

# **EXHIBIT 5**

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF CONNECTICUT

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4 MARCUS BAGWELL and SCOTT LEVY,

5 individually and on behalf of

6 all others similarly situated,

7  
8 Plaintiffs,

9 -vs- CIVIL ACTION NO: 3:16-CV-01350-JCH

10

11 WORLD WRESTLING ENTERTAINMENT,

12 INC.,

13 Defendants.

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16

17 DEPOSITION OF: SCOTT LEVY

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21

22 DATE: October 12, 2017

23 Thursday, 9:30 a.m.

24

25 Job No. WDC-145088

1 Q. Give me the top five

2 A. Lodi, Brad Cain -- that would be Lodi; Tommy  
3 Dreamer, or Tommy Laughlin is his real name;  
4 Shane Douglass or Troy Martin. I'm taking my  
5 time because I'm trying to be precise.

6 Q. The question is just name five friends from  
7 the wrestling business.

8 A. I thought you wanted my five best friends.

9 Q. If you want to give me the five best friends,  
10 go ahead.

11 A. That's why I'm delaying. I'm not sure who my  
12 best friends are. I'm trying to contemplate  
13 that.

14 Q. Well, give me five friends.

15 A. Sandman, Jim Fullington, Hurricane Helms.  
16 That's five, I think.

17 Q. Did you talk to any of the people you just  
18 identified about this lawsuit?

19 A. No.

20 Q. What did you do to prepare for your testimony  
21 today?

22 A. I spoke to counsel.

23 Q. For how long?

24 A. Ten, twelve hours maybe. I'm not sure.

25 Q. Was that yesterday?

1 A. Yesterday and --

2 Q. Are you finished with your answer or are you  
3 thinking?

4 A. Yesterday I spoke with them.

5 Q. Was that ten to twelve hours yesterday?

6 A. Maybe eight, eight to ten.

7 Q. Were you in Pittsburgh yesterday?

8 A. Yes.

9 Q. So were these meetings in person?

10 A. Yes.

11 Q. And who was present?

12 A. Eric Zagrans, my counsel, and Michael  
13 Silverman, my counsel.

14 Q. During that meeting did you review any  
15 documents?

16 A. Yes.

17 Q. How many documents did you review?

18 A. A few.

19 Q. What's a few? More than ten?

20 A. No, I don't think so.

21 Q. More than five?

22 A. Yeah, I guess five or so.

23 Q. Did you review any documents that had been  
24 sent to you by Matthew Peterson?

25 A. Yes.

1 Q. You hadn't spoken to him though. Correct?

2 A. Correct.

3 Q. And you hadn't asked him to send you that  
4 E-mail, did you?

5 A. No. I asked others --

6 I had put out the word to my  
7 colleagues that I was looking for someone -- a  
8 lawyer who could -- I could engage who knew  
9 some of the intricacies of the WWE in order to  
10 pursue avenues of relief against the WWE, for  
11 I felt that they had harmed me by their  
12 actions.

13 Q. Who was those colleagues?

14 A. I don't recall.

15 Q. And what did they do when you told them that?

16 A. I assume --

17 I would have to speculate on what  
18 they said.

19 Q. I don't want your speculation. Do you have  
20 any knowledge of what they did?

21 A. No.

22 Q. So you can't tell me what unnamed persons did  
23 in response to this solicitation to put the  
24 word out. Is that your testimony?

25 A. I would imagine that they put the word out.

1 Q. I don't want you to imagine. What do you have  
2 personal knowledge about?

3 A. I don't recall.

4 Q. You had an attorney at that point, didn't you?

5 A. Yes.

6 Q. You had an attorney by the name of Frank  
7 Smith, didn't you?

8 A. Yes.

9 Q. So why would you need to put the word out if  
10 you already had an attorney?

11 A. Because Frank was too busy to file the case  
12 for me.

13 Q. Frank was too busy to file the case for you?

14 A. Yes.

15 Q. And so you put the word out to persons you can  
16 no longer even remember who -- that you were  
17 looking for somebody else. Right?

18 A. I put out to numerous people. That is why I  
19 can't recall it.

20 Q. Since you left the WWE for the last time, how  
21 many attorneys have you retained for purposes  
22 of making claims or considering lawsuits  
23 against the WWE?

24 A. I don't know the number and the law firms.

25 Q. Why don't you tell me all the ones you can

1 remember as you sit there.

2 A. Perrin Disner, but he had some kind of  
3 musculature degenerative disease and passed  
4 away, and so the case was taken up by David  
5 Golub, I believe.

6 Q. Who else?

7 A. I don't recall.

8 Q. How about Cary Ichter?

9 A. Oh, Cary Ichter, yes.

10 Q. You had him too, didn't you?

11 A. I didn't file a lawsuit with him.

12 Q. Does he no longer represent you?

13 A. He only represented me for a period when I was  
14 forced to go to him to get my monies owed to  
15 me by the WWE.

16 Q. And so you --

17 How many people did you put this  
18 supposed word out to?

19 A. I don't recall.

20 Q. More than one?

21 A. Yes.

22 Q. Would it have been other than these friends  
23 that you identified previously?

24 A. I'm sorry? The question?

25 Q. Would you have put the word out to anybody

1 A. I don't recall the exact words, but we had  
2 spoke about three different potential areas  
3 where I felt I had been harmed by WWE and he  
4 was going to help me resolve these issues, so  
5 I felt that once we started talking that he  
6 immediately was working on my behalf as my  
7 lawyer even though I hadn't written it in a  
8 written document.

9 Q. When did they first ask you to sign a retainer  
10 agreement?

11 A. I don't recall.

12 Q. We've been told that your retainer agreement  
13 with him wasn't signed until August. Is that  
14 consistent with your recollection, August of  
15 2016?

16 A. I guess.

17 Q. Five months after the original contact?

18 A. Sure, but I considered him my lawyer from the  
19 beginning.

20 Q. Why did it take you five months to sign a  
21 retainer agreement?

22 A. Because he was investigating things.

23 Q. You can investigate with a retainer agreement  
24 too.

25 MR. ZAGRANS: Objection. That's



1 MR. McDEVITT: There's no basis for  
2 that objection.

3 MR. ZAGRANS: Move to strike the  
4 comment.

5 BY MR. McDEVITT:

6 Q. So after Mr. Ichter couldn't represent you  
7 anymore, who did you retain next?

8 A. Frank Smith, I suppose.

9 Q. What year did you retain him?

10 A. I don't know. We were friends first.

11 Q. Did you rely on legal advice from Mr. Smith  
12 not to bring a lawsuit?

13 A. No.

14 Q. So what was your reason why you went all these  
15 years without bringing a lawsuit to challenge  
16 WWE's position that it didn't have an  
17 obligation to pay you royalties on ECW and WCW  
18 works?

19 A. Because Frank couldn't take up the case and I  
20 thought -- and he had said --

21 Let me rephrase that.

22 He had said it was a good case, but  
23 he just didn't have the time for such a large  
24 case on his docket, and I didn't know of any  
25 other lawyers which is how I came to ask about

1 it and got Matthew Peterson.

2 Q. You didn't ask Mr. Smith about it. You asked  
3 other friends of yours that you can't even  
4 name any more that led to Mr. Peterson.  
5 Right?

6 A. What?

7 Q. Well, you didn't get Mr. Peterson's name from  
8 Mr. Smith.

9 A. I might have.

10 Q. Well, you might have, but you didn't testify  
11 to that previously when I asked you.

12 A. I said I don't recall.

13 Q. No, you didn't say you didn't recall. You  
14 said you pull out feelers through your friends  
15 --

16 A. Right.

17 Q. -- and sort of somehow it came back to  
18 Mr. Peterson.

19 A. I put feelers out through my friends, but I  
20 don't recall which friends.

21 Q. Well, did Mr. Smith recommend Mr. Peterson?

22 A. I don't recall, but I would like to take a  
23 break.

24 MR. McDEVITT: All right. Take  
25 five.

1 your answer's on the top of Page 7.

2 - - - -

3 (The witness reviewed the document.)

4 - - - -

5 BY MR. McDEVITT:

6 Q. With respect to the statement that you made  
7 that you first became aware of the subject  
8 matter of the claims asserted in this action  
9 in late 2014, what exactly was it that made  
10 you aware of the subject matter of the claim?

11 A. Someone had told me that I was in a show  
12 broadcast on the network.

13 Q. Do you remember who that someone was?

14 A. No.

15 Q. What action did you take whenever you found  
16 that out, if any?

17 A. I spoke to some friends and tried to find some  
18 legal remedy because my trademark had been  
19 violated.

20 Q. What friends?

21 A. I don't recall.

22 Q. What did you do to find a legal remedy?

23 A. I put the word out to friends that I was  
24 looking for an attorney that would be  
25 interested and was familiar with the

1 intricacies of the WWE and would be interested  
2 in representing me.

3 Q. And that's the same thing that you testified  
4 to earlier today?

5 A. Yes.

6 Q. You said your trademark had been violated. Do  
7 you have any trademark claims in this case?

8 A. Not if I'm paid royalties.

9 Q. What is the trademark violation that you think  
10 occurred?

11 A. They used my likeness without paying me for  
12 it.

13 Q. You think you have a trademark in your  
14 likeness?

15 A. Yes, I do.

16 Q. Do you have a registered trademark in your  
17 likeness?

18 A. Yes.

19 Q. And what's the registration number of that?

20 A. I don't know.

21 Q. So at the time you learned about it in 2014,  
22 you thought then that there was something  
23 wrong?

24 A. I believed that there was something wrong, and  
25 as I became aware of more of my performances,

1 A. I don't recall.

2 Q. You received royalty reports throughout 2014  
3 and 2015, didn't you?

4 A. Uh-huh.

5 Q. And you would get those quarterly. Correct?

6 A. Yes.

7 Q. And they indicated you were not being paid any  
8 royalties for the network. Correct?

9 A. Say that again.

10 Q. They showed on their face that you were not  
11 being paid any royalties for the network?

12 A. After the network started.

13 Q. Right.

14 A. Yes.

15 Q. Did you take any action whatsoever regarding  
16 that in 2014?

17 A. Yes.

18 Q. What?

19 A. I put the word out to friends that I was  
20 looking for an attorney who would be  
21 interested in working -- in investigating some  
22 interests of mine.

23 Q. You did that in 2014?

24 A. I believe so.

25 Q. And it's your belief that the things that you

1 just identified doing in 2014 is what led to  
2 Mr. Peterson sending you an E-mail in March of  
3 2016?

4 A. I didn't just put out the word once; I put it  
5 out numerous times over the year of 2015 and I  
6 imagine the year of 2014 after the network  
7 started.

8 Q. You said that several times, but you can't  
9 identify so much as one human being you put  
10 that word out to, can you?

11 A. Not without being unsure.

12 Q. You can't testify to the identity of one  
13 single person --

14 A. No.

15 Q. -- that you did that with, can you?

16 A. Not a hundred percent recollection.

17 Q. Despite supposedly doing it multiple times.

18 A. I can't recall.

19 - - - -

20 (There was a discussion off the record.)

21 - - - -

22 (Exhibit 17 marked for identification.)

23 - - - -

24 BY MR. McDEVITT:

25 Q. Mr. Levy, I've handed you what has been marked

1 A. I'm not sure.

2 Q. Did you ever talk to Mr. Kyros?

3 A. Yes.

4 Q. When did you speak to Mr. Kyros?

5 A. I'm not sure.

6 Q. This year?

7 A. I don't think so.

8 Q. Did you call him or did he call you?

9 A. I'm not certain.

10 Q. How many times did you talk to him?

11 A. I believe under five and probably under three.

12 Q. And what was the subject of the conversation?

13 A. I believe we discussed his lawsuit and I'm  
14 pretty sure that was it.

15 Q. Did he ask you to be a party to that lawsuit?

16 A. Yes.

17 Q. What did you say?

18 A. No.

19 Q. Why did you say no?

20 A. Because I didn't feel I had a fair case.

21 Q. Why is that?

22 A. Because I couldn't correlate whatever injuries  
23 I have, whatever concussions I may have had,  
24 to my time in WWE alone.

25 Q. Did you communicate that to Mr. Kyros?

1 A. I believe so.

2 Q. What did he say?

3 A. I don't recall.

4 Q. Do you have his phone number in your phone?

5 A. Maybe.

6 Q. Could you look and see?

7 A. Sure.

8 MR. ZAGRANS: You just want to hear

9 his ring tone again. Come on, we know.

10 THE WITNESS: Something's wrong with

11 my phone.

12 BY MR. McDEVITT:

13 Q. Looks like an old phone. What kind is it?

14 A. It's a six but the apps are gone. I have to  
15 get a new one. I think I dropped it too many  
16 times.

17 Q. While you're doing that we'll mark the next  
18 exhibit while your phone's booting up.

19 A. What's that?

20 Q. We'll mark the next exhibit while your phone's  
21 booting up.

22 A. It just booted.

23 Q. Does it have Mr. Kyros' number on there?

24 A. I'm looking.

25 It doesn't appear to. Let me just



1 COMMONWEALTH OF PENNSYLVANIA

2 COUNTY OF ALLEGHENY

3 I, SCOTT LEVY, have read the foregoing pages of my  
4 deposition given on October 12, 2017, and wish to  
5 make the following, if any, amendments, additions,  
6 deletions or corrections:

7 Page/Line Should Read Reason for Change

8

9

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11

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16

17 In all other respects, the transcript is true and  
18 correct.

19

\_\_\_\_\_

20

SCOTT LEVY

21

Subscribed and sworn to before me this

22

\_\_\_\_\_ day of \_\_\_\_\_, 2017.

23

\_\_\_\_\_

24

Notary Public

25

Ref. No. gd46642