

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

TERRY GENE BOLLEA professionally
known as HULK HOGAN,

Plaintiff,

Case No.: 12012447-CI-011

vs.

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

Defendants.

_____ /

**MOTION TO COMPEL DISCOVERY FROM PLAINTIFF BY
DEFENDANTS GAWKER MEDIA, LLC AND A.J. DAULERIO**

Pursuant to Florida Rules of Civil Procedure 1.340 and 1.350, Defendants Gawker Media, LLC and A.J. Daulerio (collectively “Gawker”) respectfully move this Court for an Order compelling Plaintiff to provide to provide (1) verified, full, and non-evasive answers to Interrogatories, and (2) responsive, non-privileged documents in connection with Defendants’ First Request for Production, and (3) ordering plaintiff to pay Gawker’s attorneys’ fees incurred in connection with bringing this motion.

Plaintiff’s responses to Gawker’s discovery requests¹ are deficient in nearly every respect: He has categorically refused to provide any information or documents with respect to over fifty percent of Gawker’s discovery requests, including, in some cases, requests in which Gawker is merely asking for documents supporting specific allegations in the Complaint. He has objected to every request on grounds of privilege, yet has failed to produce a privilege log. And

¹ Plaintiff’s responses to Gawker’s First Set of Interrogatories are attached hereto as Exhibit A. His responses to A.J. Daulerio’s First Set of Interrogatories are attached hereto as Exhibit B. His responses to Gawker’s First Request for the Production of Documents are attached hereto as Exhibit C.

he has relied on general, boilerplate objections, even though doing so is contrary to Florida law and practice and thoroughly undermines Gawker's attempts to evaluate the validity of the objections. Viewing the responses in their entirety, it is hard to conclude that plaintiff or his counsel have made a good faith effort to comply with the discovery obligations imposed by the applicable discovery rules. For the reasons outlined below, Gawker's motion to compel should be granted.

BACKGROUND

As this Court is aware, this case challenges a report and commentary (the "Gawker Story") published on Gawker.com by Gawker Media, LLC, concerning an extramarital affair that the celebrity publicly known as Hulk Hogan conducted with the wife of his then-best friend (Bubba the Love Sponge Clem, himself also a celebrity), with his best friend's blessing. It also challenges the publication, along with the Gawker Story, of brief excerpts (the "Excerpts") of a longer video (the "Video") depicting the encounter. Based on the Gawker Story and the Excerpts, plaintiff alleges claims against Gawker for invasion of privacy, for violation of his publicity rights, for negligent and intentional infliction of emotional distress, and for violation of the publication prong of Florida's wiretap statute.

In connection with plaintiff's claims, Defendant Gawker Media, LLC propounded on plaintiff a request for production of documents and interrogatories. Defendant A.J. Daulerio separately propounded additional interrogatories. As set forth below, plaintiff's responses were deficient in almost every respect. Counsel for Gawker and Daulerio wrote plaintiff's counsel to request that plaintiff produce documents as none were produced initially (along with verifications for the interrogatory responses, which also were not served initially). Ex. D. Then, movants' counsel forwarded to plaintiff's counsel a detailed letter outlining these shortcomings

and requesting plaintiff to comply with his discovery obligations. Ex. E. Thereafter, on August 30, 2013, counsel for Gawker and counsel for plaintiff held a lengthy “meet and confer” telephone conference. Although a few issues were resolved through this conference (noted below), counsel for plaintiff continued to refuse to produce a large portion of the information Gawker needs to defend this case. Gawker therefore now brings this motion to compel.²

ARGUMENT

I.

AS A WHOLE, PLAINTIFF’S DISCOVERY RESPONSES ARE ENTIRELY DEFICIENT AND IMPROPER UNDER THE APPLICABLE RULES.

A. Plaintiff Has Stonewalled by Refusing to Respond to More than Half of the Discovery Requests, and Producing Virtually No Documents.

After obtaining an extension of time to answer these requests, plaintiff responded by largely refusing to answer most of Gawker’s requests at all and by providing Gawker with virtually no substantive information about his claims. He provided almost *nothing* about his own life (which is obviously relevant to his claim that his privacy was invaded), *nothing* about his finances and professional opportunities (which is obviously related to his claims that his “brand” suffered as a result of the alleged invasion of privacy), and *nothing* about his alleged “emotional distress” (which is obviously related to his privacy claims as well as his claims for intentional and negligent infliction of emotional distress).

In response to movants’ document requests, plaintiff initially did not produce a single document. Instead, plaintiff’s responses promised, as to those few requests for which he concedes Gawker is entitled to responsive documents (Pl.’s Resp. to Req. for Produc. (“RFP”) Nos. 1, 3-5, 8-11, 13, 15-16, 23-24, 33-34), that he and his counsel would “endeavor to collect

² On August 26, 2013, plaintiff served a Motion for Protective Order arguing that Gawker is not entitled to certain of the discovery it seeks. Gawker’s opposition to that motion (which covers some of the same ground as the instant motion to compel) will be submitted separately to the Court.

and produce them within a reasonable period of time.” After two written requests by counsel for movants, Exs. D & E, plaintiff finally produced 663 pages of documents, out of which only 17 pages were pertinent documents collected from plaintiff. All of the other documents were created or assembled by plaintiff’s counsel during the course of this litigation; indeed, the overwhelming majority of plaintiff’s document “production” consists simply of print-outs from Gawker’s own website obtained by plaintiff’s counsel. Plaintiff’s failure to produce non-privileged, responsive documents, claiming a need to gather them, is particularly troubling given that many of the documents appear to be readily available to both plaintiff and his counsel. For example, plaintiff has failed to produce documents relating to the settlement of Mr. Bollea’s claims against Bubba the Love Sponge Clem in this action (RFP Nos. 33-34), even though they are in the possession not only of plaintiff but also his counsel. To the extent plaintiff has promised to provide responses to these fifteen requests, but has not done so, plaintiff should be required to produce all non-privileged responsive documents immediately.³

B. Plaintiff Has Improperly Relied on General and Boilerplate Objections.

In responding to the requests, plaintiff relied largely on “general objections,” asserted at the beginning of his responsive papers and purporting to apply to all Gawker’s requests (*see* Pl.’s Resp. to RFP at 2-4; Pl.’s Resp. to Gawker’s Interrogs. at 2-4; Pl.’s Resp. to Daulerio’s Interrogs. at 2-4), and on unexplained boilerplate objections in response to specific requests (*see, e.g.*, Pl.’s Resp. to Gawker’s RFP Nos. 6-7, 14, 19, 21-22, 31-32, 36, 40-41, 44-48; Pl.’s Resp. to Gawker

³ Plaintiff’s anemic responses to Gawker’s discovery requests (particularly his responses indicating that he will not produce documents now, but may do so in the future since “discovery is ongoing”) are especially frustrating given that Gawker agreed to give plaintiff double the time period normally allowed for responding to discovery requests. And this was after plaintiff refused to agree to allow Gawker additional time to respond to his voluminous discovery requests. After Gawker finally obtained that additional time through a contested motion, it (in contrast to plaintiff) provided full and complete responses and documents, including substantial information about its income and finances – the exact type of information plaintiff is now refusing to provide to Gawker.

Interrogs. Nos. 1, 8, 13; Pl.'s Resp. to Daulerio's Interrogs. Nos. 1, 3, also discussed *infra* at 30-33). Such objections run contrary to Florida law and practice, including because they make it impossible for Gawker to understand the real basis (if any) for plaintiff's objections.

Florida law is clear that a party may “*not* [object to discovery requests] *in general*”; rather, objections to discovery must “be specific and supported by a detailed explanation why the [request is] objectionable.” *Carson v. City of Ft. Lauderdale*, 173 So. 2d 743, 745 (Fla. 2d DCA 1965) (quoting *United States v. Nysco Labs., Inc.*, 26 F.R.D. 159, 161 (E.D.N.Y. 1960)) (emphasis in original); *see also Christie v. Hixson*, 358 So. 2d 859, 860 (Fla. 4th DCA 1978) (*per curiam*) (holding that non-specific objections were insufficient and remanding with instructions that the objecting party provide substantive answers to interrogatories as a result); Fla. R. Civ. P. 1.340(a). Indeed, as one court explained, “boilerplate objection[s],” provided “without particulars,” constitute “discovery abuse and should not be condoned.” *First Healthcare Corp. v. Hamilton*, 740 So. 2d 1189, 1193 & n.1 (Fla. 4th DCA 1999), *disapproved of on unrelated grounds by Fla. Convalescent Ctrs. v. Somberg*, 840 So. 2d 998 (Fla. 2003).

That plaintiff relied on these general and boilerplate objections is not surprising, given that his counsel admitted during the parties' “meet and confer” that he had not even reviewed the documents prior to completing the written responses to the document requests and interrogatories, despite the fact that the case has been ongoing for almost a year (in one forum or another), and plaintiff had more than two months to respond to the discovery requests. The general and boilerplate objections he has asserted should not be considered by the Court, and plaintiff should be required to provide substantive responses to those discovery requests. At a minimum, plaintiff should be directed to assert his objections to individual requests in a manner

that is sufficiently specific that their merit can be properly evaluated, as contemplated by the applicable rules.

C. Plaintiff Has Excessively Asserted Privilege, While Failing to Produce a Privilege Log.

In keeping with his pattern of making general objections (rather than targeted objections specifically addressing the requests), plaintiff objected to *every* request (in both the interrogatories and requests for production) on the basis of the attorney-client privilege and the work product doctrine, even those requests asking plaintiff, for example, to “identify contracts” (e.g., Gawker Interrog. Nos. 1-2), to “identify” the instances he visited the Clems’ residence (*id.* Nos. 15-17), for documents “published about [plaintiff] in any newspaper, magazine, book or other hard-copy or electronically published publication” (Gawker RFP 35) or for documents reflecting testimony in other proceedings (Gawker RFP 42). Yet plaintiff provided no privilege log to accompany his responses as required by Fla. R. Civ. P. 1.280(b)(6). During the “meet and confer,” counsel for plaintiff asserted that he was not withholding any pre-litigation documents on grounds of privilege. Plaintiff should be required to confirm this fact in writing, including to indicate those responses as to which plaintiff has no responsive documents (privileged or otherwise). In addition, if plaintiff is subsequently ordered to produce documents that he is currently withholding on other grounds (*see* Part II, *infra*), and plans to continue to claim privilege with respect to those documents, he should be required to produce a complete privilege log, with sufficient information to permit movants to assess the validity of his claims of privilege.

For the reasons set forth above, plaintiff’s discovery responses as a whole are entirely improper and completely contrary to the letter and the spirit of the Florida discovery rules, which contemplate broad pre-trial discovery. *See* Fla. R. Civ. P. 1.280. Such an approach should not

be countenanced by this Court. Gawker now turns to the deficiencies in plaintiff's individual responses.

II.

PLAINTIFF SHOULD BE COMPELLED TO RESPOND TO GAWKER'S INDIVIDUAL DISCOVERY REQUESTS.

Plaintiff has objected to providing information about his damages, about his personal life, about the allegations in his own complaint, about prior testimony he may have given, and about his own public writings and appearances. None of his objections withstands reasonable scrutiny.

A. Plaintiff Should Be Required to Respond Fully to Gawker's Requests Relating to His Claims for Damages.

1. Requests regarding the value of plaintiff's "brand" and "publicity rights":

In this case, plaintiff contends that his "goodwill, commercial value, and brand have been substantially harmed as a result" of Gawker's conduct, Am. Compl. ¶ 31, and that Gawker engaged in "unauthorized commercial exploitation of his publicity rights," *id.* ¶ 34. Yet plaintiff has refused to produced documents or respond to interrogatories on these exact issues:

RFP 14: Any and all documents relating to the purported "commercial value" of your name, image, identity, and persona as referenced in paragraph 32 of the Complaint during the Relevant Time Period.

RESPONSE TO RFP 14: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

RFP 17: Any and all documents concerning the “market value” of your publicity rights as alleged in paragraph 82 of the Complaint.

RESPONSE TO RFP 17: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request to the extent that it prematurely calls for expert opinion.

RFP 19: Any and all documents concerning any contract or other agreement between you and a third party for which you received compensation during the Relevant Time Period.

RESPONSE TO RFP 19: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties.

FRP 31: Any and all documents concerning the time and effort you have devoted to developing your career “as a professional champion wrestler, motion picture actor, and television personality” as alleged in the Complaint.

RESPONSE TO RFP 31: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties.

RFP 32: Any and all documents concerning your reputation, goodwill, and brand as alleged in the Complaint.

RESPONSE TO RFP 32: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

GAWKER INTERROGATORY 1: Identify any and all contracts entered into by you during the Relevant Time Period relating to the alleged "commercial value" of your name, image, identity and persona as referenced in paragraph 32 of the Complaint.

RESPONSE TO GAWKER INTERROGATORY 1: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome to the extent that it covers both subject areas and time periods not reasonably likely to lead to the discovery of admissible evidence herein. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

GAWKER INTERROGATORY 11: Identify the "market value" of the use of your publicity rights as alleged in paragraph 82 of the Complaint, explaining with particularity the basis for your calculation of such purported "market value."

RESPONSE TO GAWKER INTERROGATORY 11: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory to the extent that it prematurely calls for expert opinion and analysis. Without waiver of the foregoing, Responding Party responds as follows: Discovery is continuing regarding the market value of the use of Responding Party's publicity rights.

In summary, despite making claims of injury to his professional reputation, his commercial value and his brand, plaintiff has failed to produce *any* documents related to the “commercial value” of his “name, image, identity, and persona” (RFP No. 14), the “market value” of his publicity rights (RFP No. 17), commercial engagements covering the period before and after the publication of the Gawker Story and Excerpts (RFP No. 19), the time and effort dedicated to creating his entertainment career and public persona (RFP No. 31), and his “reputation, goodwill, and brand” (RFP No. 32). In addition, plaintiff has refused to provide responses to interrogatories seeking information related to the “commercial value” of his “name, image, identity and persona” (Gawker Interrog. No. 1), or the “market value” of his publicity rights (Gawker Interrog. No. 11). There can be no legitimate objection to responding to discovery requests that merely seek the factual basis for plaintiff’s claimed injuries and alleged damages, and, in many cases, simply request documents and/or facts supporting specific allegations made in the operative complaint.⁴ *See, e.g., Friedman v. Heart Inst. of Port St. Lucie, Inc.*, 863 So. 2d 189, 194-95 (Fla. 2003) (“A party’s finances, if relevant to the disputed issues of the underlying action, are not excepted from discovery . . . and courts will compel production of personal financial documents and information if shown to be relevant by the requesting party.”); *Fla. Gaming Corp. of Del. v. Am. Jai-Alai, Inc.*, 673 So. 2d 523, 524 (Fla. 4th DCA 1996) (“[T]he financial information at issue was relevant to the calculation of damages Discovery of these matters was proper.”).

2. Requests regarding plaintiff’s income and employment: For the same reasons that plaintiff has no legitimate basis to withhold information about his brand or reputation, he

⁴ To the extent that Plaintiff’s objections, to these requests or any others, are based upon concerns for his “privacy and the privacy of third parties,” such concerns can be easily addressed by producing the information pursuant to the protective order in place in this case.

likewise has no legitimate basis to object to discovery regarding his income and employment, given that he is seeking damages for injury to his professional opportunities:

DAULERIO INTERROGATORY 1: State the total amount of your gross annual income (and, if you had more than one source of income, identify each source separately and provide the amount received from each such source) for each calendar year during the Relevant Time Period and identify all documents reflecting that amount for each such year.

RESPONSE TO DAULERIO INTERROGATORY 1: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome in that it asks Responding Party to identify all documents of any sort that could establish his income or any portion of it. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

DAULERIO INTERROGATORY 3: Identify any and all accountant(s), bookkeeper(s), business attorney(s), and persons who prepared any tax form on your behalf or on behalf of any entity controlled or owned by you during the Relevant Time Period.

RESPONSE TO DAULERIO INTERROGATORY 3: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

RFP 6: Any and all documents concerning any employment by you during the Relevant Time Period.

RESPONSE TO RFP 6: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request

on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome, in that it asks for all documents that “concern” any employment of Responding Party. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request on the ground that it is vague and ambiguous. Responding Party objects to this Request to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties.

RFP 40: Your tax returns, state and federal, including all related schedules and attachments or similar forms reflecting the receipt of income and the payment of taxes, during the Relevant Time Period.

RESPONSE TO RFP 40: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties.

RFP 41: Any and all documents concerning your financial condition during the Relevant Time Period including, but not limited to, financial statements, financial summaries, financial reports, and statements of financial condition.

RESPONSE TO RFP 41: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request on the ground that it is vague and ambiguous. Responding Party objects to this Request to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties.

RFP 44: Any loan or mortgage application signed by you during the Relevant Time Period.

RESPONSE TO RFP 44: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

To the extent that plaintiff is claiming that Gawker harmed his ability to exploit his name and image commercially, or to benefit economically through future business or employment opportunities, Gawker is entitled to information that would allow it to assess plaintiff's income and professional opportunities before and after the publication of the Gawker Story and Excerpts. Where plaintiffs claim this type of economic injury, courts routinely allow discovery of this kind. *See, e.g., Bd. of Trustees of Internal Improvement Trust Fund v. Am. Educ. Enters., LLC*, 99 So. 3d 450 (Fla. 2012) (requiring production of financial data); *Bystrom v. Whitman*, 488 So. 2d 520 (Fla. 1986) (recognizing discoverability of tax returns when relevant, especially when financial issues are put at issue by party whose tax information is sought); *Fla. Gaming Corp. of Del.*, 673 So. 2d at 524 (affirming order requiring discovery of financial records).⁵

⁵ *See also Condit v. Dunne*, 225 F.R.D. 100, 112 (S.D.N.Y. 2004) (where plaintiff alleges harm to income or employment opportunities, his finances are discoverable); *Caruso v. Coleman Co.*, 1995 WL 298376, at *2 (E.D. Pa. May 12, 1995) (plaintiff's tax returns relevant and discoverable where plaintiff alleged economic loss); *Smith v. CSX Transp. Inc.*, 1994 WL 762208, at *1 (E.D.N.C. May 19, 1994) (ordering plaintiff to produce income tax returns, which "'may be the best source of complete and competent information as to the party's income'") (citation omitted); *Sharon v. Time, Inc.*, 103 F.R.D. 86, 90, 90 (S.D.N.Y. 1984) (holding that plaintiff's tort claim for "damages entitles [defendant] to inquire into his finances to the extent necessary to know the bases for his claim"); *Patton v. S. Bell Tel. & Tel. Co.*, 38 F.R.D. 428, 429-30 (N.D. Ga. 1965) (compelling discovery of plaintiff's tax returns for ten year period where plaintiff alleged "great humiliation and embarrassment" and injury to reputation).

3. Requests regarding allegedly lost or missed professional opportunities: In his interrogatory responses, plaintiff mentions two professional opportunities he alleges he may have lost as the result of the publication of the Gawker Story and Excerpts – from Rent-A-Center and from World Wrestling Entertainment (“WWE”). But he has thus far provided virtually no information that would allow defendants to assess those claims or to pursue additional discovery allowing them to test those contentions:

GAWKER INTERROGATORY 2: Identify any and all contracts that you claim were canceled or not renewed as a result of alleged actions by the Gawker Defendants, or any of them, and any and all communications relating to any such purportedly canceled or non-renewed contract.

RESPONSE TO GAWKER INTERROGATORY 2: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties. Without waiver of the foregoing, Responding Party responds as follows: An endorsement deal with Rent-A-Center was terminated at or near the time of Gawker Media’s publication of the Sex Tape. Responding Party believes that these events may have been causally connected. Responding Party will produce any documents that relate to the termination of the Rent-A-Center relationship. Responding Party may have lost additional work as well—discovery is continuing.

GAWKER INTERROGATORY 3: Identify any and all commercial opportunities you claim were lost by you as a result of alleged actions by the Gawker Defendants, and any and all communications relating to any such purportedly lost commercial opportunities.

RESPONSE TO GAWKER INTERROGATORY 3: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties. Without waiver of the foregoing, Responding Party responds as follows: Responding Party believes that he lost the ability to continue to endorse Rent-A-Center, which terminated its relationship with Responding Party at or near the time that Gawker Media published the Sex Tape. In addition, World Wrestling Entertainment (“WWE”), which has utilized Responding Party’s services on and off over the decades, is pursuing “PG rated” entertainment, and Responding Party believes that the Sex Tape may have cost him future work with WWE. Responding Party will produce

any documents that relate to the Rent-A-Center deal, and will also produce documents relating to the loss of WWE work, to the extent such documents exist.

GAWKER INTERROGATORY 20: Identify any and all facts supporting your claim in paragraph 33 of the Complaint that the commercial value of your “name, image, identity and persona has been, and continues to be substantially diminished” by defendants’ actions, and identify all documents relating to such claim, and all persons having knowledge of the facts relating to such claim.

RESPONSE TO GAWKER INTERROGATORY 20: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties. Without waiver of the foregoing, Responding Party responds as follows: Discovery is continuing, and Gawker Media’s actions were by their very nature likely to harm the value of Responding Party’s name, image, identity, and/or persona. Additionally, Responding Party believes he may have lost the Rent-A-Center endorsement contract and work from World Wrestling Entertainment due to the publication of the Sex Tape. Former fans have also contacted Responding Party and indicated that they were no longer his fans due to the publication of the Sex Tape. However, Responding Party has not yet calculated the extent of such harm or the amount of any damages suffered.

During the parties’ “meet and confer” session, plaintiff’s counsel stated that he is not certain whether plaintiff will base any portion of his damages claim on the allegedly lost opportunities with WWE and Rent-A-Center, and is still assessing whether the alleged loss of these opportunities is purportedly connected to the publication of the Gawker Story and Excerpts. Counsel conceded that if plaintiff does pursue this course, he will provide the requested documents, but it should be produced regardless.

As an initial matter, given (1) that the Gawker story was posted nearly a year ago, (2) that plaintiff first filed suit over it shortly thereafter, and (3) that plaintiff had an extended period to respond to Gawker’s discovery requests (*see supra* at n.4), there is no reason why discovery on these issues should be further delayed. Plaintiff should be compelled to produce information responsive to the above requests – including, for example, contact information for Rent-A-Center

and WWE, the identities of persons with whom plaintiff or his agents dealt, the dates and amounts of the contracts, the other conditions of the agreements (including, significantly, the term of each), or any communications about the agreements or the reasons they were purportedly terminated – forthwith, or else be barred from introducing evidence of any purported missed opportunities at trial. Moreover, for the reasons described above, even if plaintiff elects not to pursue damages related to the purported loss of these two opportunities, this information is nevertheless directly relevant to and probative of the value of his claimed brand and publicity rights, and the injury he claims to have suffered to his professional opportunities or, if these are not among them, the lack thereof.

4. Requests relating to plaintiff’s purported emotional injuries/damages:

Plaintiff has similarly failed to provide proper responses to discovery requests related to his purported emotional injuries. Plaintiff has alleged that Gawker’s actions caused him “tremendous emotional distress,” Am. Compl. ¶ 31, and has asserted at least two causes of action specifically premised on that contention (Counts Six and Seven, alleging intentional and negligent infliction of emotional distress); *see also* Am. Compl. ¶ 64 (alleging “severe emotional distress” and “anxiety,” among other things, in connection with plaintiff’s “private facts” claim, Count Three), ¶ 74 (same with respect to his “intrusion” claim, Count Four), ¶ 83 (same with respect to his “publicity” claim, Count Five), ¶ 107 (same with respect to his “wiretap” claim). Yet plaintiff has objected in their entirety to discovery requests seeking information about his medical and mental health history:

GAWKER INTERROGATORY 19: Identify all facts supporting your claim in paragraph 31 of the Complaint that you have suffered, and continue to suffer, “tremendous emotional distress” as a result of Defendants’ alleged actions, and identify all documents relating to such claim, and all persons having knowledge of the facts relating to such claim.

RESPONSE TO GAWKER INTERROGATORY 19: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties. Responding Party further objects to this Interrogatory on the ground that it has improper subparts. Responding Party further objects to this Interrogatory on the ground that the emotional distress claim asserted in this litigation is a "garden variety" emotional distress claim, *i.e.*, a claim based on the fact that Gawker Media's conduct is so outrageous to an ordinary person that it was almost certain to cause emotional distress. The assertion of such a claim does not require or permit discovery into Responding Party's intimate medical and/or mental health history. Without waiver of the foregoing Responding Party incorporates herein the statements in the Declaration of Terry Bollea filed in Florida state court in support of his Motion for Temporary Injunction.

DAULERIO INTERROGATORY 2: Identify all medical providers and health care professionals you have seen as a result of your alleged emotional distress you claim was caused by the alleged actions of the Gawker Defendants or any of them, and identify all documents relating to such providers and professionals.

RESPONSE TO DAULERIO INTERROGATORY 2: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties. Responding Party further objects to this Interrogatory on the ground that it has improper subparts. Responding Party further objects to this Interrogatory on the ground that the emotional distress claim asserted in this litigation is a "garden variety" emotional distress claim, *i.e.*, a claim based on the fact that Gawker Media's conduct is so outrageous to an ordinary person that it was almost certain to cause emotional distress. The assertion of such a claim does not require or permit discovery into Responding Party's intimate medical and/or mental health history.

RFP 29: Any and all documents concerning any emotional distress purportedly suffered by you arising from the alleged actions of the Gawker Defendants or any of them.

RESPONSE TO RFP 29: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties. Responding Party further objects on the ground that Responding Party is asserting a "garden variety" emotional distress claim, alleging that Gawker Media's conduct was of the sort that by its very

nature would cause a reasonable person emotional distress. Such claims do not require or permit discovery of Plaintiffs medical or mental health records. Without waiver of the foregoing, Responding Party responds as follows: Responding Party is unaware of any responsive documents within Responding Party's possession, custody, or control at this time. Discovery is continuing.

RFP 30: Any and all documents concerning any medical providers or health care professionals you have seen from January 1, 2006 to the present.

RESPONSE TO REQUEST 30: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties. Responding Party further objects on the ground that it is asserting a "garden variety" emotional distress claim, alleging that Gawker Media's conduct was of the sort that by its very nature would cause a reasonable person emotional distress. Such claims do not require or permit discovery of Plaintiff's medical or mental health records.

Plaintiff is incorrect in contending that he has not put his mental condition sufficiently at issue to permit discovery into his health records and medical treatment. Under Florida law, a plaintiff who claims emotional injuries, as plaintiff has undeniably done here, necessarily puts his mental condition at issue. *See, e.g., Nelson v. Womble*, 657 So. 2d 1221, 1222-23 (Fla. 5th DCA 1995); *Scheff v. Mayo*, 645 So. 2d 181, 182 (Fla. 3d DCA 1994) (*per curiam*); *Arzola v. Reigosa*, 534 So. 2d 883, 883 (Fla. 3d DCA 1988). In his Motion for a Protective Order, Hogan cites *Olges v. Dougherty*, 856 So. 2d 6 (Fla. 1st DCA 2003) (Mot. at 8), but that case *supports* the discovery Gawker seeks here. The only reason the court denied discovery into plaintiff's mental and medical condition in *Olges* was because plaintiff had "abandoned his original efforts to recover damages for mental anguish, emotional distress and other emotional damages." 856 So. 2d at 12. Here, there has been no such abandonment, and, accordingly, plaintiff cannot deny Gawker the discovery it seeks.

Nor can plaintiff avoid this discovery by characterizing his emotional distress claims as “garden variety.” *See* Mot. 8. In this case, plaintiff has asserted that Gawker’s actions caused him “tremendous emotional distress,” Am. Compl. ¶ 31, and has brought multiple claims where the only possible injuries are emotional in nature (*e.g.*, Counts 3-7), whether specifically seeking to recover for infliction of emotional distress or for invasion of privacy where by definition any claimed injury is for emotional distress. Where, as here, a plaintiff asserts claims specifically premised on emotional injuries, as plaintiff has done here, such alleged injuries are, by definition, not the “garden variety” type that allow a plaintiff to avoid testimony about his medical and mental health. *See, e.g., Wheeler v. City of Orlando*, 2007 WL 4247889, at *3 (M.D. Fla. Nov. 30, 2007) (rejecting assertion that plaintiff was asserting “garden variety” emotional distress that did not permit discovery into mental and physical health on ground that “a claim for Intentional Infliction of Emotional Distress . . . puts . . . mental health directly into controversy”); *see also Chase v. Nova Se. Univ., Inc.*, 2012 WL 1936082, at *4 (S.D. Fla. May 29, 2012) (asserting a claim for intentional or negligent infliction of emotional distress places plaintiff’s mental condition “in controversy”). By contrast, the only circumstances in which emotional distress claims *are* considered “garden variety” – and are deemed not to place a party’s medical and mental health at issue – is where a plaintiff, in the context of a case primarily about *non*-emotional injuries, contends that he also suffered some emotional distress and seeks nominal compensation for such injuries. *See, e.g., Ernie Haire Ford, Inc. v. Atkinson*, 64 So. 3d 131, 133 (Fla. 2d DCA 2011) (“garden-variety” emotional injuries asserted in context of age discrimination case could not give rise to sizable damages award); *City of Hollywood v. Hogan*, 986 So. 2d 634, 649 (Fla. 4th DCA 2008) (noting, in context of age-discrimination case for lost wages, that “garden-variety mental-anguish claims” are those “in which the awards hover in the

range of \$5,000 to \$30,000”); *Starkey v. Jolly Roger Cruises & Tours, S.A.*, 2011 WL 1467172, at *4 (S.D. Fla. Apr. 18, 2011) (assertion that loss of finger caused emotional distress did not place plaintiff’s mental health at issue, where claimed injuries were physical in nature); *Nathai v. Fla. Detroit Diesel-Allison, Inc.*, 268 F.R.D. 398, 401 (M.D. Fla. 2010) (assertion that allegedly wrongful termination caused emotional distress did not place mental health at issue, where primary claims were for lost wages).

In light of the foregoing, if plaintiff sought treatment for his alleged emotional distress, then Gawker is entitled to know both that he sought such treatment and whether the evaluations of the medical and/or mental health professionals who provided that treatment support his claims of alleged injury.⁶ If he did not seek such treatment, Gawker is nevertheless entitled to information about his medical and mental health records, and his healthcare providers, in order to determine, *inter alia*, (a) whether plaintiff was experiencing emotional distress from other causes prior to the events giving rise to the lawsuit; (b) whether there was any change in plaintiff’s physical or mental health following those events; and (c) whether there were other circumstances affecting plaintiff’s medical and mental health at that time that might have also caused emotional distress of which he complains.

This is especially the case here because plaintiff has written and spoken publicly about serious emotional difficulties he experienced prior to the publication of the Gawker Story and the Excerpts, including describing in his autobiography contemplating suicide during a time in which his first marriage was collapsing and his son had been involved in a serious car accident,

⁶ In his Motion for a Protective Order, plaintiff asserts that he did not seek medical treatment for the emotional distress claimed in this lawsuit. Mot. 8. Plaintiff did not provide that information in his interrogatory responses, despite the fact that it is directly relevant to Daulerio Interrogatory No. 2 (which seeks information about any medical providers or health care professional plaintiff might have sought treatment from in connection with his claimed emotional distress). That Gawker learned of this from plaintiff’s motion for a protective order, not his interrogatory responses, further underscores plaintiff’s failure to comply with his obligations under the discovery rules.

suicidal feelings he traced in part to the many physical ailments from which plaintiff continues to suffer.⁷ Against a background in which plaintiff has admitted to having previously suffered significantly more severe emotional distress than what is complained of here, Gawker should be entitled to explore whether the emotional distress claimed in this lawsuit predated the publication of the Gawker Story and the Excerpts, or, at the very least, might have had other, or additional causes, including for example plaintiff's lingering physical problems.

5. Requests relating generally to plaintiff's damages: Plaintiff has also refused to provide documents or information in response to requests seeking the basis generally for his damages claims, stating only that "[d]iscovery is continuing":

RFP 27: Any and all documents concerning any damages you believe you have suffered as a result of the publication at www.gawker.com of excerpts of the Video and the Gawker Story.

RESPONSE TO RFP 27: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request to the extent that it prematurely calls for expert opinion and analysis. Responding Party further objects to this Request on the ground that it requires Responding Party to produce documents that would not be created until trial. Without waiver of the foregoing, Responding Party responds as follows: Discovery is continuing regarding Responding Party's damages theories, and Responding Party reserves the right to produce such documents in the future when they are determined.

RFP 37: Any and all documents related in any manner to any damages you claim to have suffered as the result of the alleged conduct of the Gawker Defendants or any of them.

RESPONSE TO RFP 37: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request

⁷ See, e.g., Ex. F (excerpts from Hulk Hogan's *My Life Outside the Ring*) at 4 ("I pressed the gun to my cheek. I tried not to look in the mirror. In between flashbacks, I kept obsessing about Linda. *How could she leave in the middle of all this? How could she?* I even turned the pity party on myself. *I'm a mess. I'm in so much pain. My hip. My knees. I don't even know if I can wrestle anymore. What the hell am I gonna do? My back hurts so bad I have to sit just to brush my teeth.*") (emphases in original); *id.* at 233 ("People might look at a guy like me and think, *He would never commit suicide.* But I was so depressed I just kept thinking, *This would be so easy.*") (emphasis in original).

to the extent that it prematurely calls for expert opinion and analysis. Responding Party further objects to this Request on the ground that it requires Responding Party to produce documents that would not be created until trial. Responding Party objects to this Request to the extent that it is also repetitive and covered by other discovery requests. Without waiver of the foregoing, Responding Party responds as follows: Discovery is continuing regarding Responding Party's damages theories, and Responding Party reserves the right to produce such documents in the future when they are determined.

RFP 38: Any and all documents related in any manner to any special damages you claim to have suffered as the result of the alleged conduct of the Gawker Defendants or any of them.

RESPONSE TO RFP 38: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request to the extent that it prematurely calls for expert opinion and analysis. Responding Party further objects to this Request on the ground that it requires Responding Party to produce documents that would not be created until trial. Responding Party objects to this Request to the extent that it is also repetitive and covered by other discovery requests. Without waiver of the foregoing, Responding Party responds as follows: Discovery is continuing regarding Responding Party's damages theories, and Responding Party reserves the right to produce such documents in the future when they are generated or identified.

GAWKER INTERROGATORY 12: Identify any and all damages purportedly suffered by you as a result of alleged actions by the Gawker Defendants or any of them, explaining with particularity the basis for your calculation of such alleged damages.

RESPONSE TO INTERROGATORY 12: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory to the extent that it prematurely calls for expert opinion and analysis. Without waiver of the foregoing, Responding Party responds as follows: Discovery is continuing, and Responding Party is still assessing and calculating his damages.

Defendants recognize that not every aspect of Plaintiff's damages claims may be finalized at this juncture. But it is not plausible that, in the eleven months plaintiff has been litigating his claims against Gawker (including the two months he had to respond to Gawker's requests), he and his counsel have not identified a single document or fact to support his damages theories. While

plaintiff may – and is in fact obliged to – supplement his responses as he acquires new information on this topic, Gawker is entitled to facts and documents reasonably within plaintiff’s current possession, custody or control so it may develop its defenses.

B. Plaintiff Should Be Required to Respond to Gawker’s Requests Relating to His Privacy Claims.

Plaintiff has categorically objected to virtually every discovery request relating to his marital fidelity, despite the centrality of such facts to the privacy claims he has brought. At the heart of this case is whether (as plaintiff contends) the subject of the Gawker Story and Excerpts is entirely private or whether (as Gawker contends) Gawker’s commentary about plaintiff’s sexual encounter with his best friend’s wife and the intersection of sex and celebrity is newsworthy in light of the public image plaintiff has cultivated – including putting his and his family’s personal life before the public in many ways ranging from an autobiography to a multi-season reality television series on that subject.⁸ Accordingly, including because at a minimum he was committing adultery with a married woman in the Video, information about extra-marital affairs plaintiff had during his marriage to Linda Bollea (to whom he was apparently married when the Video was made)⁹ and the extent to which other recordings of plaintiff having sex exist, were made with his knowledge, or were disseminated by him or otherwise – are legitimate topics of discovery given the facts of *this* case.

⁸ Indeed, to sustain his privacy-related claims, plaintiff must establish (and Gawker must have the opportunity to refute) that the Gawker Story and Excerpts are not newsworthy. *See, e.g., Cape Publ’ns, Inc. v. Hitchner*, 549 So. 2d 1374, 1377 (Fla. 1989) (essential element of “private facts” claim is that disclosed information is “not of public concern”). While Gawker believes this issue has already been adjudicated decisively against him, to the extent that plaintiff disagrees and contends this is a live issue, Gawker is entitled to full discovery related to this topic.

⁹ As discussed further below at pages 37-39, counsel for plaintiff indicated during the “meet and confer” that the Video at issue may have been recorded in 2008 rather than in 2006, as alleged in his Complaint. For the reasons discussed *infra*, plaintiff should be required to clarify this issue immediately and explain why, nearly a year into litigation, plaintiff now seeks to change this date to a time after he separated from his first wife.

RFP 7: Any and all documents concerning any Sexual Relations you had with any person not your then-wife during the years 2002 to 2006, inclusive.

RESPONSE TO RFP 7: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

RFP 8: Any and all documents concerning any Sexual Relations you had with Heather Clem during the Relevant Time Period.

RESPONSE TO RFP 8: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of Heather Clem. Without waiver of the foregoing,. Responding Party responds as follows: To the extent non-privileged documents exist which are relevant or reasonably likely to lead to the discovery of admissible evidence and are not equally available to Gawker Media, Responding Party will endeavor to collect and produce them within a reasonable period of time.

RFP 12: Any and all documents concerning any videotapes you have made of yourself engaged in Sexual Relations during the Relevant Time Period.

RESPONSE TO RFP 12: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further

objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties. Without waiver of the foregoing, Responding Party responds as follows: Responding Party never made a sex tape for the purpose of public dissemination, and thus there are no responsive, non-privileged documents that relate to any sex tape that Responding Party made for the purpose of public dissemination.

RFP 13: Any and all documents concerning any videotapes made of you engaged in Sexual Relations during the Relevant Time Period.

RESPONSE TO RFP 13: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties. Without waiver of the foregoing, Responding Party responds as follows: Responding Party is unaware of any recording of his sexual activity made for the purpose of public dissemination other than the video recording with Heather Clem made without his knowledge and thus there are no responsive, non-privileged documents that relate to any recording of Responding Party having sex that were made for the purpose of public dissemination, other than documents relating to the Heather Clem sex tape. To the extent non-privileged documents exist relating to the Heather Clem sex tape, which are not equally available to Gawker Media, Responding Party will endeavor to collect and produce them within a reasonable period of time.

RFP 20: Any and all documents concerning your claim that you were set up in the Video, including without limitation as reported at <http://www.tmg.com/2012/03/07/hulk-hogan-sex-tape>.

RESPONSE TO RFP 20: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant information. Without waiver of the foregoing, Responding Party responds as follows: Responding Party has not yet located any documents that relate to his claim that he was set up (other than the sex tape itself and the Gawker and other media stories about it, which are equally available to Gawker Media), but discovery is continuing.

RFP 21: Any and all documents concerning your statement that “During that time, I don’t even remember people’s names, much less girls,” including without limitation as reported at <http://www.tnz.com/2012/03/07/hulk-hogan-sex-tape-partner-tmz-live/>.

RESPONSE TO RFP 21: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties.

RFP 22: Any and all documents concerning the affair you had while married to Linda Hogan as recounted in your autobiography, *My Life Outside the Ring*.

RESPONSE TO RFP 22: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties.

GAWKER INTERROGATORY 4: Identify any and all videotapes or other recordings of any type you have made of yourself engaged in Sexual Relations during the Relevant Time Period.

RESPONSE TO GAWKER INTERROGATORY 4: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome to the extent that it seeks discovery of whether recordings were made or existed for private purposes, which have nothing to do with the public dissemination of a sex tape by Responding Party. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor

reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties. Without waiver of the foregoing, Responding Party responds as follows: Responding Party has never made a recording of his sexual activity for the purpose of public dissemination, and has never consented to the making or dissemination of such a recording.

GAWKER INTERROGATORY 5: Identify any and all videotapes or other recordings of any type made of you having Sexual Relations during the Relevant Time Period.

RESPONSE TO GAWKER INTERROGATORY 5: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome to the extent that it seeks discovery of whether recordings were made or existed for private purposes, which have nothing to do with the public dissemination of a sex tape by Responding Party. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties. Without waiver of the foregoing, Responding Party responds as follows: Responding Party has never made a recording of his sexual activity for the purpose of public dissemination, and has never consented to the making or dissemination of such a recording. Responding Party does not know if any other clandestine recordings exist other than the video depicting Responding Party having relations with Heather Clem (which was excerpted and posted by Gawker Media on its website).

GAWKER INTERROGATORY 8: Identify any and all persons with whom you had Sexual Relations during the years 2002 to 2006, inclusive.

RESPONSE TO GAWKER INTERROGATORY 8: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome to the extent that it asks Responding Party to compile information on every sex partner he has had even though such information has nothing to do with this case. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated

to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

First, Gawker emphasizes that it understands the potential sensitivities of discovery of this nature. Indeed, it was for that exact reason that Gawker initiated the entry of an agreed protective order, the terms of which were carefully negotiated with plaintiff. Thus, to the extent that plaintiff believes that his responses to this line of discovery requests should be maintained as confidential, he may avail himself of the protective order. But he cannot restrict Gawker's right to develop its defenses, especially when he has put his own sexual life at issue both in his pleadings and affidavits filed in this case, and in his many public statements about the events at issue.¹⁰ See, e.g., *Tootle v. Seaboard Coast Line RR. Co.*, 468 So. 2d 237, 239 (Fla. 5th DCA 1984) (a "plaintiff in a civil suit must cooperate in the discovery process, even if it means that he must authorize the disclosure of potentially prejudicial information").

Second, it cannot be doubted that discovery about plaintiff's personal life is crucial for Gawker to defend against plaintiff's invasion of privacy claims. Information on this topic relates directly to the questions of whether the Gawker Story and Excerpts were newsworthy and the extent to which plaintiff tried to maintain his privacy.¹¹ Indeed, in the federal case, Judge

¹⁰ For instance, after reports of the existence of the Video first surfaced (but prior to the publication of the Gawker Story and the Excerpts), plaintiff stated in an interview that he had no idea who the woman in the sex tape was because he had sex with a lot of women during that period – adding, “During that time, I don’t even remember people’s names, much less girls.” See <http://www.t TMZ.com/2012/03/07/hulk-hogan-sex-tape-partner-tmz-live/> (includes 4 minute interview). Then, following the publication of the Gawker Story and the Excerpts, plaintiff gave a series of interviews in such high profile forums as the Today Show and the Howard Stern Show in which he blamed the sexual encounter with Mrs. Clem on his ex-wife (Linda Hogan) and her alleged mistreatment of him. See, e.g., <http://www.today.com/entertainment/hulk-hogan-devastated-release-sex-tape-vows-find-out-whos-1C6360386> (Today Show) at :30-1:10; http://www.youtube.com/watch?v=RjmC_M_I71o (Howard Stern Show) at 2:25-3:30.

¹¹ In his Motion for Protective Order to preclude discovery about his sex life, plaintiff cites *Tylo v. Superior Court*, 64 Cal. Rptr. 2d 731 (Cal. App. 1997), involving limitations on discovery of personal

Whittemore confirmed that information on these topics is relevant to the question of whether the Gawker Story is actionable:

Plaintiff's public persona, including the publicity he and his family derived from a television reality show *detailing their personal life*, his own book *describing an affair he had during his marriage*, prior reports by other parties of the existence and content of the Video, and Plaintiff's own public discussion of *issues relating to his marriage, sex life*, and the Video all demonstrate that the Video is a subject of general interest and concern to the community.

Bollea v. Gawker Media, LLC, 2012 WL 5509624, at *3 (M.D. Fla. Nov. 14, 2012) (emphases added). Plaintiff has himself publicly and repeatedly spoken about his extra-marital affairs and related topics, both in connection with the Video and otherwise (including in his autobiography) and both before and after the Gawker Story and Excerpts were published.

With specific respect to other videos plaintiff may have made, plaintiff states only that he “has never made a recording of his sexual activity for the purpose of public dissemination.” *See* Pl. Resp. to RFP Nos. 12-13 and Gawker Inter. Nos. 4-5. But the question is whether plaintiff has willfully participated in such recordings and whether such recordings were maintained as private or were disseminated to third parties – even if in plaintiff's view such dissemination was not sufficiently widespread for him to characterize as “public.” Such facts are relevant both to plaintiff's repeated contention that, in this case, he did not know the sexual encounter was being recorded, and his general claim that the contents of the Gawker Story and Excerpts are private and that publishing mostly non-explicit excerpts of them in these circumstances was “highly offensive.” *See, e.g., Cape Publ'ns, Inc.*, 549 So. 2d at 1377 (a claim for publication of private facts requires showing that publication of private facts was “highly offensive”). In fact, in an interview on the Howard Stern radio program, plaintiff suggested that there could be other sex

issues in a pregnancy discrimination case. Mot. at 6. But *Tylo* is inapposite as discrimination cases do not have a “newsworthiness” component, as privacy and publicity cases do.

tapes out there because, during the period in which the Video was made, he behaved in a generally sexually reckless manner. *See* Howard Stern Show: Terry Bollea Interview, October 9, 2012, *available at* http://www.youtube.com/watch?v=RjmC_M_I71o at 7:10-7:21 (agreeing that “there could be another” sex tape because, during that period, he was “pretty gone”). Moreover, not only does such information bear directly on plaintiff’s privacy claims, but it is likely to be useful for purposes of impeachment at trial and is discoverable on that basis as well.

Given the claims plaintiff has placed at issue, there is no legitimate basis to withhold information on these topics, particularly given that the requested information and documents can be produced confidentially under the agreed protective order. *See Condit*, 225 F.R.D. at 111 (in lawsuit involving publication about sex life of plaintiff Gary Condit, defendants are entitled to discovery concerning plaintiff’s sexual relationships).

C. Plaintiff Should Be Required to Respond to Gawker’s Requests Concerning the Allegations in His Complaint.

Gawker served a handful of standard requests seeking documents and/or information about plaintiff’s own allegations, such as “documents that support, refute, contradict, or otherwise in any manner relate to the allegations in your Complaint” (*e.g.*, RFP No. 48), or “documents in any manner related to the Gawker Defendants” (*e.g.*, RFP No. 2). These are customary requests, propounded to ensure that no relevant information falls through the cracks. Yet plaintiff has provided no documents or information in response to them, and instead has simply responded with boilerplate language stating general objections:

RFP 2: Any and all documents in any manner related to the Gawker Defendants, or any of them.

RESPONSE TO RFP 2: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable

particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome in that it potentially sweeps within its scope documents of little relevance to the case. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request on the ground that it is vague and ambiguous.

RFP 39: Any and all documents related in any manner to your claim in your Complaint that Gawker Defendants, or any of them, acted with “actual malice.”

RESPONSE TO RFP 39: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request to the extent that documents requested are in the possession, custody, or control of, or equally available to Propounding Party. Without waiver of the foregoing,. Responding Party responds as follows: Discovery is continuing, and Responding Party reserves the right to produce such documents in the future when they are generated or identified.

RFP 45: To the extent not produced in response to the foregoing requests, any and all documents that refer or relate in any manner to the privacy interests you claim were violated by the Gawker Defendants or any of them.

RESPONSE TO RFP 45: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome.

RFP 46: To the extent not produced in response to the foregoing requests, any and all documents that relate in any manner to the conduct of Gawker Defendants that you have challenged in your Complaint.

RESPONSE TO RFP 46: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the grounds that the Request is overbroad, burdensome, and harassing.

RFP 47: To the extent not produced in response to the foregoing requests, any and all documents that relate in any manner to the conduct of Heather Clem that

you have challenged in your Complaint, including without limitation any documents relating to your claim that Heather Clem participated in creating the Video and your claim that Heather Clem was involved in disclosing the Video to the Gawker Defendants, or any of them.

RESPONSE TO RFP 47: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party also objects to this Request to the extent that it calls for documents that are not in its possession, custody, or control.

RFP 48: To the extent not produced in response to the foregoing requests, any and all documents that support, refute, contradict, or otherwise in any manner relate to the allegations in your Complaint.

RESPONSE TO RFP 48: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity.

GAWKER INTERROGATORY 13: With respect to each of the actions you allege in the Complaint violated your privacy rights, identify each and every communication (including each conversation, item of correspondence sent or received, or any other form of communication, whether or not initiated by you) you have had with persons other than your attorney(s) regarding the subject matter of this action, including the date of each such communication, the identity of all persons participating in each such communication, and any and all documents that reflect each such communication.

RESPONSE TO GAWKER INTERROGATORY 13: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the requested information is not identified with reasonable particularity. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome to the extent that it asks Responding Party to catalogue each and every communication he may have had regarding any of the primary or subsidiary issues in this action, and to recall, verify, and provide detailed information regarding every such communication. Responding Party objects to this Interrogatory on the ground that it is vague and ambiguous.

Given that plaintiff bears the burden of justifying his objections,¹² boilerplate objections of the type noted above, in response to requests tied directly to the allegations in his own complaint, should be rejected out of hand. *See, e.g., Mendez v. Land Inv., Corp.*, 2012 WL 6012906, at *1 (M.D. Fla. Dec. 3, 2012) (“parties may not assert conclusory, boilerplate objections that fail to explain the precise grounds that make the request objectionable,” especially where the request “is relevant to the allegations contained in [the] complaint”); *see also Gleneagle Ship Mgmt. Co. v. Leondakos*, 602 So.2d 1282, 1283-84 (Fla. 1992) (“we look to the federal rules and decisions for guidance in interpreting Florida’s civil procedure rules”).

D. Plaintiff Should Be Required to Respond to Gawker’s Requests For Documents From Prior Legal Proceedings, Including His Prior Sworn Testimony.

Plaintiff has also withheld all documents related to judicial or administrative proceedings in which he was a party or a witness:

RFP 42: Any and all documents reflecting any testimony provided by you in connection with any judicial or administrative proceeding to which you were a party or witness.

RESPONSE TO RFP 42: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties.

RFP 43: Any and all documents related to any criminal, civil or administrative proceeding to which you were a party, subject or target, including without

¹² *See* 4 Fla. Prac., Civ. Pro. R. 1.340 (2013 ed.) (as the objecting party, Plaintiff bears the “burden of proving the validity of [the] objections.”); *see also, e.g., Henry P. Trawick, Jr.*, Fla. Prac. & Proc. §16:10 (2012 ed.) (“The burden of sustaining the objection is on the party making it.”).

limitation any divorce proceeding (including without limitation from Linda Hogan).

RESPONSE TO RFP 43: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

Gawker is entitled to plaintiff's filings and sworn testimony in prior proceedings for impeachment purposes. *See Amente v. Newman*, 653 So. 2d 1030, 1032-33 (Fla. 1995) (information that may be used for impeachment purposes discoverable); Fl. Stat. § 90.608 (allowing impeachment through use of prior inconsistent statements). Moreover, such documents and sworn testimony from his divorce proceedings and an earlier proceeding in which he was sued for sexual assault are directly relevant to his efforts to cultivate his public image and hide the true nature of his family life from the public eye, the newsworthiness of the publication at issue and his alleged emotional distress. And such documents and sworn testimony from other proceedings almost certainly address his "brand," the alleged value of his publicity rights, and his professional opportunities, all of which are directly relevant to his alleged economic injuries, as discussed above.

E. Plaintiff Should Be Required to Respond to Gawker's Requests Relating to His Public Writings, Statements and Appearances.

Plaintiff has objected to Gawker's discovery requests regarding public statements or appearances he has made that are relevant to this lawsuit, contending that such statements are equally available to Gawker:

GAWKER INTERROGATORY 6: Identify any and all writings authored by you during the Relevant Time Period regarding any Sexual Relations in which you engaged.

RESPONSE TO GAWKER INTERROGATORY 6: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that the information requested is equally known to Propounding Party. For instance, any statements that Responding Party may have made about his sex life in books or press articles authored by him are equally available to Propounding Party. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

GAWKER INTERROGATORY 7: Identify any and all statements made by you during the Relevant Time Period regarding any Sexual Relations in which you engaged.

RESPONSE TO GAWKER INTERROGATORY 7: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome in that it asks Responding Party to compile each and every public statement he may have made on a particular subject matter. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that the information requested is equally known to Propounding Party. For instance, any public statements that Responding Party may have made about his sex life in

books or press articles are equally available to Propounding Party. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

RFP 35: Any and all documents published about you in any newspaper, magazine, book, or other hard-copy or electronically published publication during the Relevant Time Period.

RESPONSE TO RFP 35: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and 25 information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that documents requested are in the possession, custody, or control of, or equally available to, Propounding Party.

RFP 36: Any and all audio recordings, video recordings, transcripts, notes, or other documents that relate in any manner to the Video or the Gawker Story.

RESPONSE TO RFP 36: Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request to the extent that documents requested are in the possession, custody, or control of, or equally available to, Propounding Party.

Plaintiff's objections are improper. Unlike Gawker, plaintiff has direct knowledge of when and where he made such statements, and likely has a publicist and/or manager who keeps track of such things or, even if such a person does not maintain clippings of every article mentioning or quoting plaintiff, at a minimum assists in arranging for public appearances. In any event, Gawker is aware of no authority that would permit plaintiff to withhold responsive documents or information, not protected by any privilege, within his possession, custody and

control on the theory that his opponent might be able to assemble the information from other sources.

In addition, while a plaintiff's public statements about the subject matter of the lawsuit are always relevant, that is especially the case here. The heart of plaintiff's case is his contention that Gawker published matters about him that are fundamentally private. Whether and to what extent plaintiff nevertheless voluntarily chose to discuss publicly the contents of the Gawker Story and the Excerpts, or more generally his sex life, is directly relevant to the validity of that contention. For example, on October 9, 2012, plaintiff appeared on the Howard Stern show, where he subjected himself to invasive questioning about the Video for over an hour, during which, among other things, plaintiff repeatedly laughed at the host's jokes about his sexual prowess (as demonstrated on the Video) and stated that, had the woman in the Video not been the wife of his friend, his "performance" may have been more aggressive and impressive. *See* Howard Stern Show: Terry Bollea Interview, October 9, 2012, *available at* http://www.youtube.com/watch?v=Rjmc_M_I71o at 7:57-9:10, 11:04-12:35. Given that this a case purportedly about plaintiff's "privacy," Gawker is obviously entitled to know whether plaintiff subjected himself to similar questioning in other forums and whether he made similar such statements about the Gawker story or his sex life.

F. Plaintiff Should Be Compelled to Correct Demonstrably Incorrect Statements.

Plaintiff has submitted two interrogatory responses that appear incorrect and/or incomplete:

GAWKER INTERROGATORY 10: Identify any and all times you discussed having Sexual Relations with Heather Clem with her husband, Todd Alan Clem, during the Relevant Time Period, stating for each time the date, approximate time, location and substance of the discussion.

RESPONSE TO GAWKER INTERROGATORY 10: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome, in that whether or not this topic was discussed with any frequency or any specifics of such discussions other than whether such an encounter would be recorded and/or disseminated are irrelevant to the case. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of Heather Clem. Without waiver of the foregoing, Responding Party responds as follows: During a period of approximately two years before Responding Party had sexual relations with Heather Clem, Todd Clem urged Responding Party, on numerous occasions, to have sexual relations with Heather Clem. Responding Party turned him down repeatedly throughout that time, and told Mr. Clem to stop bringing up the subject. In or about 2008, after Responding Party had separated from his wife, Responding Party gave in to the urgings of Mr. Clem and Heather Clem, and discussed the issue with Mr. Clem at that time. In or about Spring 2012, Responding Party asked Mr. Clem to explain the media reports regarding allegations of a possible sex tape involving Responding Party. Mr. Clem denied having any knowledge of or involvement in a sex tape. At no time prior to or during the sexual encounter with Ms. Clem did either Mr. or Ms. Clem ever state or imply to Responding Party that the encounter would be recorded. If such a statement had been made, Responding Party would not have consented to the recording, and would not have engaged in a recorded sexual encounter. At no time did Responding Party know that he would or might be recorded, and at no time did he give consent to anyone to either record the encounter or to disseminate any portion of a recording of the encounter to anyone.

The response to Gawker Interrogatory No. 10 appears to state that the sexual encounter recorded on the Video occurred in 2008, even though the Complaint, Amended Complaint, and earlier filed declarations *all* allege that it occurred in 2006. *See, e.g.,* Am. Compl. ¶¶ 1, 26; Decl. of T. Bollea (dated Oct. 15, 2012) ¶ 6. In the telephonic “meet and confer,” counsel for plaintiff stated that plaintiff now believes that the Video was recorded in 2008. If, as plaintiff contends, this affair was unique, one would think that plaintiff would not need to change his story as to when it happened close to a year into this case, particularly given that he has conveniently changed the

date to a time when he was separated from his wife. Regardless, plaintiff should be required to confirm in both a verified pleading and interrogatory responses which is date correct. Moreover, because Gawker's and Daulerio's discovery requests asked about a period preceding 2006 based on the allegations plaintiff included in his Amended Complaint, which was presumably filed in compliance with Florida Statute 57.105, if plaintiff now contends it was 2008, he should be required to answer those requests based on the new date. These include Gawker Interrogatory Nos. 8, 15, 16 and 17 and RFP Nos. 7 and 18.¹³

GAWKER INTERROGATORY 15: Identify the number of times you were at the residence of Todd Alan Clem and/or Heather Clem that is depicted in the Video during the period from 2002 to 2006, inclusive, and for each, state the purpose of the visit and the duration of the visit.

RESPONSE TO GAWKER INTERROGATORY 15: Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome to the extent that it requires that Responding Party compile and verify numerous visits to the Clems, who were his personal friends, in the distant past and which may have had nothing to do with the facts of this case. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties. Without waiver of the foregoing, Responding Party responds as follows: the Clems were his personal friends, and he visited their residence numerous times during the period between 2002 and 2006. It would be unduly burdensome, pointless, and probably impossible to compile all the information that Gawker Media has requested with respect to each such visit.

The response to Gawker Interrogatory No. 15 states only that plaintiff visited the home shared by Mr. and Mrs. Clem numerous times. *See also* Resp. to Gawker Int. No. 17 ("At some

¹³ It is the movant's counsel's understanding from the "meet and confer" telephone call that plaintiff may be willing to do so, although he has not done so as of the filing of this Motion.

point,” plaintiff “may have slept over.”). Gawker’s understanding, based on public statements made by Mr. Clem, including on the Howard Stern show on October 17, 2012, is that plaintiff lived with Mr. and Mrs. Clem for an extended period as he was divorcing Linda Bollea. *See* Howard Stern Show: Bubba the Love Sponge Interview, Oct. 17, 2012, <http://www.youtube.com/watch?v=IwPQRPHTMPA> at 4:35-5:14 and 19:00-19:10. Indeed, during the telephone meet and confer, plaintiff’s counsel advised that plaintiff lived with the Clems for some period of time, although was unable to identify either the duration or date of the stay (despite this issue having been raised in a detailed letter a week earlier). As this obviously bears on his knowledge of the surveillance system in the Clem residence, and his knowledge of the Clems’ apparent practice of videotaping sex between themselves or between Mrs. Clem and others, Gawker is entitled to complete information about the frequency and duration of plaintiff’s visits with – and residence at – the Clems.

III.

GAWKER IS ENTITLED TO AN AWARD OF ATTORNEYS’ FEES.

Under Florida Civil Procedure Rule 1.380(a)(4), where a court grants a motion to compel after opportunity for hearing, it

shall require the party . . . whose conduct necessitated the motion or the party or counsel advising the conduct to pay to the moving party the reasonable expenses incurred in obtaining the order that may include attorneys’ fees, unless the court finds that the movant failed to certify in the motion that a good faith effort was made to obtain the discovery without court action, that the opposition to the motion was justified, or that other circumstances make an award of expenses unjust.

In this case, Gawker has certified below that it made a good faith effort to obtain the discovery without court action by initiating a lengthy “meet and confer” call with counsel for plaintiff. Any opposition cannot possibly be justified, given the scope and breadth of plaintiff’s refusal to provide relevant discovery. And no other circumstances make an award of expenses unjust.

Accordingly, Gawker is entitled to an award of fees it incurred in connection with this motion in an amount to be determined at the conclusion of briefing and argument in this matter. A preliminary calculation of the fees sought to date amounts to \$9,853.00, as further explained in the accompanying Affidavit of Seth D. Berlin, submitted herewith.

CERTIFICATION OF GOOD FAITH CONFERENCE

Pursuant to Florida Rule of Civil Procedure 1.380, movants' counsel certifies that they have, in good faith, conferred with counsel for plaintiff (in a three-hour conference call) in an effort to secure the discovery at issue without court action but have been unable to do so.

CONCLUSION

For the foregoing reasons, Gawker respectfully requests that this Court grant its Motion to Compel proper responses to the document requests and interrogatories identified herein.

Specifically, plaintiff should be compelled to:

- (a) serve amended responses that do not rely on general or boilerplate objections,
- (b) produce all non-privileged, responsive documents, including without limitation as plaintiff promised to do in response to RFP Nos. 1, 3-5, 8-11, 13, 15-16, 23-24, 33-34, and identify, in an amended response to Gawker's RFPs, any requests for which he does not have any responsive documents,
- (c) either certify in writing that he is not withholding any pre-litigation documents on grounds of attorney-client privilege or work product doctrine or produce a proper privilege log with information sufficient to enable Gawker to ascertain whether any privilege is properly asserted,
- (d) immediately provide full and complete responses to RFP Nos. 1-17, 19-27, 29-48, Gawker Interrogatory Nos. 1-13, 15, 17, 19-20, and Daulerio Interrogatory Nos. 1-3 (with plaintiff verifying the amended interrogatory responses),
- (e) confirm in both a verified pleading and in a supplemental response to Gawker Interrogatory No. 10 the date on which the Video was recorded, and, if it was 2008 (rather than 2006), supplement his responses to Gawker Interrogatory Nos. 8, 15-17, and RFP Nos. 7 and 18 to include information through and including 2008, and

- (f) supplement his response to Gawker Interrogatory No. 15 to indicate whether and for how long he lived with the Clems at any point between 2002 and 2008.

Gawker also respectfully requests that this Court grant its costs and attorneys' fees incurred in connection with bringing this motion and for such further relief as the Court deems appropriate.

Dated: September 11, 2013

Respectfully submitted,

THOMAS & LOCICERO PL

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Gawker Media, LLC and AJ Daulerio

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of September 2013, I caused a true and correct copy of the foregoing to be served by email upon the following counsel of record:

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Attorney

EXHIBIT

A

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

TERRY GENE BOLLEA professionally
known as HULK HOGAN,

Plaintiff,

vs.

Case No. 12012447CI-011

HEATHER CLEM; GAWKER MEDIA, LLC
aka GAWKER MEDIA; GAWKER MEDIA
GROUP, INC. aka GAWKER MEDIA;
GAWKER ENTERTAINMENT, LLC;
GAWKER TECHNOLOGY, LLC; GAWKER
SALES, LLC; NICK DENTON; A.J.
DAULERIO; KATE BENNERT, and
BLOGWIRE HUNGARY SZELLEMI
ALKOTAST HASZNOSITO KFT aka
GAWKER MEDIA,

Defendants.

**PLAINTIFF TERRY GENE BOLLEA'S RESPONSES TO
GAWKER MEDIA, LLC'S INTERROGATORIES**

PROPOUNDING PARTY: Defendant GAWKER MEDIA, LLC

RESPONDING PARTY: Plaintiff TERRY GENE BOLLEA

SET NO.: ONE

Plaintiff TERRY GENE BOLLEA (herein "Responding Party") hereby responds to
Interrogatories (Set One) propounded by defendant GAWKER MEDIA, LLC (herein
"Propounding Party") as follows:

PRELIMINARY STATEMENT

Responding Party responds to the Interrogatories subject to, without intending to waive,
and expressly preserving: (a) any objections as to the competency, relevance, materiality,
privilege or admissibility of any of the responses or any of the documents identified in any
response hereto; and (b) the right at any time to revise, correct, supplement or clarify any of the
responses herein.

These responses are based upon a diligent investigation undertaken by Responding Party and its counsel since the service of these Interrogatories. These responses reflect only Responding Party's current understanding, belief and knowledge regarding the matters about which inquiry was made. Responding Party has not yet had sufficient opportunity to depose or interview all persons who may have knowledge of relevant facts, or to discover or otherwise obtain and review all documents which may have some bearing on this case.

Consequently, there may exist further information, documents and persons with knowledge relevant to these Interrogatories of which Responding Party is not currently aware. As this action proceeds, Responding Party anticipates that further facts, witnesses and documents may be discovered or identified. Without in any way obligating it to do so, Responding Party reserves the right to offer further or different evidence or information at trial or at any pretrial proceeding. These responses are not in any way to be deemed an admission or representation that there are no further facts, documents or witnesses having knowledge relevant to the subject matter of these Interrogatories.

GENERAL OBJECTIONS

1. The following Responses, and each of them, are based upon information and writings presently available to, and located by, Responding Party and its attorneys. Responding Party has not completed an investigation of the facts or discovery proceedings in this case and has not completed its preparation for trial. The following Responses, and each of them, are made without prejudice to Responding Party's right to produce evidence based on subsequently discovered facts or documents, and to offer such facts or documents in evidence at the time of trial. The fact that Responding Party has responded to an Interrogatory should not be taken as an admission that Responding Party accepts or admits the existence of any facts set forth or

assumed by such Interrogatory, or that such Response constitutes admissible evidence. The following Responses, and each of them, are made without prejudice to the rights of Responding Party to introduce evidence of any subsequently discovered facts or documents which Responding Party may later obtain, discover or recall.

2. The documents and information which could or would form the basis of responses to the instant Interrogatories, in whole or in part, are still in the process of being identified by Responding Party, and all such relevant documents and information have not yet been identified, examined or produced. In addition, the significance of documents and information which may now be in the possession of Responding Party may only become apparent upon further discovery and review of those documents and information in the context of other documents which have not yet been identified or obtained in the context of later testimony or discovery which may establish their relevance.

3. These Responses are made, and any and all documents are being produced, solely for the purposes of this litigation. Any documents supplied in response to the Requests are being supplied by Responding Party subject to all objections as to competence, relevance, materiality, propriety and admissibility, and to any and all other objections on any ground that would require the exclusion of any document or portion thereof, if such document were offered in evidence in Court, all of which objections and ground are expressly reserved and may be interposed at the time of trial.

4. Responding Party, accordingly, reserves the right to alter or modify any and all Responses set forth herein as additional facts may be ascertained, documents discovered, analyses made, witnesses identified, additional parties identified, legal research completed, and contentions made or expanded.

5. Responding Party objects generally to each and every Interrogatory to the extent it calls for information that is protected by the attorney-client privilege and/or the attorney work product doctrine.

6. Responding Party objects generally to each and every Interrogatory to the extent it requests any information concerning the content of conversations of any other party to this action or documents in the possession of any other party to this action, other than the Responding Party, in that such information is equally accessible to all parties.

7. Responding Party objects to producing any private and/or confidential business or proprietary information or trade secrets.

8. Responding Party objects to these Interrogatories, and each of them, to the extent they are not limited to the subject matter of this action and thus are irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence.

9. Responding Party objects to these Interrogatories, and each of them, to the extent they are unduly burdensome, oppressive, unreasonably cumulative, duplicative and overbroad.

10. Responding Party objects to these Interrogatories, and each of them, to the extent they seek information to which Propounding Party has equal access.

RESPONSES TO INTERROGATORIES

The Preliminary Statement and General Objections are incorporated into each response below, regardless of whether specifically mentioned. The specific objections set forth below are not a waiver, in whole or in part, of any of the foregoing General Objections. Subject to and without waiver of these objections, Responding Party responds below.

INTERROGATORY 1:

Identify any and all contracts entered into by you during the Relevant Time Period

relating to the alleged “commercial value” of your name, image, identity and persona as referenced in paragraph 32 of the Complaint.

RESPONSE TO INTERROGATORY 1:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome to the extent that it covers both subject areas and time periods not reasonably likely to lead to the discovery of admissible evidence herein. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties.

INTERROGATORY 2:

Identify any and all contracts that you claim were canceled or not renewed as a result of alleged actions by the Gawker Defendants, or any of them, and any and all communications relating to any such purportedly canceled or non-renewed contract.

RESPONSE TO INTERROGATORY 2:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties.

Without waiver of the foregoing, Responding Party responds as follows: An endorsement deal with Rent-A-Center was terminated at or near the time of Gawker Media's publication of the Sex Tape. Responding Party believes that these events may have been causally connected. Responding Party will produce any documents that relate to the termination of the Rent-A-Center relationship. Responding Party may have lost additional work as well—discovery is continuing.

INTERROGATORY 3:

Identify any and all commercial opportunities you claim were lost by you as a result of alleged actions by the Gawker Defendants, and any and all communications relating to any such purportedly lost commercial opportunities.

RESPONSE TO INTERROGATORY 3:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

Without waiver of the foregoing, Responding Party responds as follows: Responding Party believes that he lost the ability to continue to endorse Rent-A-Center, which terminated its relationship with Responding Party at or near the time that Gawker Media published the Sex Tape. In addition, World Wrestling Entertainment ("WWE"), which has utilized Responding Party's services on and off over the decades, is pursuing "PG rated" entertainment, and Responding Party believes that the Sex Tape may have cost him future work with WWE. Responding Party will produce any documents that relate to the Rent-A-Center deal, and will also produce documents relating to the loss of WWE work, to the extent such documents

exist.

INTERROGATORY 4:

Identify any and all videotapes or other recordings of any type you have made of yourself engaged in Sexual Relations during the Relevant Time Period.

RESPONSE TO INTERROGATORY 4:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome to the extent that it seeks discovery of whether recordings were made or existed for private purposes, which have nothing to do with the public dissemination of a sex tape by Responding Party. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties. Without waiver of the foregoing, Responding Party responds as follows: Responding Party has never made a recording of his sexual activity for the purpose of public dissemination, and has never consented to the making or dissemination of such a recording.

INTERROGATORY 5:

Identify any and all videotapes or other recordings of any type made of you having Sexual Relations during the Relevant Time Period.

RESPONSE TO INTERROGATORY 5:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome to the extent that it seeks discovery of whether recordings were made or existed for private purposes, which have nothing to do with the public dissemination of a sex tape by Responding Party. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

Without waiver of the foregoing, Responding Party responds as follows: Responding Party has never made a recording of his sexual activity for the purpose of public dissemination, and has never consented to the making or dissemination of such a recording. Responding Party does not know if any other clandestine recordings exist other than the video depicting Responding Party having relations with Heather Clem (which was excerpted and posted by Gawker Media on its website).

INTERROGATORY 6:

Identify any and all writings authored by you during the Relevant Time Period regarding any Sexual Relations in which you engaged.

RESPONSE TO INTERROGATORY 6:

Responding Party objects to this Interrogatory to the extent that it seeks information

protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that the information requested is equally known to Propounding Party. For instance, any statements that Responding Party may have made about his sex life in books or press articles authored by him are equally available to Propounding Party. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

INTERROGATORY 7:

Identify any and all statements made by you during the Relevant Time Period regarding any Sexual Relations in which you engaged.

RESPONSE TO INTERROGATORY 7:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome in that it asks Responding Party to compile each and every public statement he may have made on a particular subject matter. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this

Interrogatory to the extent that the information requested is equally known to Propounding Party. For instance, any public statements that Responding Party may have made about his sex life in books or press articles are equally available to Propounding Party. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

INTERROGATORY 8:

Identify any and all persons with whom you had Sexual Relations during the years 2002 to 2006, inclusive.

████████████████████ 8:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome to the extent that it asks Responding Party to compile information on every sex partner he has had even though such information has nothing to do with this case. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

INTERROGATORY 9:

Identify any and all times you had Sexual Relations with Heather Clem during the Relevant Time Period, stating for each time the date, approximate time, and location of the

occurrence.

RESPONSE TO INTERROGATORY 9:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome to the extent that it requires Responding Party to determine whether sex acts occurred which have nothing to do with the claims in this case. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it is also repetitive and covered by other discovery requests. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of Heather Clem.

INTERROGATORY 10:

Identify any and all times you discussed having Sexual Relations with Heather Clem with her husband, Todd Alan Clem, during the Relevant Time Period, stating for each time the date, approximate time, location and substance of the discussion.

RESPONSE TO INTERROGATORY 10:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome, in that whether or not this topic was discussed with any frequency or any

specifics of such discussions other than whether such an encounter would be recorded and/or disseminated are irrelevant to the case. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information.

Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of Heather Clem.

Without waiver of the foregoing, Responding Party responds as follows: During a period of approximately two years before Responding Party had sexual relations with Heather Clem, Todd Clem urged Responding Party, on numerous occasions, to have sexual relations with Heather Clem. Responding Party turned him down repeatedly throughout that time, and told Mr. Clem to stop bringing up the subject. In or about 2008, after Responding Party had separated from his wife, Responding Party gave in to the urgings of Mr. Clem and Heather Clem, and discussed the issue with Mr. Clem at that time. In or about Spring 2012, Responding Party asked Mr. Clem to explain the media reports regarding allegations of a possible sex tape involving Responding Party. Mr. Clem denied having any knowledge of or involvement in a sex tape. At no time prior to or during the sexual encounter with Ms. Clem did either Mr. or Ms. Clem ever state or imply to Responding Party that the encounter would be recorded. If such a statement had been made, Responding Party would not have consented to the recording, and would not have engaged in a recorded sexual encounter. At no time did Responding Party know that he would or might be recorded, and at no time did he give consent to anyone to either record the encounter or to disseminate any portion of a recording of the encounter to anyone.

INTERROGATORY 11:

Identify the “market value” of the use of your publicity rights as alleged in paragraph 82 of the Complaint, explaining with particularity the basis for your calculation of such purported “market value.”

RESPONSE TO INTERROGATORY 11:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory to the extent that it prematurely calls for expert opinion and analysis.

Without waiver of the foregoing, Responding Party responds as follows: Discovery is continuing regarding the market value of the use of Responding Party’s publicity rights.

INTERROGATORY 12:

Identify any and all damages purportedly suffered by you as a result of alleged actions by the Gawker Defendants or any of them, explaining with particularity the basis for your calculation of such alleged damages.

RESPONSE TO INTERROGATORY 12:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory to the extent that it prematurely calls for expert opinion and analysis.

Without waiver of the foregoing, Responding Party responds as follows: Discovery is continuing, and Responding Party is still assessing and calculating his damages.

INTERROGATORY 13:

With respect to each of the actions you allege in the Complaint violated your privacy rights, identify each and every communication (including each conversation, item of correspondence sent or received, or any other form of communication, whether or not initiated by you) you have had with persons other than your attorney(s) regarding the subject matter of this action, including the date of each such communication, the identity of all persons participating in each such communication, and any and all documents that reflect each such communication.

RESPONSE TO INTERROGATORY 13:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the requested information is not identified with reasonable particularity. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome to the extent that it asks Responding Party to catalogue each and every communication he may have had regarding any of the primary or subsidiary issues in this action, and to recall, verify, and provide detailed information regarding every such communication. Responding Party objects to this Interrogatory on the ground that it is vague and ambiguous.

INTERROGATORY 14:

Identify all facts supporting your claim in paragraph 39 of the Complaint that Heather Clem disclosed the Video to third parties, and identify all documents relating to such claim, and all persons having knowledge of the facts relating to such claim.

RESPONSE TO INTERROGATORY 14:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Without waiver of the foregoing, Responding Party responds as follows: Discovery is continuing, and Responding Party is seeking and will seek to discover how the recording came into Gawker Media's possession. However, the fact that the video appears to have been recorded using a camera system in the Clems' residence, with the Clems' knowledge, and without Responding Party's knowledge, and later ended up in the possession of a celebrity website's proprietors, suggests that Heather Clem disclosed the existence of the video.

INTERROGATORY 15:

Identify the number of times you were at the residence of Todd Alan Clem and/or Heather Clem that is depicted in the Video during the period from 2002 to 2006, inclusive, and for each, state the purpose of the visit and the duration of the visit.

RESPONSE TO INTERROGATORY 15:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome to the extent that it requires that Responding Party compile and verify numerous visits to the Clems, who were his personal friends, in the distant past and which may have had nothing to do with the facts of this case. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably

calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

Without waiver of the foregoing, Responding Party responds as follows: The Clems were his personal friends, and he visited their residence numerous times during the period between 2002 and 2006. It would be unduly burdensome, pointless, and probably impossible to compile all the information that Gawker Media has requested with respect to each such visit.

INTERROGATORY 16:

Identify the number of times you were in the bedroom of Heather Clem and/or Todd Alan Clem that is depicted in the Video during the period from 2002 to 2006, inclusive, and for each, state the duration of the visit.

RESPONSE TO INTERROGATORY 16:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome to the extent that it requires that Responding Party compile and verify numerous visits to the Clems, who were his personal friends, in the distant past and which may have had nothing to do with the facts of this case. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of

third parties.

Without waiver of the foregoing, Responding Party responds as follows: The Clems were his personal friends, and he visited their residence numerous times during the period between 2002 and 2006. At some point in time, he may have entered their bedroom. It would be unduly burdensome, pointless, and probably impossible to compile all the information that Gawker Media has requested with respect to each such visit.

INTERROGATORY 17:

Identify each date on which you slept at the house of Heather Clem and/or Todd Alan Clem that is depicted in the Video during the period from 2002 to 2006.

RESPONSE TO INTERROGATORY 17:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome to the extent that it requires that Responding Party compile and verify numerous visits to the Clems, who were his personal friends, in the distant past and which may have had nothing to do with the facts of this case. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

Without waiver of the foregoing, Responding Party responds as follows: The Clems

were his personal friends, and he visited their residence numerous times during the period between 2002 and 2006. At some point in time during that period, he may have slept over. It would be unduly burdensome, pointless, and probably impossible to compile all the information that Gawker Media has requested with respect to each such visit.

INTERROGATORY 18:

Identify all facts supporting your claim in paragraph 26 of the Complaint that you believed the sexual activities in which you engaged with Heather Clem were “completely private,” and identify all documents relating to such claim, and all persons having knowledge of the facts relating to such claim.

RESPONSE TO INTERROGATORY 18:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Without waiver of the foregoing, Responding Party responds as follows: At or around the time of the sexual encounter, Responding Party discussed the sexual encounter with Todd and Heather Clem, but did not discuss the encounter with anyone else. The encounter occurred in a private home, in a private bedroom, with the door closed, and Responding Party had a reasonable expectation that his conduct in that room was private. The fact that the encounter would be recorded was never disclosed to Responding Party at the time; he never consented to the recording; and he would not have consented to the recording had he been made aware of it. The existence of the recording was never disclosed to Responding Party until he learned about it years later. Responding Party never consented to its dissemination, and never would have consented to its dissemination had he been made aware of it. In short, Responding Party had no knowledge and no reason to believe when he engaged in sexual activity with Heather

Clem that the sexual activity would be recorded or that a recording of such activity would be disseminated to the public.

INTERROGATORY 19:

Identify all facts supporting your claim in paragraph 31 of the Complaint that you have suffered, and continue to suffer, “tremendous emotional distress” as a result of Defendants’ alleged actions, and identify all documents relating to such claim, and all persons having knowledge of the facts relating to such claim.

RESPONSE TO INTERROGATORY 19:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties. Responding Party further objects to this Interrogatory on the ground that it has improper subparts. Responding Party further objects to this Interrogatory on the ground that the emotional distress claim asserted in this litigation is a “garden variety” emotional distress claim, *i.e.*, a claim based on the fact that Gawker Media’s conduct is so outrageous to an ordinary person that it was almost certain to cause emotional distress. The assertion of such a claim does not require or permit discovery into Responding Party’s intimate medical and/or mental health history. Without waiver of the foregoing, Responding Party incorporates herein the statements in the Declaration of Terry Bollea filed in Florida state court in support of his Motion for Temporary Injunction.

INTERROGATORY 20:

Identify any and all facts supporting your claim in paragraph 33 of the Complaint that the commercial value of your “name, image, identity and persona has been, and continues to be,

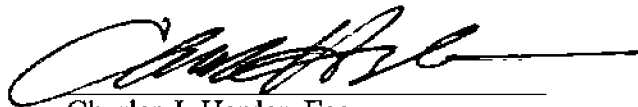
substantially diminished" by defendants' actions, and identify all documents relating to such claim, and all persons having knowledge of the facts relating to such claim.

RESPONSE TO INTERROGATORY 20:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

Without waiver of the foregoing, Responding Party responds as follows: Discovery is continuing, and Gawker Media's actions were by their very nature likely to harm the value of Responding Party's name, image, identity, and/or persona. Additionally, Responding Party believes he may have lost the Rent-A-Center endorsement contract and work from World Wrestling Entertainment due to the publication of the Sex Tape. Former fans have also contacted Responding Party and indicated that they were no longer his fans due to the publication of the Sex Tape. However, Responding Party has not yet calculated the extent of such harm or the amount of any damages suffered.

DATED: August 21, 2013



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Counsel for Plaintiff

VERIFICATION TO FOLLOW

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. First Class Mail this 21 day of August, 2013 to the following:

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EXHIBIT

B

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

TERRY GENE BOLLEA professionally
known as HULK HOGAN,

Plaintiff,

vs.

Case No. 12012447CI-011

HEATHER CLEM; GAWKER MEDIA, LLC
aka GAWKER MEDIA; GAWKER MEDIA
GROUP, INC. aka GAWKER MEDIA;
GAWKER ENTERTAINMENT, LLC;
GAWKER TECHNOLOGY, LLC; GAWKER
SALES, LLC; NICK DENTON; A.J.
DAULERIO; KATE BENNERT, and
BLOGWIRE HUNGARY SZELLEMI
ALKOTAST HASZNOSITO KFT aka
GAWKER MEDIA,

Defendants.

**PLAINTIFF TERRY GENE BOLLEA'S RESPONSES TO
A.J. DAULERIO'S INTERROGATORIES**

PROPOUNDING PARTY: Defendant A.J. DAULERIO

RESPONDING PARTY: Plaintiff TERRY GENE BOLLEA

SET NO.: ONE

Plaintiff TERRY GENE BOLLEA (herein "Responding Party") hereby responds to
Interrogatories (Set One) propounded by defendant A.J. DAULERIO (herein "Propounding
Party") as follows:

PRELIMINARY STATEMENT

Responding Party responds to the Interrogatories subject to, without intending to waive,
and expressly preserving: (a) any objections as to the competency, relevance, materiality,
privilege or admissibility of any of the responses or any of the documents identified in any
response hereto; and (b) the right at any time to revise, correct, supplement or clarify any of the
responses herein.

These responses are based upon a diligent investigation undertaken by Responding Party and its counsel since the service of these Interrogatories. These responses reflect only Responding Party's current understanding, belief and knowledge regarding the matters about which inquiry was made. Responding Party has not yet had sufficient opportunity to depose or interview all persons who may have knowledge of relevant facts, or to discover or otherwise obtain and review all documents which may have some bearing on this case.

Consequently, there may exist further information, documents and persons with knowledge relevant to these Interrogatories of which Responding Party is not currently aware. As this action proceeds, Responding Party anticipates that further facts, witnesses and documents may be discovered or identified. Without in any way obligating it to do so, Responding Party reserves the right to offer further or different evidence or information at trial or at any pretrial proceeding. These responses are not in any way to be deemed an admission or representation that there are no further facts, documents or witnesses having knowledge relevant to the subject matter of these Interrogatories.

GENERAL OBJECTIONS

1. The following Responses, and each of them, are based upon information and writings presently available to, and located by, Responding Party and its attorneys. Responding Party has not completed an investigation of the facts or discovery proceedings in this case and has not completed its preparation for trial. The following Responses, and each of them, are made without prejudice to Responding Party's right to produce evidence based on subsequently discovered facts or documents, and to offer such facts or documents in evidence at the time of trial. The fact that Responding Party has responded to an Interrogatory should not be taken as an admission that Responding Party accepts or admits the existence of any facts set forth or

assumed by such Interrogatory, or that such Response constitutes admissible evidence. The following Responses, and each of them, are made without prejudice to the rights of Responding Party to introduce evidence of any subsequently discovered facts or documents which Responding Party may later obtain, discover or recall.

2. The documents and information which could or would form the basis of responses to the instant Interrogatories, in whole or in part, are still in the process of being identified by Responding Party, and all such relevant documents and information have not yet been identified, examined or produced. In addition, the significance of documents and information which may now be in the possession of Responding Party may only become apparent upon further discovery and review of those documents and information in the context of other documents which have not yet been identified or obtained in the context of later testimony or discovery which may establish their relevance.

3. These Responses are made, and any and all documents are being produced, solely for the purposes of this litigation. Any documents supplied in response to the Requests are being supplied by Responding Party subject to all objections as to competence, relevance, materiality, propriety and admissibility, and to any and all other objections on any ground that would require the exclusion of any document or portion thereof, if such document were offered in evidence in Court, all of which objections and ground are expressly reserved and may be interposed at the time of trial.

4. Responding Party, accordingly, reserves the right to alter or modify any and all Responses set forth herein as additional facts may be ascertained, documents discovered, analyses made, witnesses identified, additional parties identified, legal research completed, and contentions made or expanded.

5. Responding Party objects generally to each and every Interrogatory to the extent it calls for information that is protected by the attorney-client privilege and/or the attorney work product doctrine.

6. Responding Party objects generally to each and every Interrogatory to the extent it requests any information concerning the content of conversations of any other party to this action or documents in the possession of any other party to this action, other than the Responding Party, in that such information is equally accessible to all parties.

7. Responding Party objects to producing any private and/or confidential business or proprietary information or trade secrets.

8. Responding Party objects to these Interrogatories, and each of them, to the extent they are not limited to the subject matter of this action and thus are irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence.

9. Responding Party objects to these Interrogatories, and each of them, to the extent they are unduly burdensome, oppressive, unreasonably cumulative, duplicative and overbroad.

10. Responding Party objects to these Interrogatories, and each of them, to the extent they seek information to which Propounding Party has equal access.

RESPONSES TO INTERROGATORIES

The Preliminary Statement and General Objections are incorporated into each response below, regardless of whether specifically mentioned. The specific objections set forth below are not a waiver, in whole or in part, of any of the foregoing General Objections. Subject to and without waiver of these objections, Responding Party responds below.

INTERROGATORY 1:

State the total amount of your gross annual income (and, if you had more than one source

of income, identify each source separately and provide the amount received from each such source) for each calendar year during the Relevant Time Period and identify all documents reflecting that amount for each such year.

RESPONSE TO INTERROGATORY 1:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome in that it asks Responding Party to identify all documents of any sort that could establish his income or any portion of it. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

INTERROGATORY 2:

Identify all medical providers and health care professionals you have seen as a result of your alleged emotional distress you claim was caused by the alleged actions of the Gawker Defendants or any of them, and identify all documents relating to such providers and professionals.

RESPONSE TO INTERROGATORY 2:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties. Responding Party further objects to this Interrogatory on the ground that it has improper subparts. Responding Party further objects to this Interrogatory on the ground that the emotional distress claim asserted in this litigation is a "garden variety" emotional distress claim, *i.e.*, a claim based on the fact that Gawker Media's conduct is so outrageous to an ordinary person that it was almost certain to cause emotional distress. The assertion of such a claim does not require or permit discovery into Responding Party's intimate medical and/or mental health history.

INTERROGATORY 3:

Identify any and all accountant(s), bookkeeper(s), business attorney(s), and persons who prepared any tax form on your behalf or on behalf of any entity controlled or owned by you during the Relevant Time Period.

RESPONSE TO INTERROGATORY 3:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

INTERROGATORY 4:

Identify any and all facts supporting your claim in the Complaint that Heather Clem

violated your privacy rights by participating in videotaping you having Sexual Relations with her without your knowledge, and identify all documents relating to such claim, and all persons having knowledge of the facts relating to such claim.

RESPONSE TO INTERROGATORY 4:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party further objects to this Interrogatory on the ground that it has improper subparts.

Without waiver of the foregoing, Responding Party responds as follows: Todd and Heather Clem repeatedly requested that Responding Party have sex with her over a two year period, and arranged it so that the activity could occur in a bedroom in her house where, unbeknownst to Responding Party, recording equipment apparently was present. Responding Party believes that Heather Clem, among others, was involved in the recording of Responding Party, and the dissemination of that recording to Gawker Media. Discovery is continuing as to Heather Clem's actions and her role in the events that took place. Discovery also is continuing regarding the documents and witnesses that would show Heather Clem's role; however, persons with knowledge of these facts include Heather and Todd Clem, Responding Party, and Gawker Media and its principals and employees, the whereabouts of whom are all known to Gawker Media and Responding Party.

INTERROGATORY 5:

State each address at which you have resided during the Relevant Time Period, and identify each person with whom you have shared a residence during the Relevant Time Period.

RESPONSE TO INTERROGATORY 5:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that it is so broad on its face that it requires production of irrelevant information. Responding Party further objects to this Interrogatory to the extent that it seeks information that is not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Interrogatory to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

INTERROGATORY 6:

Identify any and all facts supporting your claim that the Video was taken without your knowledge, consent or approval, and identify all documents relating to such claim, and all persons having knowledge of the facts relating to such claim.

RESPONSE TO INTERROGATORY 6:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party further objects to this Interrogatory on the ground that it has improper subparts.

Without waiver of the foregoing, Responding Party responds as follows: Responding Party was not aware at the time he engaged in sexual relations with Heather Clem that the encounter was being recorded, and was never told by the Clems or anyone else that the encounter would be recorded. Responding Party never approved or consented to recording the sexual activity, and would never have done so. There are no writings that show knowledge, consent, or

approval by Responding Party of the recording of the sexual activity with Heather Clem. Discovery is continuing, but persons with knowledge include Heather and Todd Clem and Responding Party, the whereabouts of whom are all known to Gawker Media and Propounding Party.

INTERROGATORY 7:

Identify all facts supporting your claim that the Gawker Defendants, or any of them, acted intentionally and maliciously, as alleged in the Complaint, and identify all documents relating to such claim, and all persons having knowledge of the facts relating to such claim.

RESPONSE TO INTERROGATORY 7:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party further objects to this Interrogatory on the ground that it has improper subparts.

Without waiver of the foregoing, Responding Party responds as follows: The very nature of the Gawker Defendants' actions demonstrate malice and scienter. Such actions include but are not limited to: (1) the decision to publish excerpts of the sex tape without taking any action to determine whether it had a legal right to do so and despite the fact that the tape appeared to be clandestinely recorded; (2) the decision to publish explicit excerpts of the sex tape which were not necessary for any journalistic purpose; (3) the decision to publish a detailed play-by-play narrative of the contents of the remainder of the tape, including gratuitous descriptions of Responding Party's private parts; (4) the decision to use a headline that emphasized the explicit content of the sex tape and urging readers to watch it; (5) the refusal to take the sex tape and sex narrative down or even to remove the explicit footage despite Responding Party's repeated

requests; and (6) the decision to refuse to comply with the Court's temporary injunction order and to flaunt publicly Gawker Media's disobedience of that order. Discovery into the Gawker Defendants' malicious and intentional conduct is continuing. Documents that evidence Gawker Media's malice and intent include, but are not limited to, the web page containing the sex tape and sex narrative, and the web page that was posted in response to the Court's temporary injunction order, as well as Gawker Media's responses to interrogatories and requests for admission relating to the steps it failed to take to determine whether its actions were legal or whether the participants consented to the publication of the Sex Tape. Discovery is continuing and additional documents may be discovered. The persons with knowledge of the Gawker Defendants' malice include Gawker Media's present and former principals, employees, and lawyers, the whereabouts of whom are all known to and equally available to Gawker Media and Propounding Party.

INTERROGATORY 8:

Identify each person whom you believe may have knowledge concerning any of the allegations of your Complaint in this action. As to each such person, state the subject matter about which you believe that person has knowledge and the substance of the facts about which you believe that person has knowledge.

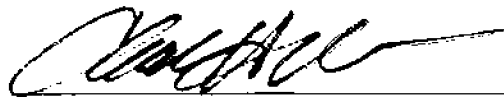
RESPONSE TO INTERROGATORY 8:

Responding Party objects to this Interrogatory to the extent that it seeks information protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Interrogatory on the ground that the requested information is not identified with reasonable particularity. Responding Party objects to this Interrogatory on the ground that the Interrogatory is overbroad and burdensome in that it asks Responding Party to identify all the different potential issues in this case and identify all the potential witnesses with

respect to each of those issues. Responding Party objects to this Interrogatory on the ground that it is vague and ambiguous. Responding Party further objects to this Interrogatory on the ground that it has improper subparts.

Without waiver of the foregoing, Responding Party responds as follows: Responding Party has knowledge of the conduct that was depicted on the sex tape, his lack of consent to the recording and dissemination of the sex tape, and his damages. Heather and Todd Clem have knowledge of the conduct that was depicted on the sex tape, Responding Party's lack of consent to the recording and dissemination of the sex tape, and how the sex tape came to be recorded and disseminated. The present and former principals, employees, and lawyers of Gawker Media have knowledge of how the sex tape came to be recorded and disseminated, Responding Party's damages, the selection and editing process that resulted in the decision to publish the portions of the recording that were published, and the Gawker Defendants' scienter. The whereabouts of these persons are all known to and equally available to Gawker Media and Propounding Party. Discovery is continuing, and additional fact and/or expert witnesses may be discovered or identified.

DATED: August 21, 2013



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VERIFICATION TO FOLLOW

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. First Class Mail this 21 day of August, 2013 to the following:

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EXHIBIT

C

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

TERRY GENE BOLLEA professionally
known as HULK HOGAN,

Plaintiff,

vs.

Case No. 12012447CI-011

HEATHER CLEM; GAWKER MEDIA, LLC
aka GAWKER MEDIA; GAWKER MEDIA
GROUP, INC. aka GAWKER MEDIA;
GAWKER ENTERTAINMENT, LLC;
GAWKER TECHNOLOGY, LLC; GAWKER
SALES, LLC; NICK DENTON; A.J.
DAULERIO; KATE BENNERT, and
BLOGWIRE HUNGARY SZELLEMI
ALKOTAST HASZNOSITO KFT aka
GAWKER MEDIA,

Defendants.

**PLAINTIFF TERRY GENE BOLLEA'S RESPONSES TO GAWKER MEDIA, LLC'S
REQUEST FOR PRODUCTION OF DOCUMENTS**

Plaintiff TERRY GENE BOLLEA (herein "Responding Party") hereby responds to
Request for Production of Documents (Set One) propounded by defendant GAWKER MEDIA,
LLC (herein "Propounding Party") as follows:

PRELIMINARY STATEMENT

Responding Party responds to the Requests for Production subject to, without waiver of,
and expressly preserving: (a) any objections as to the competency, relevance, materiality,
privilege or admissibility of any of the responses or any of the documents identified in any
response hereto; and (b) the right at any time to revise, correct, supplement or clarify any of the
responses herein.

These responses are based upon a diligent investigation undertaken by Responding Party
and his counsel since the service of these Requests. These responses reflect only Responding

Party's current understanding, belief and knowledge regarding the matters about which inquiry was made. Responding Party has not yet had sufficient opportunity to depose or interview all persons who may have knowledge of relevant facts, or to discover or otherwise obtain and review all documents which may have some bearing on this case.

Consequently, there may exist further information, documents and persons with knowledge relevant to these Requests of which Responding Party is not currently aware. As this action proceeds, Responding Party anticipates that further facts, witnesses and documents may be discovered or identified. Without in any way obligating it to do so, Responding Party reserves the right to offer further or different documents, evidence, or information at trial or at any pretrial proceeding. These responses are not in any way to be deemed an admission or representation that there are no further facts, documents or witnesses having knowledge relevant to the subject matter of these Requests.

GENERAL OBJECTIONS

1. The following Responses, and each of them, are based upon information and writings presently available to, and located by, Responding Party and his attorneys. Responding Party has not completed an investigation of the facts or discovery proceedings in this case and has not completed his preparation for trial. The following Responses, and each of them, are made without prejudice to Responding Party's right to produce evidence based on subsequently discovered facts or documents, and to offer such facts or documents in evidence at the time of trial. The fact that Responding Party has responded to a Request should not be taken as an admission that Responding Party accepts or admits the existence of any facts set forth or assumed by such Request, or that such Response constitutes admissible evidence. The following Responses, and each of them, are made without prejudice to the rights of Responding Party to

introduce evidence of any subsequently discovered facts or documents which Responding Party may later obtain, discover or recall.

2. The documents and information which could or would form the basis of responses to the instant Request for Production, in whole or in part, are still in the process of being identified by Responding Party, and all such relevant documents have not yet been identified, examined or produced. In addition, the significance of documents which may now be in the possession of Responding Party may only become apparent upon further discovery and review of those documents in the context of other documents which have not yet been identified or obtained in the context of later testimony or discovery which may establish their relevance.

3. These Responses are made, and any and all documents are being produced, solely for the purposes of this litigation. Any documents supplied in response to the Requests are being supplied by Responding Party subject to all objections as to competence, relevance, materiality, propriety and admissibility, and to any and all other objections on any ground that would require the exclusion of any document or portion thereof, if such document were offered in evidence in Court, all of which objections and ground are expressly reserved and may be interposed at the time of trial.

4. Responding Party, accordingly, reserves the right to alter or modify any and all Responses set forth herein as additional facts may be ascertained, documents discovered, analyses made, witnesses identified, additional parties identified, legal research completed, and contentions made or expanded.

5. Responding Party objects generally to each and every Request to the extent it calls for information that is protected by the attorney-client privilege and/or the attorney work product doctrine.

6. Responding Party objects generally to each and every Request to the extent it requests any information concerning the content of conversations of any other party to this action or documents in the possession of any other party to this action, other than the Responding Party, in that such information is equally accessible to all parties.

7. Responding Party objects to producing any private and/or confidential business or proprietary information or trade secrets.

8. Responding Party objects to the definition of the word “documents” to the extent that Propounding Party seeks documents not in Responding Party’s possession, custody or control.

9. Responding Party objects to these Requests, and each of them, to the extent they are not limited to the subject matter of this action and thus are irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence.

10. Responding Party objects to these Requests, and each of them, to the extent they are unduly burdensome, oppressive, unreasonably cumulative, duplicative and overbroad.

11. Responding Party objects to these Requests, and each of them, to the extent they seek information to which Propounding Party has equal access.

RESPONSES TO REQUESTS FOR PRODUCTION

The Preliminary Statement and General Objections are incorporated into each response below, regardless of whether specifically mentioned. The specific objections set forth below are not a waiver, in whole or in part, of any of the foregoing General Objections. Subject to and without waiver of these objections, Responding Party responds below.

REQUEST 1:

Any and all documents identified in your responses to Defendant Gawker Media, LLC’s

First Set of Interrogatories to Plaintiff (the “Interrogatories”) or consulted by you in connection with the preparation of your responses to the Interrogatories.

RESPONSE TO REQUEST 1:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that it is vague and ambiguous.

Without waiver of the foregoing, Responding Party responds as follows: To the extent non-privileged documents are identified in interrogatory responses and are not equally available to Gawker Media, Responding Party will endeavor to collect and produce them within a reasonable period of time.

REQUEST 2:

Any and all documents in any manner related to the Gawker Defendants, or any of them.

RESPONSE TO REQUEST 2:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome in that it potentially sweeps within its scope documents of little relevance to the case. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks

documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request on the ground that it is vague and ambiguous.

REQUEST 3:

Any and all documents in any manner related to the Video.

RESPONSE TO REQUEST 3:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity.

Without waiver of the foregoing, Responding Party responds as follows: To the extent non-privileged documents exist and are not equally available to Gawker Media, Responding Party will endeavor to collect and produce them within a reasonable period of time.

REQUEST 4:

Any and all documents in any manner related to any communications you had about the Video.

RESPONSE TO REQUEST 4:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and

information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request on the ground that it is vague and ambiguous.

Without waiver of the foregoing, Responding Party responds as follows: To the extent non-privileged documents exist which are relevant or reasonably likely to lead to the discovery of admissible evidence and are not equally available to Gawker Media, Responding Party will endeavor to collect and produce them within a reasonable period of time.

REQUEST 5:

Any and all documents in any manner related to the Gawker Story.

RESPONSE TO REQUEST 5:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity.

Without waiver of the foregoing, Responding Party responds as follows: To the extent non-privileged documents exist and are not equally available to Gawker Media, Responding Party will endeavor to collect and produce them within a reasonable period of time.

REQUEST 6:

Any and all documents concerning any employment by you during the Relevant Time Period.

RESPONSE TO REQUEST 6:

Responding Party objects to this Request to the extent that it seeks documents protected

from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome, in that it asks for all documents that “concern” any employment of Responding Party. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request on the ground that it is vague and ambiguous. Responding Party objects to this Request to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties.

REQUEST 7:

Any and all documents concerning any Sexual Relations you had with any person not your then-wife during the years 2002 to 2006, inclusive.

RESPONSE TO REQUEST 7:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action,

nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

REQUEST 8:

Any and all documents concerning any Sexual Relations you had with Heather Clem during the Relevant Time Period.

RESPONSE TO REQUEST 8:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of Heather Clem.

Without waiver of the foregoing, Responding Party responds as follows: To the extent non-privileged documents exist which are relevant or reasonably likely to lead to the discovery of admissible evidence and are not equally available to Gawker Media, Responding Party will endeavor to collect and produce them within a reasonable period of time.

REQUEST 9:

Any and all documents concerning any communications about Sexual Relations between you and Heather Clem during the Relevant Time Period.

RESPONSE TO REQUEST 9:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of Heather Clem.

Without waiver of the foregoing, Responding Party responds as follows: To the extent non-privileged documents exist which are relevant or reasonably likely to lead to the discovery of admissible evidence and are not equally available to Gawker Media, Responding Party will endeavor to collect and produce them within a reasonable period of time.

REQUEST 10:

Any and all documents concerning any communications with Todd Alan Clem about Sexual Relations during the Relevant Time Period.

RESPONSE TO REQUEST 10:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

Without waiver of the foregoing, Responding Party responds as follows: To the extent non-privileged documents exist which are relevant or reasonably likely to lead to the discovery of admissible evidence and are not equally available to Gawker Media, Responding Party will endeavor to collect and produce them within a reasonable period of time.

REQUEST 11:

Any and all documents concerning any communications with Todd Alan Clem about Sexual Relations between you and Heather Clem during the Relevant Time Period.

RESPONSE TO REQUEST 11:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party

further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

Without waiver of the foregoing, Responding Party responds as follows: To the extent non-privileged documents exist which are relevant or reasonably likely to lead to the discovery of admissible evidence and are not equally available to Gawker Media, Responding Party will endeavor to collect and produce them within a reasonable period of time.

REQUEST 12:

Any and all documents concerning any videotapes you have made of yourself engaged in Sexual Relations during the Relevant Time Period.

RESPONSE TO REQUEST 12:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

Without waiver of the foregoing, Responding Party responds as follows: Responding Party never made a sex tape for the purpose of public dissemination, and thus there are no

responsive, non-privileged documents that relate to any sex tape that Responding Party made for the purpose of public dissemination.

REQUEST 13:

Any and all documents concerning any videotapes made of you engaged in Sexual Relations during the Relevant Time Period.

RESPONSE TO REQUEST 13:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

Without waiver of the foregoing, Responding Party responds as follows: Responding Party is unaware of any recording of his sexual activity made for the purpose of public dissemination other than the video recording with Heather Clem made without his knowledge, and thus there are no responsive, non-privileged documents that relate to any recording of Responding Party having sex that were made for the purpose of public dissemination, other than documents relating to the Heather Clem sex tape. To the extent non-privileged documents exist relating to the Heather Clem sex tape, which are not equally available to Gawker Media, Responding Party will endeavor to collect and produce them within a reasonable period of time.

REQUEST 14:

Any and all documents relating to the purported “commercial value” of your name, image, identity, and persona as referenced in paragraph 32 of the Complaint during the Relevant Time Period.

RESPONSE TO REQUEST 14:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties.

REQUEST 15:

Any and all documents concerning any contracts that you claim were canceled or not renewed as a result of alleged actions by the Gawker Defendants or any of them.

RESPONSE TO REQUEST 15:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the Request is overbroad and

burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request on the ground that it is vague and ambiguous. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

Without waiver of the foregoing, Responding Party responds as follows: Responding Party will endeavor to produce any documents that relate to the termination of Responding Party's endorsement contracts after the Sex Tape was published by Gawker Media, to the extent such documents exist, within a reasonable amount of time.

REQUEST 16:

Any and all documents concerning any commercial opportunities you claim were lost by you as a result of alleged actions by the Gawker Defendants or any of them.

RESPONSE TO REQUEST 16:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request on the ground that it

is vague and ambiguous. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

Without waiver of the foregoing, Responding Party responds as follows: Responding Party will endeavor to produce any documents that relate to the termination of Responding Party's endorsement contracts and Responding Party's inability to obtain work from World Wrestling Entertainment after the Sex Tape was published by Gawker Media, to the extent such documents exist, within a reasonable amount of time. Discovery is continuing and there may have been other such lost opportunities.

REQUEST 17:

Any and all documents concerning the "market value" of your publicity rights as alleged in paragraph 82 of the Complaint.

RESPONSE TO REQUEST 17:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request to the extent that it prematurely calls for expert opinion.

REQUEST 18:

Any and all documents concerning your place of residence during the years 2002 to 2006, inclusive, including any temporary or part-time residences.

RESPONSE TO REQUEST 18:

Responding Party objects to this Request to the extent that it seeks documents protected

from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

REQUEST 19:

Any and all documents concerning any contract or other agreement between you and a third party for which you received compensation during the Relevant Time Period.

RESPONSE TO REQUEST 19:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

REQUEST 20:

Any and all documents concerning your claim that you were set up in the Video,

including without limitation as reported at <http://www.tmz.com/2012/03/07/hulk-hogan-sex-tape>.

RESPONSE TO REQUEST 20:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant information.

Without waiver of the foregoing, Responding Party responds as follows: Responding Party has not yet located any documents that relate to his claim that he was set up (other than the sex tape itself and the Gawker and other media stories about it, which are equally available to Gawker Media), but discovery is continuing.

REQUEST 21:

Any and all documents concerning your statement that “During that time, I don’t even remember people’s names, much less girls,” including without limitation as reported at <http://www.tmz.com/2012/03/07/hulk-hogan-sex-tape-partner-tmz-live/>.

RESPONSE TO REQUEST 21:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties.

REQUEST 22:

Any and all documents concerning the affair you had while married to Linda Hogan as recounted in your autobiography, *My Life Outside the Ring*.

RESPONSE TO REQUEST 22:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

REQUEST 23:

Any and all documents concerning any and all efforts by you to remove the Video or any portion thereof, from other sites on the Internet besides Gawker.com.

RESPONSE TO REQUEST 23:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Without waiver of the foregoing, Responding Party responds as follows: To the extent non-privileged documents exist and are not equally available to Gawker Media, Responding Party will endeavor to collect and produce them within a reasonable period of time.

REQUEST 24:

Any and all documents relating to attempts by you to prevent dissemination or

publication of the Video, or any portion thereof, in any form or media prior to the publication of the Gawker story.

RESPONSE TO REQUEST 24:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Without waiver of the foregoing, Responding Party responds as follows: To the extent non-privileged documents exist and are not equally available to Gawker Media, Responding Party will endeavor to collect and produce them within a reasonable period of time.

REQUEST 25:

Any and all documents concerning any public statements made by you about the Video.

RESPONSE TO REQUEST 25:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request to the extent that the documents requested are in the possession, custody, or control of, or equally available to, Propounding Party.

REQUEST 26:

Any and all documents concerning any public statements made by you about the Gawker Story.

RESPONSE TO REQUEST 26:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request to the extent that the documents requested are in the possession, custody, or control of, or equally available to, Propounding Party.

REQUEST 27:

Any and all documents concerning any damages you believe you have suffered as a result of the publication at www.gawker.com of excerpts of the Video and the Gawker Story.

RESPONSE TO REQUEST 27:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request to the extent that it prematurely calls for expert opinion and analysis. Responding Party further objects to this Request on the ground that it requires Responding Party to produce documents that would not be created until trial.

Without waiver of the foregoing, Responding Party responds as follows: Discovery is continuing regarding Responding Party's damages theories, and Responding Party reserves the right to produce such documents in the future when they are determined.

REQUEST 28:

Any and all documents concerning any security system at the home of Heather and Todd Alan Clem, depicted in the Video, during the Relevant Time Period.

RESPONSE TO REQUEST 28:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Without waiver of the foregoing, Responding Party responds as follows: Responding Party does not have any responsive documents in Responding Party's possession, custody, or control.

REQUEST 29:

Any and all documents concerning any emotional distress purportedly suffered by you

arising from the alleged actions of the Gawker Defendants or any of them.

RESPONSE TO REQUEST 29:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties. Responding Party further objects on the ground that Responding Party is asserting a "garden variety" emotional distress claim, alleging that Gawker Media's conduct was of the sort that by its very nature would cause a reasonable person emotional distress. Such claims do not require or permit discovery of Plaintiff's medical or mental health records.

Without waiver of the foregoing, Responding Party responds as follows: Responding Party is unaware of any responsive documents within Responding Party's possession, custody, or control at this time. Discovery is continuing.

REQUEST 30:

Any and all documents concerning any medical providers or health care professionals you have seen from January 1, 2006 to the present.

RESPONSE TO REQUEST 30:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties. Responding Party further objects on

the ground that it is asserting a “garden variety” emotional distress claim, alleging that Gawker Media’s conduct was of the sort that by its very nature would cause a reasonable person emotional distress. Such claims do not require or permit discovery of Plaintiff’s medical or mental health records.

REQUEST 31:

Any and all documents concerning the time and effort you have devoted to developing your career “as a professional champion wrestler, motion picture actor, and television personality” as alleged in the Complaint.

RESPONSE TO REQUEST 31:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties.

REQUEST 32:

Any and all documents concerning your reputation, goodwill, and brand as alleged in the Complaint.

RESPONSE TO REQUEST 32:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

REQUEST 33:

Any and all documents concerning your purported acquisition of the copyright to the Video.

RESPONSE TO REQUEST 33:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request to the extent it seeks confidential settlement communications.

Without waiver of the foregoing, Responding Party responds as follows: Responding Party will endeavor to collect and produce the documents through which Todd Clem transferred his copyright interest in the Video to Responding Party, within a reasonable period of time.

REQUEST 34:

Any and all documents concerning the settlement of your claims against Todd Alan Clem, including any documents containing communications between you or your agents or attorneys and the agents or attorneys of Todd Alan Clem.

RESPONSE TO REQUEST 34:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request to the extent it seeks confidential settlement communications. Without waiver of the foregoing, Responding Party responds as follows: Responding Party will endeavor to collect and produce the documents which comprise the settlement agreement between Responding Party and Todd Clem.

REQUEST 35:

Any and all documents published about you in any newspaper, magazine, book, or other hard-copy or electronically published publication during the Relevant Time Period.

RESPONSE TO REQUEST 35:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and

information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that documents requested are in the possession, custody, or control of, or equally available to, Propounding Party.

REQUEST 36:

Any and all audio recordings, video recordings, transcripts, notes, or other documents that relate in any manner to the Video or the Gawker Story.

RESPONSE TO REQUEST 36:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request to the extent that documents requested are in the possession, custody, or control of, or equally available to, Propounding Party.

REQUEST 37:

Any and all documents related in any manner to any damages you claim to have suffered as the result of the alleged conduct of the Gawker Defendants or any of them.

RESPONSE TO REQUEST 37:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request to the extent that it prematurely calls for expert opinion

and analysis. Responding Party further objects to this Request on the ground that it requires Responding Party to produce documents that would not be created until trial. Responding Party objects to this Request to the extent that it is also repetitive and covered by other discovery requests.

Without waiver of the foregoing, Responding Party responds as follows: Discovery is continuing regarding Responding Party's damages theories, and Responding Party reserves the right to produce such documents in the future when they are determined.

REQUEST 38:

Any and all documents related in any manner to any special damages you claim to have suffered as the result of the alleged conduct of the Gawker Defendants or any of them.

RESPONSE TO REQUEST 38:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request to the extent that it prematurely calls for expert opinion and analysis. Responding Party further objects to this Request on the ground that it requires Responding Party to produce documents that would not be created until trial. Responding Party objects to this Request to the extent that it is also repetitive and covered by other discovery requests.

Without waiver of the foregoing, Responding Party responds as follows: Discovery is continuing regarding Responding Party's damages theories, and Responding Party reserves the right to produce such documents in the future when they are generated or identified.

REQUEST 39:

Any and all documents related in any manner to your claim in your Complaint that

Gawker Defendants, or any of them, acted with “actual malice.”

RESPONSE TO REQUEST 39:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request to the extent that documents requested are in the possession, custody, or control of, or equally available to, Propounding Party.

Without waiver of the foregoing, Responding Party responds as follows: Discovery is continuing, and Responding Party reserves the right to produce such documents in the future when they are generated or identified.

REQUEST 40:

Your tax returns, state and federal, including all related schedules and attachments or similar forms reflecting the receipt of income and the payment of taxes, during the Relevant Time Period.

RESPONSE TO REQUEST 40:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party’s privacy and the privacy of third parties.

REQUEST 41:

Any and all documents concerning your financial condition during the Relevant Time Period including, but not limited to, financial statements, financial summaries, financial reports, and statements of financial condition.

RESPONSE TO REQUEST 41:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request on the ground that it is vague and ambiguous. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

REQUEST 42:

Any and all documents reflecting any testimony provided by you in connection with any judicial or administrative proceeding to which you were a party or witness.

RESPONSE TO REQUEST 42:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the Request is overbroad and

burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

REQUEST 43:

Any and all documents related to any criminal, civil or administrative proceeding to which you were a party, subject or target, including without limitation any divorce proceeding (including without limitation from Linda Hogan).

RESPONSE TO REQUEST 43:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine. Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome. Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

REQUEST 44:

Any loan or mortgage application signed by you during the Relevant Time Period.

RESPONSE TO REQUEST 44:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that it is so broad on its face that it requires production of irrelevant documents and information. Responding Party further objects to this Request to the extent that it seeks documents that are not relevant to the claims, defenses, or subject matter of the instant action, nor reasonably calculated to lead to the discovery of admissible evidence. Responding Party objects to this Request to the extent that it seeks to invade Responding Party's privacy and the privacy of third parties.

REQUEST 45:

To the extent not produced in response to the foregoing requests, any and all documents that refer or relate in any manner to the privacy interests you claim were violated by the Gawker Defendants or any of them.

RESPONSE TO REQUEST 45:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the ground that the Request is overbroad and burdensome.

REQUEST 46:

To the extent not produced in response to the foregoing requests, any and all documents that relate in any manner to the conduct of Gawker Defendants that you have challenged in your Complaint.

RESPONSE TO REQUEST 46:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party objects to this Request on the grounds that the Request is overbroad, burdensome, and harassing.

REQUEST 47:

To the extent not produced in response to the foregoing requests, any and all documents that relate in any manner to the conduct of Heather Clem that you have challenged in your Complaint, including without limitation any documents relating to your claim that Heather Clem participated in creating the Video and your claim that Heather Clem was involved in disclosing the Video to the Gawker Defendants, or any of them.

RESPONSE TO REQUEST 47:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party also objects to this Request to the extent that it calls for documents that are not in its possession, custody, or control.

REQUEST 48:

To the extent not produced in response to the foregoing requests, any and all documents

that support, refute, contradict, or otherwise in any manner relate to the allegations in your Complaint.

RESPONSE TO REQUEST 48:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity.

REQUEST 49:

Any and all documents related to any person that you intend to or may call to testify as an expert witness at trial of this matter, including without limitation documents relating to the qualifications of such person, documents on which such person will rely to formulate his or her expert opinion, and documents that embody any form of such person's expert opinion.

RESPONSE TO REQUEST 49:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request to the extent that it prematurely calls for expert opinion and analysis. Responding Party further objects to this Request on the ground that it requires Responding Party to produce documents that would not be created until trial. Without waiver of the foregoing, Responding Party responds as follows: Responding Party has not yet engaged any experts to testify at trial in this case.

REQUEST 50:

To the extent not produced in response to the foregoing requests, any and all documents

that you intend to or may rely upon during trial of this action, either as evidence or for purposes of impeachment, or for refreshing the recollection of a witness.


RESPONSE TO REQUEST 50:

Responding Party objects to this Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege and/or attorney work product doctrine.

Responding Party objects to this Request on the ground that the requested documents are not identified with reasonable particularity. Responding Party further objects to this Request on the ground that it requires Responding Party to produce documents that would not be created until trial.

DATED: August 21, 2013

Respectfully submitted,



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Counsel for Plaintiff

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. First Class Mail this 21 day of August, 2013 to the following:

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Attorney

EXHIBIT

D

From: Gregg D. Thomas <gthomas@tlolawfirm.com>
Sent: Friday, August 23, 2013 12:22 PM
To: charder@hmafirm.com
Cc: Ken Turkel; cramirez@BajoCuva.com; dhouston@houstonatlaw.com; Seth Berlin; Paul Safier; Alia Smith; Rachel E. Fugate
Subject: Discovery Responses

Charles: We are in receipt of Mr. Bollea's responses to Gawker's and AJ Daulerio's interrogatories and Gawker's request for production. We will address the substance of those responses next week, with the aim of resolving any disagreements and avoiding additional motions practice. In the meantime, we ask that, as soon as possible, you furnish us with Mr. Bollea's verifications, as well as your initial production. Both are past due. Thank you. Gregg.

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EXHIBIT

E

August 26, 2013

VIA ELECTRONIC MAIL

Charles J. Harder, Esq.
Harder Mirell & Abrams LLP
1801 Avenue of the Stars, Suite 1120
Los Angeles, CA 90067

**Re: *Bollea v. Clem, Gawker Media, LLC, et al.*,
No. 12012447-CI-011**

Dear Charles:

Pursuant to Florida Rule of Civil Procedure 1.380(a)(2), I write to address plaintiff Terry Gene Bollea's responses to Gawker Media, LLC's and A.J. Daulerio's first set of written discovery requests, which plaintiff served on August 22, 2013.¹

Plaintiff's responses are deficient in nearly every respect. Plaintiff has relied on general and other boilerplate objections, where doing so is not permitted under Florida rules. He has failed to produce a single document, even where he concedes that Gawker is entitled to documents, despite having had more than 60 days to search for and collect them. He has failed to produce a privilege log, despite the fact that, in many cases, he has refused to produce documents of grounds of privilege and, in many instances, the apparent claims of privilege appear to be unfounded. Finally, and most significantly, plaintiff is categorically refusing to provide any information or documents with respect to over fifty percent of Gawker's discovery requests, including, in some cases, where Gawker is merely asking for documents supporting specific allegations in the Complaint. Viewing the responses in their entirety, it is hard to conclude that plaintiff or his counsel have made a good faith effort to comply with the discovery obligations imposed by the applicable discovery rules. We ask that you correct the deficiencies outlined below immediately.

¹ Following a 30-day extension, plaintiff's responses were due on August 21, 2013. Pursuant to Florida Rule of Judicial Administration 2.516(b)(1), plaintiff was required to serve the responses electronically on that date, but apparently did so only by mail (to date, we have not received the mail copy). We reserve all rights in connection with plaintiff's failure to timely serve his responses.

Reliance on general objections. Florida law is clear that a party may “*not object* [to discovery requests] *in general*”; rather, objections to discovery must “be specific and supported by a detailed explanation why the [request is] objectionable.” *Carson v. City of Fort Lauderdale*, 173 So. 2d 743, 745 (Fla. 2d DCA 1965) (quoting *United States v. Nysco Labs., Inc.*, 26 F.R.D. 159, 161 (E.D.N.Y. 1960)) (emphasis in original); *see also Christie v. Hixson*, 358 So. 2d 859 (Fla. 4th DCA 1978) (*per curiam*) (holding that non-specific objections were insufficient and remanding with instructions that the objecting party provide substantive answers to interrogatories as a result); Fla. R. Civ. P. 1.340(a). Indeed, as one court explained, “boilerplate objection[s],” provided “without particulars,” constitute “discovery abuse and should not be condoned.” *First Healthcare Corp. v. Hamilton*, 740 So. 2d 1189, 1193 & n.1 (Fla. 4th DCA 1999), *disapproved of on unrelated grounds by Fla. Convalescent Ctrs. v. Somberg*, 840 So. 2d 998 (Fla. 2003). Here, plaintiff has both impermissibly asserted “general objections” and, in his responses to individual discovery requests, has improperly relied on non-specific, blanket objections (*see, e.g.*, Request for Production (“RFP”) Nos. 6-7, 14, 19, 21-22, 31-32, 36, 40-41, 44-48; Gawker Int. Nos. 1, 8, 13; Daulerio Int. Nos. 1, 3). Please withdraw plaintiff’s general objections as well as the non-specific, blanket objections he has asserted in response to individual requests. While Gawker and Mr. Daulerio believe that plaintiff now is obliged to provide substantive responses to such requests based on his failure to assert proper objections, and reserve their rights in that regard, plaintiff is at a minimum obliged to assert any objections he may have to individual requests in a manner that is sufficiently specific so that their merit can be properly evaluated, as contemplated by the applicable rules.

Failure to produce any documents. Plaintiff’s responses promise, as to those Document Requests for which he concedes Gawker is entitled to responsive documents (RFP Nos. 1, 3-5, 8-11, 13, 15-16, 23-24, 33-34), that he and you will “endeavor to collect and produce them within a reasonable period of time.” This is unacceptable. We recognize that a party may on occasion be unable to produce all responsive documents at the initial deadline and some documents will continue to be produced on a rolling basis after the due date passes. We are unaware of any authority that permits a party to delay producing *any* documents, until some unspecified future time, especially given that (a) plaintiff had a full 65 days to assemble and produce the documents, (b) plaintiff opposed any extension for Gawker to respond to discovery, requiring contested motion to obtain a 30-day extension and, (c) following that extension, Gawker served its full document production on the date that its responses were due. This is particularly the case where many of the documents appear to be readily available to both plaintiff and to you as his counsel (just to name one example, documents relating to the settlement of Mr. Bollea’s claims against Bubba the Love Sponge Clem in this action (RFP Nos. 33-34)). Please produce all non-privileged responsive documents immediately.

Failure to produce a privilege log. Mr. Bollea’s responses to Gawker’s document requests purport to withhold multiple categories of documents on grounds of attorney-client privilege or the attorney work-product doctrine. Indeed, these privileges are referenced in every

single one of Mr. Bollea's responses to Gawker's document requests, as well as in every one of his responses to both Gawker's and Mr. Daulerio's interrogatories. Yet no privilege log was produced. In particular, a number of the claims of privilege would appear to be unfounded, *see, e.g.*, Resp. to RFP Nos. 14 (documents concerning the "commercial value" of Mr. Bollea's name), 15 (documents concerning contracts cancelled or not renewed as a result of Gawker's actions), 17 (documents concerning the "market value" of Mr. Bollea's publicity rights), and 25-26 (documents concerning public statements made by Mr. Bollea about the subject matter of the lawsuit), although we are unable to assess the validity of plaintiff's privilege claims fully without a privilege log. *See* Fla. R. Civ. P. 1.280(b)(5). Please withdraw privilege objections where they are obviously improper and, for any information or documents as to which a privilege legitimately attaches, produce a full privilege log immediately.

Requests relating to Mr. Bollea's claims for economic damages. In this case, Mr. Bollea contends that his "goodwill, commercial value, and brand have been substantially harmed as a result" of Gawker's conduct, Am. Compl. ¶ 31, and that Gawker has engaged in "unauthorized commercial exploitation of his publicity rights," *id.* at ¶ 34. Yet, plaintiff has objected in their entirety to requests seeking documents related to the "commercial value" of Mr. Bollea's "name, image and persona" (RFP No. 14), the "market value" of his publicity rights (RFP No. 17), commercial engagements covering the period before and after the publication of the Gawker Story and Excerpts (RFP No. 19), the time and effort dedicated to creating his entertainment career and public persona (RFP No. 31), and his "reputation, goodwill, and brand" (RFP No. 32). In addition, plaintiff has refused to provide responses to interrogatories seeking information related to the "commercial value" of Mr. Bollea's "name, image, identity and persona" (Gawker Int. No. 1), or the "market value" of his publicity rights (Gawker Int. No. 11). There can be no legitimate objection to responding to discovery requests that merely seek the factual basis for Mr. Bollea's claimed injuries and alleged damages, and, in many cases, simply request documents and/or facts supporting specific allegations made in the operative complaint.

There is similarly no legitimate basis for refusing to provide information relating to Mr. Bollea's income (Daulerio Int. No. 1), his accountants or bookkeepers (Daulerio Int. No. 3), his prior employment (RFP No. 6), or copies of his tax returns or other documents stating his income (RFP Nos. 40-41, 44). To the extent Mr. Bollea is claiming that Gawker harmed his ability to exploit his name and image commercially, or to benefit economically through future business or employment opportunities, Gawker is entitled to information that would allow it to assess Mr. Bollea's income and professional opportunities before and after the publication of the Gawker Story and Excerpts. Although Mr. Bollea may avail himself of the protective order if he wishes to keep that information confidential (as noted in my letter dated August 15, 2013), defendants are entitled to discovery of such information and documents central to his claims.

In addition, Mr. Bollea passingly mentions two professional opportunities he alleges he may have lost as the result of the publication of the Gawker Story and Excerpts. But he provides virtually no information about them that would allow defendants to assess those claims or to

pursue additional discovery allowing them to test those contentions. For example, plaintiff contends that “an endorsement deal with Rent-A-Center was terminated at or near the time of publication” and that he “believes that these events may have been causally connected.” *See* Resp. to Gawker Int. No. 2. However, he provides no other information concerning that agreement or communications about it, including, for example, contact information for Rent-A-Center, the identities of person(s) with whom plaintiff or his agents dealt, the date or amount of the contract, the other terms of the agreement (including, significantly, its term), or any communications about the agreement or the reasons it was purportedly terminated. *See also* Resp. to Gawker Int. No. 3 (same with respect to Rent-A-Center and World Wrestling Entertainment); Resp. to Gawker Int. No. 20 (same). We request that plaintiff provide meaningful responses to these interrogatories and that he produce all documents related thereto.

Please produce the above-requested information and all non-privileged responsive documents immediately.

Requests relating to Mr. Bollea’s purported emotional injuries. Mr. Bollea has similarly failed to provide proper responses to discovery requests related to his purported emotional injuries. Mr. Bollea has alleged that Gawker’s actions caused him “tremendous emotional distress,” Am. Compl. ¶ 31, and has asserted two causes of action specifically premised on that contention (Counts Six and Seven, alleging intentional and negligent infliction of emotional distress). Yet, plaintiff has objected in their entirety to discovery requests seeking information about Mr. Bollea’s medical and mental health history (Gawker Int. No. 19; Daulerio Int. No. 2; RFP Nos. 29-30).

If Mr. Bollea sought treatment for his alleged emotional distress, then Gawker is entitled to know both that he sought such treatment and whether the evaluations of the medical professionals who provided that treatment support his claims of alleged injury. If Mr. Bollea did not seek such treatment, Gawker is nevertheless entitled to information about his medical and mental health records, and his healthcare providers, in order to determine, *inter alia*, (a) whether Mr. Bollea was experiencing emotional distress from other causes prior to the events giving rise to the lawsuit; (b) whether there was any change in Mr. Bollea’s physical or mental health following those events; and (c) whether there were other circumstances affecting Mr. Bollea’s medical and mental health at that time that might have also caused emotional distress of which he complains. Please provide that information and all non-privileged responsive documents immediately.

Requests relating generally to Mr. Bollea’s damages. Plaintiff has also refused to provide documents or information in response to requests seeking the basis generally for Mr. Bollea’s damages claims (RFP Nos. 27, 37-38; Gawker Int. No. 12), stating only that “[d]iscovery is continuing.” While we recognize that not every aspect of Mr. Bollea’s damages claims may be finalized at this juncture, it is not plausible that, in the over ten months plaintiff has been litigating his claims against Gawker, he and his counsel have not identified a single

document or fact to support Mr. Bollea's damages theories. While plaintiff may – and is in fact obliged to – supplement his responses as he and you acquire new information on this topic, Gawker is entitled to facts and documents reasonably within plaintiff's current possession, custody or control so it may develop its defenses. Please provide that information and all non-privileged responsive documents immediately.

Requests relating to Mr. Bollea's privacy claims. With only a few exceptions (RFP Nos. 8-11; Gawker Int. No. 10), plaintiff has categorically objected to any discovery requests relating to his sex life, despite the centrality of such facts to the privacy issues he has placed at issue in this case, including without limitation the extent to which he maintained the privacy of such conduct (RFP Nos. 7, 12-13, 20-22; Gawker Int. Nos. 4-5, 8-9). As we have explained previously, there is no basis for limiting the scope of discovery in this manner.

Specifically, in this case, Mr. Bollea contends that the subject of the Gawker Story and Excerpts is entirely private, while Gawker contends that its commentary about Mr. Bollea's sex life and the intersection of sex and celebrity is newsworthy, especially in light of the public image Mr. Bollea has cultivated. Accordingly, the following are legitimate topics of inquiry in the context of this case:

- Mr. Bollea's extra-marital affairs during his marriage to Linda Bollea (to whom he was married when the events depicted in the Video took place), including without limitation all information about his affair with Mrs. Clem (RFP Nos. 7, 8, 20, 21, 22; Gawker Int. No. 8). This is a subject about which Mr. Bollea has himself publicly and repeatedly spoken, both in connection with the Video and otherwise (including in his autobiography) and both before and after the Gawker Story and Excerpts were published.
- Whether there are other recordings of Mr. Bollea having sexual relations (RFP Nos. 12-13; Gawker Int. Nos. 4-5). Although plaintiff has artificially truncated his response to this interrogatory, responding only that he "has never made a recording of his sexual activity for the purpose of public dissemination" (Resp. to Gawker Int. Nos. 4-5), the question is whether Mr. Bollea has willfully participated in such recordings and whether such recordings were maintained as private or were disseminated to third parties (even if in plaintiff's view such dissemination was not sufficiently widespread for him to characterize as "public"). Such facts are relevant both to Mr. Bollea's repeated contention that, in this case, he did not know the sexual encounter was being recorded, and his general claim that the contents of the Gawker Story and Excerpts are private and that publishing mostly non-explicit excerpts of them in these circumstances was "highly offensive."

As explained in my letter dated August 15, 2013, we understand that some of these issues may be sensitive, and it was for that reason that we initiated the entry of an agreed protective order, the terms of which you carefully negotiated on plaintiff's behalf. To the extent that Mr. Bollea believes that his responses to this line of discovery requests should be maintained as confidential, he may avail himself of the protective order. But he cannot restrict Gawker's right to develop its defenses, especially not when he has put his own sexual life at issue both in his pleadings and affidavits filed in this case, and in his many public statements about the events at issue. Please provide the requested information and all non-privileged responsive documents immediately.

Requests relating generally to Mr. Bollea's allegations. Gawker served a handful of standard requests seeking documents and/or information about Mr. Bollea's allegations (RFP Nos. 2, 45, 46, 39, 47-48; Gawker Int. No. 13), such as "documents the support, refute, contradict, or otherwise in any manner relate to the allegations in your Complaint" (e.g., RFP No. 48), or "documents in any manner related to the Gawker Defendants" (e.g., RFP No. 2). These are customary requests, used to ensure that no relevant information falls through the cracks. Yet plaintiff has provided no documents or information in response to them, and instead has simply responded with boilerplate language stating general objections. That is insufficient. Please provide the requested information and all non-privileged responsive documents immediately.

Requests relating to Mr. Bollea's prior sworn testimony. There is also no basis for withholding documents related to other judicial or administrative proceedings to which Mr. Bollea was a party and/or witness (RFP Nos. 42-43). For example, Mr. Bollea's sworn testimony from his divorce proceedings is directly relevant to Mr. Bollea's efforts to cultivate his public image and hide the true nature of his family life from the public eye, as well as the newsworthiness of the publication at issue. Gawker is further entitled to Mr. Bollea's prior sworn testimony in prior proceedings for impeachment purposes. Please produce the requested materials immediately.

Requests relating to Mr. Bollea's public writings, statements and appearances. Mr. Bollea has objected to Gawker's discovery requests regarding public statements or appearances he has made that are relevant to this lawsuit, contending that such statements are equally available to Gawker (Gawker Int. Nos. 6-7; RFP Nos. 25-26, 35-36). In fact, unlike Gawker, Mr. Bollea has direct knowledge of when and where he made such statements, and likely has publicist and/or manager who keeps track of such things. In any event, we are aware of no authority that would permit plaintiff to withhold responsive documents or information, not protected by any privilege, within his possession, custody and control on the theory that his opponent might be able to assemble the information from other sources.

Potentially incorrect information. Finally, there are at least two interrogatories for which the responses that were provided appear false or at least incomplete. First, the response to Gawker Interrogatory No. 10 appears to state that the sexual encounter recorded on the Video

occurred in 2008, but the Complaint alleges that it occurred in 2006. *See* Am. Compl. ¶¶ 1, 26. As there seems to be a substantial amount of information suggesting the Complaint is correct on this score, we wanted to give Mr. Bollea the opportunity to correct his verified response. Please advise which date is correct and, if it is 2006, please serve an amended (and verified) interrogatory response.

Second, Mr. Bollea's response to Gawker Interrogatory No. 15 states only that he visited the home shared by Mr. and Mrs. Clem numerous times. *See also* Resp. to Gawker Int. No. 17 ("At some point," plaintiff "may have slept over."). Our understanding based on public statements made by Mr. Clem, including on the Howard Stern show on October 17, 2012, is that Mr. Bollea lived with Mr. and Mrs. Clem for an extended period as he was divorcing from Linda Bollea. *See* Gawker's Resp. to Plaintiff's Int. No. 8. As this obviously bears on his knowledge of the surveillance system in the Clem residence, please supplement Mr. Bollea's response to this interrogatory to provide complete information.

* * * * *

In sum, we request that plaintiff (a) serve amended responses that do not rely on general objections, (b) produce all non-privileged responsive documents immediately, (c) produce a proper privilege log immediately, (d) immediately provide full and complete responses to Request for Production Nos. 1-17, 19-27, 29-48, Gawker Interrogatory Nos. 1-13, 15, 17, 19-20, and Daulerio Interrogatory Nos. 1-3 (with the plaintiff verifying the amended interrogatory responses), and (e) clarify the two factual anomalies identified above, serving verified, amended responses if necessary with respect to those two issues. Given that Gawker has provided comprehensive discovery responses while plaintiff is stonewalling on virtually every aspect of the discovery process, including to take advantage of a month-long extension only to provide responses that fall far short of meeting the requirements of the applicable discovery rules, we will expect plaintiff to bring his discovery responses into compliance by the end of the week.

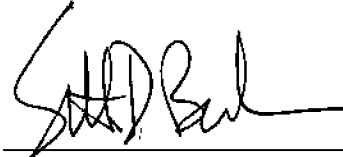
I am willing to discuss any of the foregoing by telephone at your convenience this week. It is my hope that through this letter and telephone discussions we would either avoid or at least significantly narrow the scope of a motion to compel. Please be advised, however, that if plaintiff continues to pursue my clients aggressively while at the same time refusing to comply with even the most basic of his discovery obligations, and does not immediately undertake to correct those deficiencies, we will have no choice but to file a motion to compel and will request

Charles J. Harder, Esq.
August 26, 2013
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that plaintiff and his counsel be held responsible for the attorneys' fees and costs associated with doing so. Thank you.

Sincerely,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

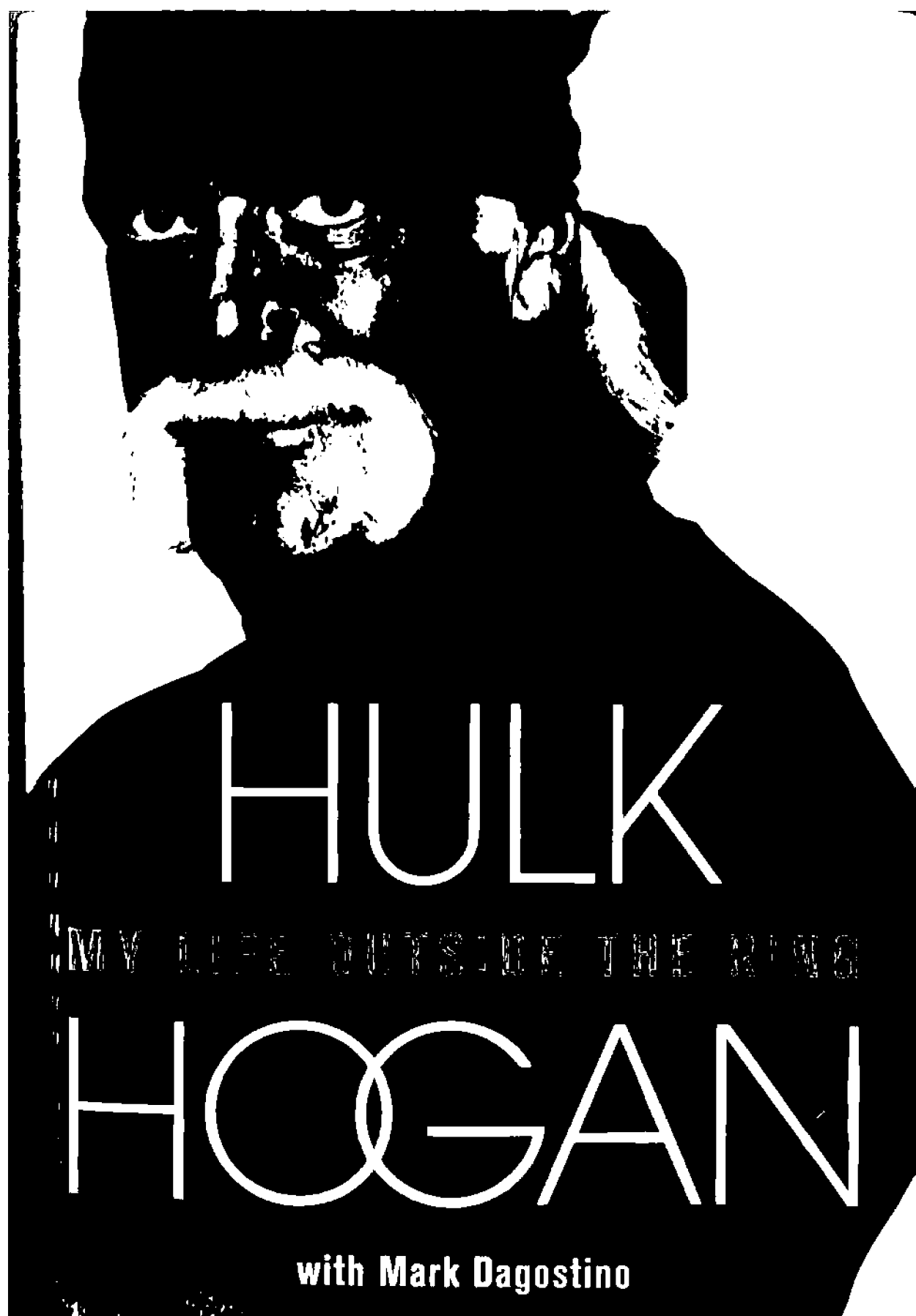


By: _____
Seth D. Berlin

cc: Other Counsel of Record

EXHIBIT

F



HULK

MY LIFE OUTSIDE THE RING

HOGAN

with Mark Dagostino

MY LIFE OUTSIDE THE RING

HULK HOGAN

with MARK DAGOSTINO

St. Martin's Press  New York

INTRODUCTION

Three pounds. I remember thinking, *Three pounds of pressure is all it takes to pull this thing.* Do you know how easy that would've been? I'd been staring at myself in the bathroom mirror for two days straight. *Two days.* A gun was in my hand and my finger was on the trigger and I was thinking, *It would just be so easy.* I felt like a snake charmer. I was headed down this dark road convincing myself it was a road I wanted to take. The weird thing was, I didn't even remember bringing that gun into the bathroom. *When did I pick this up? Was it in the safe? Did I have it in the car with me the other night?* I bought that gun years ago to protect my family. A last resort. Was I really gonna use it for this?

I popped half a Xanax and took another swig from the big bottle of Captain Morgan's I'd set on the counter.

The house was empty. Too quiet. I don't do well alone. My kids were gone. My wife was gone. She had left before, but this was different. She didn't want to fix things. She'd filed for divorce—actually went to a lawyer and filed papers after twenty-three years. My mind kept running through it all, over and over. *My daughter thinks I'm the reason Linda left. There's so much I want her to understand, but she won't talk to me. She won't hear my side of the story.*

My thoughts drifted to my son, Nick. Nearly four months had passed since he got into that terrible car accident. And every day

since, the details of that August night played over and over in my mind.

It's not often that a man can pinpoint the moment when life as he knew it began to unravel. For me, it was just after seven thirty on the night of August 26, 2007.

After a long day out on the boat, I'd grabbed a quick shower and hopped in my black Mercedes to head to dinner. Nick and his three buddies had gone just ahead of me to grab a table at Arigato, this Japanese steak house a few miles away. I assumed they'd all gone together in my yellow pickup.

I was wrong.

The fast-moving thunderheads that passed through that afternoon left the roads soaking wet. I remember my tires splashing through puddles as I left the big house on Willadel Drive. Just as I left, Nick's friend Danny drove up in my silver Viper with his pal Barry in the passenger seat. Their windows were down, and they looked a little panicky as they pulled up beside me.

"Nick got in an accident!" they said.

Great, I thought. *This is all I need*, thinking that it was just a fender bender.

"Where?" I asked.

They told me on Court Street near Missouri Boulevard—not much more than a mile from where we were.

For some reason it didn't occur to me that it might be a life-threatening situation. With all the stoplights on that road, I thought they meant that Nick had rear-ended someone, or maybe someone rear-ended Nick. I was a little confused as to why Danny was driving my Viper, but I still thought Nick was in my yellow truck.

So off we went. I turned east and headed down Court Street with the sun getting ready to set behind me. All the lights were green, so I was cruising along when all of a sudden I saw flashing red-and-blues up ahead.

What the hell?

I couldn't have left the house more than three or four minutes after Nick. But as I looked toward the intersection of Court and Missouri there were police cars in the middle of the road blocking traffic in both directions.

That's when I saw it: a yellow vehicle smashed up into a palm tree in the center divider.

Oh my God. Nick!

I panicked. I needed to get closer. Traffic was stopped, so I turned into the oncoming lanes and raced down Court Street the wrong way.

As I hit Missouri I just stared at this mangled yellow wreck on the tree, thinking, *Holy shit*. It didn't look like my truck at all. I was confused for a moment. I had this weird little flash of relief. *Danny and Barry got it wrong. That's not my truck. Phew! Nick's okay.*

Then all of a sudden it hit me. *Oh my God. That's my yellow Supra!*

My stomach clenched up in a knot. I pulled the Mercedes up on the curb, got out, and started running toward the car. "Nick? Nick!?" A cop tried to hold me back, but there was no way. "That's my son!" I yelled as I pushed past him.

The yellow Supra was the car Nick loved most. I had no doubt he was behind the wheel. But I couldn't see him.

I could see his best friend, John Graziano, slumped over in the passenger seat. Nick was nowhere to be found. I thought he'd been thrown from the car, so I'm looking up in the tree, on the ground, across the street. By this time another police car is pulling up, and I hear sirens from the fire trucks coming up the road.

The car had spun around somehow and hit the tree backward. As I reached the front of it a policeman pulled John back. I saw his head. His skull was cracked open at the top of his forehead. It was awful. I almost fainted. It buckled me. John was like a member of my family. And the bleeding was bad—like it wasn't gonna stop.

I was right there leaning on the side of the car with my hands when I finally saw Nick—my only son—folded up like an accordion with his head down by the gas pedal. "Nick!" I yelled. I could see he

was alive. He turned his head, stuck his hand out, and gave me a thumbs-up. For a second I was relieved. Then the chaos set in. The sound of engines. Sirens. A saw. Paramedics pulling John from the passenger seat. So much blood.

I can't even describe to you how panicked I was. The police and firefighters seemed panicked, too. The Supra's removable targa top was off, and you could see that the cockpit of the vehicle was pretty intact, but the rest of the car was just mangled. The fiberglass shell on this thing had crumpled like a toy.

All of a sudden the firefighters started cutting the side of the car to try to get Nick out, and I was standing right there when I heard my boy screaming, "No, no, no, stop! Stop! You're gonna cut my legs off. Dad! Just unbuckle the seat belt. I can get out!" So I reached in and pushed the button on his seat belt, and Nick just crawled right out. His wrist was broken. His ribs were cracked. None of that mattered. He was gonna be okay.

But not John. John wasn't moving.

I pressed the gun to my cheek. I tried not to look in the mirror.

In between flashbacks I kept obsessing about Linda. *How could she leave in the middle of all this? How could she?*

I even turned the pity party on myself. I'm a mess. I'm in so much pain. My hip. My knees. I don't even know if I can wrestle anymore. What the hell am I gonna do? My back hurts so bad I have to sit just to brush my teeth. In this damned chair. Right here.

I can't get out of this thing.

My God. Look at me. . . .

As the paramedics tended to Nick, I called Linda. She was out in L.A., where she had been living for months. No one knew we were separated then. No one knew how bad things were between us. But she was my wife, and she was still my first call.

thought that no matter how bad things got, we would always be together.

I love Linda unconditionally. I mean it. It goes far beyond the marriage vows. Far beyond the legal contract. In my mind, love is forever. That's what I believe, and what this whole terrible situation made me believe more than ever: that once you love someone, if you truly love someone, love never goes away. Am I a hopeless romantic? Am I a numbskull? I don't know, but if you stop believing in that, then what else is there to believe in?

I mean, even if you argue, even if you separate, even if you can't live together and decide to get divorced, if you truly love someone you will always, *always* love them.

As soon as I got a chance, I called Brooke to talk to her about the whole situation, and my daughter told me, "Dad, Mom hasn't loved you for a really long time." As a husband, as a father, to have your own kids tell you they think it might actually be better if their mother and I don't live together anymore? It was devastating. It messed with everything I ever thought I knew about life and love and marriage. Marriage was supposed to be forever.

Knowing all of that, knowing what true love is, and knowing that Linda was openly telling her own children that she didn't love me anymore, I was left with one big question—a mind-blowing question that I've been wrestling with ever since that phone call on the *Gladiators* set kicked me in the chest. *Did Linda ever really love me?*

FACING THE MIRROR

A week and a half after I got that call, *Gladiators* went on break and I flew home to Tampa. Alone. Nick stayed at his mom's house there in L.A., and Brooke had found her own apartment in Miami.

So I walked into the big house on Willadel, this giant place that was always full of noise and energy with the kids running around, and their friends, and especially this time of year with

Linda going over the top with holiday decorations that rivaled something you'd see in Rockefeller Center in New York City. I walked in, and it was dead silent. I'm looking at all these pictures of my family. The kids. Me and Linda. I just couldn't take it.

I made it all the way upstairs and saw Linda's empty closet—this closet of hers that's bigger than most people's whole bedrooms. The whole thing was just empty.

I walked into Nick's room, and kept asking myself over and over again why he was upset with me. He kept telling me nothing was wrong. He said everything was fine. But then he'd spend 90 percent of his time with his mother, and when he was with me he had this "woe is me" look in his eyes. I just didn't get it.

I sat on Brooke's bed and asked the same questions. She had moved out and was barely talking to me anymore. What had I done?

I felt miserable, and after traveling back from California, I was so tired I was wired. Do you know that feeling? My mind was racing, and I just couldn't be alone. I couldn't take it. So I grabbed my keys and headed right back out the front door.

I wound up at a place called Oz. A strip club. I was so naive, I never even stepped foot into a strip club until somewhere around 1992. No joke. All I ever thought about was wrestling and making money, and then when I had a family all I thought about was getting home to see them in between matches on the road. Man, I had no idea what I had been missing. And when Hulk Hogan walks into a strip club it's not like any normal guy walking in. The whole place kind of goes wild, you know? The girls get all excited. "Oh, Hulk..."

I went out seeking company that night, and I had plenty of company at Oz. "Hulk, you're so strong!" "Hulk, oh my." I sat there and drank and drank and enjoyed the company of all these adoring young women till the place closed down. Until the house lights came up, I felt like I was the Wizard of Oz!

I had a pretty good buzz on by the time I came back to the house. Don't even get me started on how stupid that was to be out drinking and driving. Imagine if the cops had pulled me over.

After what Nick had been through? They would've thrown me in jail just to make an example out of me. I wouldn't have blamed them one bit. My mind was so messed up, every decision I made was bad. I could've killed someone. In fact, I could have killed someone in more ways than one, because I think I brought my gun with me. I think I had it in the car. Can you imagine the headlines if I'd been pulled over drunk with a gun in my lap? Why the hell did I bring the gun in the first place? Or did I? I honestly can't remember. I was really a mess.

So I walked back into the house in that ridiculous condition, and there I was confronted by the photos of my so-called happy family again. Going to the strip club, drinking, getting all that attention from the girls—it didn't solve a damned thing. In fact, it made me feel worse. I felt more alone than ever.

That's when I sat down on my chair in the bathroom. A big bottle of Captain Morgan's and an open bottle of Xanax found their way to the counter. The gun found its way to that counter, too. I can't tell you how. I can't tell you if I sat down with the intent to kill myself. I don't know the answer.

I used to keep that gun in a safe, the same safe where Linda kept some of her really expensive jewelry, but I'd have these crazy paranoid thoughts sometimes. After Phil Hartman, the *Saturday Night Live* star, was shot and killed by his own wife, I started having these visions of Linda getting all drunk or coked up and grabbing that gun and shooting me in my sleep. What's really crazy is Phil Hartman's wife was from Thousand Oaks, and when we had a home in California it was right there. Linda and Phil's wife used to drink at the same bar down at the bottom of the hill.

So I started moving that gun. I'd hide it in different places in the house and then forget where I hid it and have to search for it, worrying the whole time that Linda had it. I'd make myself crazy over this stupid gun that I'd only fired twice, ever, at a shooting range. It was nuts. So I have no idea where I picked up the gun that night, or why, but there it was. Waiting for me.

I know that some time the next morning I took a phone call from Eric Bischoff. He was real concerned. He wanted to make

sure I was okay. I told him I was. I wasn't. I took a call from my neighbor Steve Chapman, too. He was real worried. I told him I was fine. The phone rang a few times after that, and I just didn't pick up. I didn't want to talk to anyone. I just sat there, popping half a Xanax at a time—not the little pills, but these big horse-pill Xanax—and washing them down with the rum.

There were times when I thought that whole bottle of pills would go down easy. A bunch of those pills with the rest of that bottle. I'd heard that wasn't a painful death—that you'd just go to sleep and that's it.

Then I noticed the gun in my hand.

I was careless with it—running it up and down my right leg. Scratching the side of my nose with it. Feeling the cold steel of the barrel as it dragged across my cheek. I'd learned years earlier to never put your finger on the trigger unless you were ready to fire. It was basic gun safety: You keep your index finger pointed straight ahead, and you don't curl it over that trigger unless you mean it. But I kept my finger pressed right to that trigger the whole time. Right on it. Firm.

Just three pounds of pressure is all it would take—nothing for these big hands of mine—and if I moved that finger like an inch in the right direction, like flicking off a light switch, I could have blown my brains out.

I remember how it tasted when I put the barrel in my mouth, and the sound it made when the metal clicked against my teeth.

It was real weird behavior—like I was psyching myself up to do the deed. Mystifying myself into thinking it was the right thing to do.

People might look at a guy like me and think, *He would never commit suicide*. But I was so depressed I just kept thinking, *This would be so easy*. I understand now how it's possible for *anyone* to get themselves into such a trance that the actual suicide could happen by accident. It's seductive. And like I said before, when I make my mind up on something, you can pretty much count on the fact that I'm gonna follow through. Whatever the cost. Whatever the pain. Whatever it takes: When I'm in, I'm in all the way.

Add to that the haze of the pills and the booze and it's some sort of miracle that the gun just didn't go off. Heck, the tips of my fingers are still numb from that Tombstone incident way back in the '90s. Which means I probably could have pulled that trigger without even knowing I'd done it.

Boom! The end.

Two days into this mess, my phone rang again. I looked at it. I didn't recognize the number, but it was a 310 area code. The Beverly Hills area. Not many people have my cell phone number. *Could it be Nick or Brooke calling from that rental house Linda's got in L.A.?* For some reason, at that second, I was real curious. So I picked it up.

"Hi Terry. It's Laila."

It was Laila Ali—my cohost on *Gladiators*.

"I just wanted to see how you're doing."

This girl I barely knew had picked up on the fact that I was having a real hard time on the *Gladiators* set. Days had gone by, and she was still thinking about it. She was thinking about me. I was floored. Why did she care?

The funny thing is, I'd met her dad a bunch of times. He was the guest referee at the very first *WrestleMania*—holding my arm up when I won the championship belt. Right there in the ring with me in the heart of *Hulkamania*. Whenever we saw each other, the greatest boxer on earth used to hug me and whisper in my ear, "You're the greatest of all time, Hogan." I got such a kick out of that—that this guy I idolized, who was truly the greatest, would say that to me. And here his daughter is calling me up out of the blue to see how I'm doing. She cares how I'm doing. She wants to know if I'm okay.

You know what? I wasn't okay. Not until that moment. For some reason, that phone call snapped me out of it. I can't explain why. Who knows why things happen the way they do? Was there a *reason* it happened? I can't help but think, *Yes*. I've never told

her this, and she might not even understand the depth of the impact she had on me, but Laila Ali saved my life. With a simple phone call. By simply thinking about me, and caring enough to call me and ask me how I was doing. At that moment, that call saved my life.

Laila invited me to go to church with her—to a place called the Agape Church (pronounced “a-GAH-pay”), a place I had never heard of and that had absolutely no meaning to me at that moment. But I loved the idea that she would offer something like that. Something so personal.

At that time in my life, for somebody who was almost a stranger to say, “Hey, we love you and we miss you and we care about you, and we wanna make sure you’re doing good,” was just shocking. It was so the polar opposite of what I’d been hearing from Linda for so long.

She didn’t stop there, either. She told me to call her back if I needed to talk. “Here’s my other numbers in case you can’t get ahold of me,” she said. “If you get a hold of my husband, have him page me or call me so I don’t miss your call.” She was being so nice to me. She didn’t want anything from me, or need anything from me. She just wanted to make sure I was okay. It caught me so off guard.

When I hung up that phone I broke down crying like a baby.

Maybe other people get phone calls like that every day. Maybe I’ve been living under a rock all these years. But for me, that was it. After I stopped crying I got up from my chair. I took a shower. I ate. I slept. That feeling of bleeding inside, that emptiness, that depression, wasn’t gone, but the flow of it had slowed just enough that I could move again.

The next day I flew back to L.A. I went back to the set. I gave Laila a big hug when I saw her, and I got back to work. I never did go to church with her. We were only there for a few more days of shooting, and I just don’t think I fully absorbed what a good idea