3 you used to like to do.

4 Q. All right. And in what ways has this stress
5 manifested itself in your marriage, then?

6 A. It's just a stress you have to deal with,
7 realizing you can't do those things you
8 enjoy doing.

9 Q. That's not my question. How has -- in what
10 way has this stress manifested itself in
11 your marriage? How has it affected your
12 marriage?

13 A. It's changed it. We've had to deal with
14 things differently than we did in the past.

15 Q. How has it changed it?

16 A. That we can't do things we enjoy doing.

17 Q. What things?

18 A. We used to take walks together. We used to
19 walk our dogs. She can no longer do that.
20 She used to play softball, and I played
21 softball, so we played softball together.

22 Q. How has that put a strain on your marriage?

23 A. We don't do it together anymore.

24 Q. I recognize that you don't participate in
25 those activities together anymore. The

1 question is, how has that put a strain on
2 your marriage so that it's affected your
3 relationship with your wife?

4 MS. MINCHOFF: Objection. I think
5 he's answered the question.

6 MR. REITH: He hasn't.

7 MS. MINCHOFF: I think he's
8 answering it, but it's just an objection.

9 A. It's an added stress that she can no longer
10 do things she used to do. So it's
11 emotionally straining on her as well as
12 myself because now I'm doing things that I
13 didn't have to take care of before.

14 Q. What things are you doing now that you
15 didn't have to take care of before that is
16 causing you added stress?

17 A. I have to now go do groceries, take care of
18 laundry. I have to walk the dogs myself,
19 just things that we used to enjoy together.

20 Q. Before this incident you didn't go to the
21 grocery store?

22 A. Occasionally, yes.

23 Q. But now you do it full time?

24 A. Yeah. Yes.

25 Q. And before this incident you didn't do

- 1 Q. Okay. Just directing your attention, then,
2 down to the first page, do you see where it
3 says, "As a result of Stephanie's multiple
4 injuries, plaintiff, Douglas Hofer
5 ('Douglas') has suffered the loss of
6 companionship of his wife, Stephanie"?
- 7 A. Yeah.
- 8 Q. What do you mean by "has suffered the loss
9 of companionship"?
- 10 A. Doing those things that we used to do
11 together that we no longer are able to do.
- 12 Q. Okay. And those encompass the walks
13 together, the walking the dogs, the playing
14 of softball --
- 15 A. Yeah.
- 16 Q. -- the skiing -- just let me finish the
17 list -- the spending time together, the
18 Christmas shopping, the doing of the
19 groceries, the laundry?
- 20 A. Yes.
- 21 Q. Okay. Anything else?
- 22 A. Yes.
- 23 Q. What else?
- 24 A. Just our sexual life has changed.
- 25 Q. All right. Let's talk about that for a

1 while. How has your sexual life changed?

2 A. It's decreased.

3 Q. How so?

4 A. It's decreased.

5 Q. Well, let's go back to March 17th, 2004,
6 that time period, okay?

7 A. Yeah.

8 Q. I first want to get a sense of what you mean
9 by "sexual life." What do you mean by
10 "sexual life"?

11 A. Sexual intercourse, just intimate relations
12 with my wife.

13 Q. Okay. Aside from sexual intercourse, what
14 else do you mean?

15 A. Intimate things that you do with your
16 spouse.

17 Q. Okay. You understand why I'm asking this,
18 sir, right? You've raised a claim
19 specifically for loss of consortium in this
20 case?

21 A. Correct.

22 Q. And you're attempting to assert -- there's a
23 monetary damage asserted with that, correct?

24 A. Correct.

25 Q. All right. That's why I have to ask these

1 personal questions, all right?

2 A. Yeah.

3 Q. Let's go back again to March 17th, 2004.

4 During that time period, how many times per
5 week did you and your wife have sexual
6 intercourse?

7 MS. MINCHOFF: Objection. Just so
8 I'm clear, what time period? The year
9 before?

10 MR. REITH: Generally.

11 MS. MINCHOFF: Six months?

12 Q. We'll talk generally prior to the incident,
13 okay, which allegedly occurred on March
14 18th, 2004. How many times per week did you
15 and your wife engage in sexual intercourse?

16 A. I would say --

17 MS. MINCHOFF: Objection.

18 MR. REITH: What's the objection?

19 MS. MINCHOFF: I think it's too
20 wide of a time frame.

21 MR. REITH: Okay.

22 BY MR. REITH:

23 Q. Let's talk about the week before your wife
24 went away on vacation. Do you recall if you
25 had sex that week? And when I say "sex," I

1 mean sexual intercourse.

2 A. I don't recall specifically.

3 Q. Okay.

4 MS. MINCHOFF: And just so that
5 you're clear, I don't mind the general
6 question. I just think that we need to
7 break it down into -- they've been married
8 for a while, and when you ask an open-ended
9 question throughout their marriage --

10 MR. REITH: That's fine.

11 Q. Then we can talk -- can we talk in terms of
12 an average month, okay? An average month
13 prior to your wife's injury, how many times
14 would you and your wife have sexual
15 intercourse?

16 A. I would say between a half dozen and a dozen
17 times a month.

18 Q. And aside from the sexual intercourse in a
19 given month, on average how much -- how many
20 times would you and your wife engage in
21 sexually intimate activity, using your
22 terminology?

23 A. Probably, I don't know, a half dozen.

24 Q. Okay. And let's talk about immediately
25 after your wife's injury, okay, the first