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The Honorable Karen Strombom

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KEN ARONSON,)	
)	
Plaintiff,)	No. 3:10-CV-05293-KLS
)	
v.)	DECLARATION OF NOELLE H.
)	KVASNOSKY
DOG EAT DOG FILMS, INC.,)	
)	
Defendant.)	
)	

I, Noelle H. Kvasnosky, am over the age of 18 and have personal knowledge of all the facts stated herein and declare as follows:

1. I am an associate attorney with the law firm Davis Wright Tremaine, LLP, and am one of the attorneys representing Defendant in this lawsuit.
2. Plaintiff has testified under oath in his deposition in *Aronson v. Turnbow*, Thurston County Superior Court, Cause No. 08-2-02542-7, that he viewed the underlying video from which the clips at issue in *Sicko* were culled with other people present. See Dep. of Aronson, *Aronson v. Turnbow*, Thurston County Superior Court, Cause No. 08-2-02542-7 at pp 35:22-36:5, 39:21-40:2, 45:3-12, attached hereto as Exhibit A.

DECLARATION OF NOELLE H. KVASNOSKY (3:10-CV-05293-KLS) - 1
DWT 14833913v1 0092022-000001

Davis Wright Tremaine LLP
LAW OFFICES
Suite 2200 · 1201 Third Avenue
Seattle, Washington 98101-3045
(206) 622-3150 · Fax: (206) 757-7700

1 I declare under penalty of perjury of the laws of the United States of America that
2 the foregoing is true and correct.

3
4 EXECUTED at Seattle, Washington this 11th day of June, 2010.

5
6 
7 _____
8 Noelle H. Kvasnosky

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 11th day of June, 2010, I caused to be filed
3 electronically the above and foregoing document with the court, using the CM/ECF
4 system, which will send email notification of such filing to the below addressees, with the
5 physical materials in the accompanying exhibits filed with the Clerk's office by hand
6 delivery. I served a true and correct copy of the following documents by the method
7 indicated below and addressed as follows:

8 **Attorneys for Plaintiff:**

9 Thomas Brian Vertetis
Brian D. Doran
10 Pfau Cochran Vertetis Kosnoff PLLC
911 Pacific Avenue
Suite 200
11 Tacoma, WA 98402

_____ U.S. Mail
_____ Hand Delivery
_____ Overnight Mail
_____ Facsimile
 X CM/ECF Notification via email
service to: tom@pcvklaw.com and
bryan@pcvklaw.com

12
13 Declared under penalty of perjury dated at Seattle, Washington this 11th day of June,
14 2010.

15
16 /s/ Noelle H. Kvasnosky
Noelle H. Kvasnosky

EXHIBIT A

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

KEN ARONSON,)
Plaintiff,)
vs.) No. 08-2-02542-7
ERIC TURNBOW, et al.,)
Defendants.)

DEPOSITION OF KEN ARONSON
Friday, January 23, 2009

APPEARANCES

For Plaintiff: THOMAS B. VERTETIS
BRIAN DORAN
Pfau, Cochran, Vertetis &
Kosnoff
911 Pacific Avenue, Suite 200
Tacoma, Washington 98402

For Defendants: SOK-KHIENG K. LIM
Davies Pearson
920 Fawcett Avenue
P.O. Box 1657
Tacoma, Washington 98401

Also Present: Eric Turnbow
Miriam Dobbs

Reported by: Kylie Hammington, CCR, RPR
License No. 2054

1 BE IT REMEMBERED that the deposition upon oral
2 examination of KEN ARONSON was taken on Friday, January 23,
3 2009, at 911 Pacific Avenue, Suite 200, Tacoma, Washington,
4 before Kylie Hammington, Notary Public in and for the state
5 of Washington.
6

7 KEN ARONSON, having been first duly sworn upon oath by
8 the notary, testified as follows:
9

10 MR. VERTETIS: We have agreed to have Miriam
11 sit in to support Mr. Turnbow with the understanding
12 that she's not going to be a witness in the case.
13

EXAMINATION

14 BY MS. LIM:

15 Q Please state your name for the record.

16 A Kenneth R. Aronson.

17 Q Mr. Aronson, have you ever had your deposition taken
18 before?

19 A No.

20 Q All right. I'm sure your attorney has explained some
21 of the ground rules to you, but let me just reiterate
22 some of them.

23 I'm going to be asking you a lot of questions
24 today, so if there's anything that I ask that you don't
25

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3 Examination by Ms. Lim.....3:13
4 Examination by Mr. Doran.....83:17
5 Further Examination by Ms. Lim.....88:9

EXHIBITS

11 1 - Complaint for Damages.....62:1

REQUESTED INFORMATION

18 No Information Requested

1 understand, let me know and I'll ask you a completely
2 different question or I'll repeat what I just asked
3 you. Okay?

4 A Okay.

5 Q And since this is taken by a court reporter, please try
6 to answer in word format. Try not to use any body
7 language as an answer.

8 A Sure.

9 Q All right. If you need to take a break, we can do
10 that. Just let me know and we'll take a break, but
11 make sure you answer my question before we take the
12 break.

13 A Okay.

14 Q Now, Mr. Aronson, did you review anything in
15 preparation for today's deposition?

16 A Not visually, not -- no. I didn't review anything. We
17 just talked about what to expect here.

18 Q Did you talk to anyone other than your attorneys about
19 this or this deposition?

20 A No.

21 Q What's your current address?

22 A 3120 Aberdeen Avenue, Hoquiam, 98550.

23 Q How long have you lived there?

24 A Approximately eight years. Since the house was built,
25 yeah.

1 that you had only requested for the return of that
 2 video and the equipment of that video one time?
 3 A No. More than once.
 4 Q How many times?
 5 A I have no idea. Probably three or four times in
 6 between the time we returned and the time the movie was
 7 going to be sent off to Michael Moore.
 8 Q The Michael Moore conversation took place after you
 9 guys reconnected, correct?
 10 A Yes.
 11 Q So there was a falling out period and a reconnecting
 12 period; is that right?
 13 A Yes, right. And I asked for the return of it prior to
 14 and after.
 15 Q That's where I'm trying to get at. At the time you
 16 took the trip, which was '97 or '98, to the time of the
 17 falling out, which I think you testified was either
 18 2005 or 2006, between those two times, how many times
 19 did you request the return of the video and the
 20 equipment for that video?
 21 A I don't know. A few. Three or four.
 22 Q So you asked for it three or four times. Now there's a
 23 two-year gap where you guys don't talk, and you
 24 reconnect in either 2007 or 2008; is that right?
 25 A Whatever it was, yes. I don't remember exact dates.

1 there as well, you considered it to be your footage?
 2 A Well, sure.
 3 Q So when Eric kept the master and/or had copies made of
 4 this master, you still understood that to be your tape
 5 and your footage?
 6 A I sure did.
 7 Q And you never said to him you can -- I'm going
 8 to -- you could purchase this master from him? You
 9 never said that to him?
 10 A I never said that.
 11 Q You never took any marijuana in exchange for the
 12 master?
 13 A I never did that ever.
 14 Q And you never said to him, I don't ever want you to
 15 give this to anyone; I just want you to keep it?
 16 A I didn't see the need in expressing that to him. It
 17 was just a copy of the vacation.
 18 Q Did you ever say to Eric, I didn't want you to show
 19 this videotape to anybody?
 20 A I didn't see the need in saying that to him at this
 21 time.
 22 Q Do you know if Eric showed the videotape to his family
 23 or friends?
 24 A Well, there might have been acquaintances we had there
 25 that might have been in the house that we jammed

1 Q So when you reconnect, how many times did you ask him
 2 about the videotape and the return of that tape and the
 3 equipment?
 4 A You -- I don't know. He'd have to answer to that,
 5 because once he told me it was stolen, there would be
 6 no need for me to ask for it again when it's gone.
 7 Q So you recall -- after you reconnected, you asked him
 8 to return the tapes and the equipment and at that point
 9 he told you it was stolen?
 10 A Right.
 11 Q And you're not sure if it's in one or two conversations
 12 where you guys then discussed this Michael Moore film?
 13 A He had mentioned that he found him on the Internet and
 14 how he was looking for anybody that had anything to do
 15 with social medicine. And, you know, I'm -- I didn't
 16 think anything would ever transpire with my footage of
 17 the vacation that we went on, and so I didn't think
 18 anything of it. And you know, I didn't remember -- or
 19 remember the conversations we had that surrounded it or
 20 anything. It wasn't important at that time. I thought
 21 nothing had become of it.
 22 Q You considered the videotape that you took on this trip
 23 to be your footage?
 24 A Definitely.
 25 Q Even though it had footage of Eric and other folks on

1 together and hung out together that might have viewed
 2 it with us. I don't know. I can't remember
 3 specifically anybody that actually sat there with me in
 4 the room. I'll sure there was. He had people in and
 5 out of his house all the time.
 6 Q Do you know if Eric ever told you, Yeah, I watched this
 7 video with so-and-so person when you were not there?
 8 A I don't recall that conversation.
 9 Q Do you have any knowledge whether or not Eric, in fact,
 10 showed it to any of his family members without your
 11 presence?
 12 A I don't have any knowledge of it. He may have. I
 13 don't have -- I don't know what he did. You'd have to
 14 ask him what he did with it.
 15 Q Did you ever ask Eric who you've ever shown the video
 16 to?
 17 A I didn't find the need in it.
 18 Q Well, why didn't you find the need in it if you are
 19 concerned that this is your footage?
 20 A I wasn't concerned. I knew it was my footage.
 21 Q So were you worried that Eric could show it to other
 22 people?
 23 A Was I worried at that time? I probably didn't even
 24 think twice about it. Other than he had it in his
 25 safekeeping, I didn't feel that -- you know, it wasn't

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1 no great need, in my opinion, that he would have to run
 2 out and show everybody our footage of what I'd shot
 3 over there on our vacation. I have no idea if he
 4 showed it to anybody.
 5 Q Did you care whether Eric showed it to any of his
 6 family members?
 7 A Well, sure. There's things in there that I wouldn't
 8 want my own family members to see.
 9 Q Did you tell him that?
 10 A I didn't see the need in telling him at that time. He
 11 knew what was on there. He knew what was filmed. He
 12 filmed me. I filmed him. There's footage of both of
 13 us on there.
 14 Q So if you had concerns that there was some footage that
 15 you wouldn't want any of his family members to see, why
 16 didn't you tell him?
 17 A I just expected that he would respect my privacy and
 18 the moments in film -- you know, like if I had his
 19 tape, I would probably stop it if there was something
 20 that I thought would bother me if it was me showing
 21 somebody else and their moments on tape, I would
 22 probably not show it to them.
 23 Q So can you tell me what moments on the tape that you
 24 feel were private?
 25 A There's drug use, running around the room in our

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1 underwear acting goofy. The version of me singing a
 2 cappella with him "Oh, England" is embarrassing and
 3 awful.
 4 It was my first time using a videocamera, and
 5 he -- you know, he told me what a rotten job of filming
 6 I did, which I agree. I'd never used a camera prior to
 7 that point. And, you know, like I said, it was
 8 just -- it was just a poor quality everything and no
 9 experience behind the camera, and I just -- I wasn't,
 10 you know, happy with -- especially when I seen myself
 11 in a movie, I didn't know what to find. And it was
 12 real shocking and embarrassing and, you know, kind
 13 of -- it kind of -- I felt really strange about it.
 14 Q If there were a bunch of shocking and embarrassing
 15 things on the video, why didn't you guys destroy the
 16 video?
 17 A Well, I figured once I got it back from him, it would
 18 be up to me whether I wanted to destroy it or -- you
 19 know, I don't know how to destroy it. It's on a tape.
 20 I don't have no -- I don't have no way of -- unless I
 21 took it and cut it with a scissor and pulled the tape
 22 together and respliced it, I didn't feel necessary to
 23 take anything out of it if it's in my possession. I
 24 wouldn't care if I had it in my possession.
 25 Q So why would you leave a master tape that had

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1 embarrassing and bad footage to an individual for over
 2 ten years?
 3 A Well, like I said, it just totally slipped my mind that
 4 he had it for all that time. I'd forgotten about it
 5 for several years. It wasn't important. It's not like
 6 he had, you know, my gold watch in his possession worth
 7 lots of money. I'd probably get it right back right
 8 now if he had it over at his house. But it wasn't to
 9 me at this time any major concern to even think about
 10 it. Just spaced it off and even forgot that it was
 11 even there.
 12 Q So it wasn't so embarrassing and poorly filmed that you
 13 felt a need to try to retrieve it over ten years, then?
 14 A Like I said, I never expected it to go beyond Eric's
 15 house and beyond our -- you know, him and my eyes. I
 16 didn't expect it to go anywhere farther than that. I
 17 left it with him for the purpose of recording it for me
 18 and giving me my tape, my master tape, and the machine
 19 back to me that played the tape in a reasonable amount
 20 of time.
 21 Q So can you tell me who you know has viewed this film,
 22 this videotape that you personally have shown it to.
 23 A Shah Tawwater. And my girlfriend that lives with me,
 24 Barbara Sleasman. And I don't recall anybody else,
 25 actually.

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1 Q Just those two?
 2 A That I've shown it to at my house.
 3 Q So no other family members in your family have seen it?
 4 A No.
 5 Q So did Shah Tawwater -- did she watch the drug use
 6 footage of you and Eric?
 7 A Well, I'm sure, unless she got up to go in the bathroom
 8 in that moment of time. I don't know. I don't know
 9 what anybody sees. I mean, the film was put on, she
 10 watched it with me, and I can't recall, you know, what
 11 her memory recalls seeing of it.
 12 Q Did you ever ask Eric if it was okay you could show
 13 Shah Tawwater his -- footage of him using drugs?
 14 A Did I ask Eric that?
 15 Q Yes. Did you ask Eric permission for you to show
 16 footage of him using drugs to Shah Tawwater?
 17 A He didn't ask me permission to show me using drugs with
 18 him over there either.
 19 Q So did you have an understanding you guys could show
 20 the footage to people?
 21 A We had no understanding of anything. All I knew is
 22 record it and give back to me.
 23 Q Mr. Aronson, you just testified that you would respect
 24 someone's privacy and their right if there was some
 25 footage that was embarrassing to not reveal it to

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1 the whole world was exposed to what I shot, which I
 2 consider private and my own belongings.
 3 Q So any of the footage that you took that you showed
 4 Shah Tawwater, were you embarrassed at all to show her?
 5 A No. Because she knows, you know, me and she sees me in
 6 those moments, and it's something that she's used to.
 7 Q What about you girlfriend, Barbara? Did she see the
 8 footage of you using drugs and being in your underwear
 9 and singing "Oh, England"?
 10 A I don't remember how much of all the film she actually
 11 sat and took all in. But I know she watched some of it
 12 with me.
 13 Q And do you know if she saw Eric using drugs in that
 14 film and running around in his underwear and singing
 15 "Oh, England"?
 16 A Once again, I don't even know what she saw. You'd have
 17 to ask her.
 18 Q So if Eric had shown this videotape to his girlfriend,
 19 for example, Miriam here, do you think that showing you
 20 using drugs and being in your underwear -- do you think
 21 that's an embarrassing thing?
 22 A For me?
 23 Q Yes.
 24 A If I didn't know her, it could be, yes. She might lose
 25 respect for me if she didn't like drugs. I don't know.

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1 Q So, again, just so I understand, there was never any
 2 conversation between you and Eric as to who can view
 3 this film?
 4 A I didn't see -- no, we never discussed that.
 5 Q So when you were told that there was this Michael Moore
 6 project by Eric, what, if anything, did you tell Eric
 7 as to whether or not he could provide any footage to
 8 Michael Moore?
 9 A I didn't tell him anything concerning the footage, that
 10 he could provide it to anybody.
 11 Q Did you tell him, I don't want you to send it?
 12 MR. DORAN: Objection. Mischaracterizes his
 13 testimony. I believe his testimony is that he was
 14 informed post facto that it had been sent.
 15 MS. LIM: That wasn't my understanding.
 16 Q Let me ask you this. At the time that you found out
 17 that Michael Moore wanted to do this project, had Eric
 18 already produced the film to him, the first time you
 19 were informed about Michael Moore?
 20 A No. The -- he had told me that he had been on the
 21 Internet and saw this thing that Michael Moore wanted
 22 footage or experiences in social medicine.
 23 Q That's what I thought.
 24 A And then he informed me --
 25 MR. DORAN: Please let the plaintiff finish.

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1 Q Sorry. Go ahead.
 2 A And then he informed me that he'd sent the video to him
 3 along with our CD, I'm Alive, to Michael Moore.
 4 Q Is it your testimony that the first time you found out
 5 about the Michael Moore project was after the videos
 6 were sent?
 7 A Say that once again.
 8 Q Is it your testimony that the first time you found out
 9 about the Michael Moore project was after Eric had
 10 already sent the video?
 11 MR. DORAN: I'm going to object it's vague as
 12 to what "the Michael Moore project" means.
 13 A He found out about the project and then they
 14 communicated on the Internet and then he sent the
 15 footage down without my permission.
 16 Q Okay. At the time when you were told that there
 17 was -- the name Michael Moore came up, at this time
 18 when you were told or you had heard of Michael Moore,
 19 had the film already been sent by Eric to Michael
 20 Moore?
 21 A I can't answer that.
 22 MR. DORAN: Objection. Vague. I'm not sure
 23 what you mean by finding out about Michael Moore.
 24 Q Well, how did you hear about Michael Moore?
 25 A Through Eric.

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1 Q What did Eric tell you about Michael Moore?
 2 A That he saw on the Internet what I told you earlier:
 3 That the guy wanted some people's inputs as to social
 4 medicine and how it works and any footage or anything
 5 that could help his movie out possibly to contact him,
 6 and Eric had made mention to that to me prior to
 7 sending the video to him. I don't know when did. I
 8 had no clue. All I know is later on after he did what
 9 he did, then he informed me of sending it.
 10 Q So when he first told you that there was this Michael
 11 Moore Internet communication, at this time, that
 12 conversation that you just talked about or testified
 13 to, had the films been sent?
 14 A Not to my knowledge. I don't know.
 15 Q And do you recall if you ever watched a Michael Moore
 16 film at Eric's house with Eric during this time?
 17 A No, I hadn't.
 18 Q Do you ever recall saying you didn't know who Michael
 19 Moore was when Eric told you about Michael Moore?
 20 A I don't recall what I said.
 21 Q Do you recall watching the movie Fahrenheit 911 with
 22 Eric at Eric's house?
 23 A It's possible, yes.
 24 Q Was it possible that this happened -- that you watched
 25 the Fahrenheit 911 during the time Eric first told you

1 CERTIFICATE
2 STATE OF WASHINGTON)
3)
4 COUNTY OF KING)

5 I, KYLIE HAMMINGTON, a Certified Court Reporter and
6 Notary Public in and for King County, Washington, do hereby
7 certify that I reported in machine shorthand the deposition
8 of KEN ARONSON, called as a witness at the instance of the
9 Defendant, for purposes of discovery in the above-entitled
10 cause; that the subscribing of the completed deposition by
11 the witness was reserved; that the foregoing transcript was
12 prepared under my personal supervision and constitutes a
13 true record of the testimony of the said witness.

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

18 WITNESS my hand and seal in Auburn, County of King,
19 State of Washington, this 29th day of January, 2009.
20

21 _____
22 Kylie Hammington, Notary Public
23 in and for the State of
24 Washington, residing at Auburn.
25

My Commission expires 9-9-11.

1 DEPOSITION NOTICE
2

3 Date: February 4, 2009
4 To: Mr. Tom Vertetis
5 911 Pacific Avenue, Suite 200
6 Tacoma, Washington 98402

7 Case Name: Aronson v. Turnbow
8 Venue and No.: THURSTON, 08-2-02542-7
9 Deposition/Date Taken: KEN ARONSON, January 23, 2009
10 The above-captioned deposition must be read and signed
11 within 30 days or a statement must be made in writing with
12 the reason for refusal to sign or the fact that signature is
13 waived. Failing to do so, the deposition transcript will be
14 filed without signature.

15 _____ Your deposition transcript is on file at our office.
16 Please call (253)445-3400 with the date you will be
17 reading your deposition. Our address is:
18 James, Sanderson & Lowers
19 307 29th Street Northeast, Suite 101
20 Puyallup, Washington 98372

21 XX Enclosed with your copy of the deposition is a
22 Change and Signature Sheet. Please instruct
23 the witness to review the transcript, record any
24 changes, and then sign and return the Change
25 Sheet to this office for filing.

_____ Enclosed is a courtesy copy of your deposition
and a Change and Signature Sheet. Please review
the transcript, record any changes, and then
sign and return the Change Sheet to this office
for filing.

Reporter: Kylie Hammington, CCR, RPR
License No. 2054
cc/Counsel
File