

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.

**DEFENDANT GAWKER MEDIA, LLC'S RESPONSES TO
PLAINTIFF'S FOURTH REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Florida Rule of Civil Procedure 1.350, Defendant Gawker Media, LLC ("Gawker") hereby provides this response to Plaintiff's Fourth Requests for Production of Documents dated May 23, 2014.

REQUESTS AND RESPONSES

SECOND REQUEST NO. 113:¹ All DOCUMENTS that constitute or RELATE TO YOUR "Media Kit" for each GAWKER WEBSITE, including but not limited to YOUR advertising rates, sizes, formats, targeting options, audience profiles, case studies and web traffic information, and which were created or were in effect at any time during the period January 1, 2011, through the present.

RESPONSE: Gawker objects to this Request on the grounds that, by seeking not only those documents that "constitute" its Media Kit, but also "all documents" that "relate to"

¹ Plaintiff previously served, and Gawker responded to, Requests for Production Nos. 113-116. *See* Defendant Gawker Media, LLC's Responses to Plaintiff's Third Request for Production of Documents, served December 20, 2013. Although plaintiff has served new requests for production with these same numbers in his Fourth Request for Production of Documents, Gawker has, to minimize further confusion, responded herein using these duplicate request numbers. All told, therefore, plaintiff has served 130 requests for production on Gawker.

Gawker's Media Kit, the Request (1) seeks documents protected by the attorney-client privilege and under the work product doctrine and (2) is overbroad and unduly burdensome.²

Gawker further objects to this Request to the extent that it purports to incorporate the definition of "YOU," "YOUR," and "GAWKER" set forth in the introductory section of Plaintiff's Fourth Request for Production of Documents. Gawker's response is limited to documents as to which it, as the responding party, has within its possession, custody and control.

Gawker further objects to this Request on the grounds that it seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. In that regard, Gawker objects to this Request to the extent that it seeks information about websites other than gawker.com, because the Court has already sustained Gawker's objection to providing such information. *See* Order dated February 26, 2014 at ¶ 5 (sustaining Gawker's objections to producing documents concerning traffic to, and revenue generated by, websites other than gawker.com).

Subject to and without waiving these objections, Gawker will produce the current version of its Media Kit (which also may be found at: <http://advertising.gawker.com/>) as well as the one earlier version of its Media Kit that it has been able to locate from the requested period.

SECOND REQUEST NO. 114: All DOCUMENTS that constitute or RELATE TO YOUR advertising rates for each GAWKER WEBSITE, including but not limited to all rates based on cost per impression ("CPM"), cost per click ("CPC") and cost per engagement ("CPE"), and which were created or were in effect at any time during the period January 1, 2011, through the present.

² In connection with Gawker's Responses to Plaintiff's Fourth Request for the Production of Documents, Gawker will provide a log of documents, if any, that (a) have been either withheld or redacted as privileged under the attorney client privilege and/or protected by the work product doctrine which were created prior to the commencement of the Lawsuit, as that term is defined in Plaintiff's First Request for Production of Documents to Gawker, (b) would be responsive to Requests, and (c) are not otherwise subject to another objection asserted herein.

RESPONSE: Gawker objects to this Request on the grounds that, by seeking not only documents sufficient to show its advertising rates, but also all documents that “relate to” this subject, the Request (1) seeks documents protected by the attorney-client privilege and under the work product doctrine and (2) is overbroad and unduly burdensome.

Gawker further objects to this Request to the extent that it purports to incorporate the definition of “YOU,” “YOUR,” and “GAWKER” set forth in the introductory section of Plaintiff’s Fourth Request for Production of Documents. Gawker’s response is limited to documents as to which it, as the responding party, has within its possession, custody and control.

Gawker further objects to this Request on the grounds that it seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. In that regard, Gawker objects to this Request to the extent that it seeks information about websites other than gawker.com, because the Court has already sustained Gawker’s objection to providing such information. *See* Order dated February 26, 2014 at ¶ 5 (sustaining Gawker’s objections to producing documents concerning revenue generated by websites other than gawker.com).

Gawker further objects to this Request on the grounds that it is duplicative of plaintiff’s Request No. 93, in response to which Gawker has already produced more than 15,000 pages of documents, including all of its advertising insertion orders (which reflect rate information charged to each advertiser) for the period from 2009 through March 2014. *See* GAWKER 1608_C to GAWKER 16708_C.

SECOND REQUEST NO. 115: DOCUMENTS sufficient to show website traffic, clicks, hits, visitors, page views, impressions and/or engagements at each of the GAWKER WEBSITES from January 1, 2011 to the present, including the websites GAWKER.COM,

DEADSPIN.COM, GIZMODO.COM, IO9.COM, JALOPNIK.COM, JEZEBEL.COM, KOTAKU.COM and LIFEHACKER.COM and any of their respective sub-sites.

RESPONSE: Gawker objects to this Request on the grounds that it is duplicative of plaintiff's Request Nos. 37 and 39.

To the extent that this Request seeks the production of documents relating to traffic for websites other than gawker.com, Gawker objects on the grounds that such documents are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. In that regard, Gawker objects because the Court has already sustained Gawker's objection to providing such information, including in response to plaintiff's Request No. 39. *See* Order dated February 26, 2014 at ¶ 5. Moreover, as Gawker has repeatedly advised plaintiff, traffic data for all Gawker websites is publicly available through Quantcast.com – *e.g.*, www.quantcast.com/deadspin.com, www.quantcast.com/gizmodo.com, etc.

To the extent that this Request seeks the production of documents relating to traffic for gawker.com, Gawker objects on the grounds that it has already produced such documents through March 2014, and additional information remains available at www.quantcast.com/gawker.com. Plaintiff's repeated requests for traffic data (this is now the third such request) are unduly burdensome, given the minimal relevance of traffic data for the site some 18 months after the post at issue was published.

Subject to and without waiving these objections, Gawker will produce traffic data for www.gawker.com for the period from March 17, 2014 to June 30, 2014, and respectfully refers plaintiff to documents GAWKER 1148-1185 and GAWKER 18331-18333 for traffic data for www.gawker.com from January 1, 2012 to March 17, 2014.

SECOND REQUEST NO. 116: All DOCUMENTS and COMMUNICATIONS that RELATE TO any proposed equity, debt or other security offering by YOU during the period January 1, 2011, through the present.

RESPONSE: Gawker objects to this Request on the grounds that by requesting “all documents and communications” related to this subject, the Request (1) seeks documents protected by the attorney-client privilege and under the work product doctrine, and (2) is overbroad and unduly burdensome.

Gawker further objects to this Request to the extent that it purports to incorporate the definition of “YOU,” “YOUR,” and “GAWKER” set forth in the introductory section of Plaintiff’s Fourth Request for Production of Documents. Gawker’s response is limited to documents as to which it, as the responding party, has within its possession, custody and control.

Gawker further objects to this Request on the grounds that it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Gawker further objects to this Request on the grounds that it seeks information Gawker has already provided in response to Interrogatory No. 12 and in the sworn deposition testimony of Gawker’s corporate designee, both of which disclosed that (1) GMGI owns 100% of Gawker Media, LLC (Resp. to Interrog. No. 12; Kidder Dep. Tr. at 44:22-44; 60:19-21) and 100% of Blogwire Hungary Szellemi Alkotást Hasznosító, KFT, now known as “Kinja, KFT” (“Blogwire Hungary”) (Resp. to Interrog. No. 12; Kidder Dep. Tr. 47:21-24; 48:21-24), and (2) GMGI is not publicly traded (Kidder Dep. Tr. at 59:6 – 60:10).

REQUEST NO. 117: All DOCUMENTS that constitute or RELATE TO the cost per user, cost per acquisition and/or cost per action charged or incurred by GAWKER for each of the GAWKER WEBSITES, including the home page or any page, article or audiovisual material

therein, from January 1, 2011, to the present, including the websites GAWKER.COM, DEADSPIN.COM, GIZMODO.COM, IO9.COM, JALOPNIK.COM, JEZEBEL.COM, KOTAKU.COM and LIFEHACKER.COM and any of their respective sub-sites.

RESPONSE: Gawker objects to this Request on the grounds that the undefined terms “cost per user,” “cost per acquisition” and “cost per action charged” are vague and ambiguous, such that Gawker is unable to determine what documents plaintiff seeks, including without limitation because Gawker does not use such terms in its day-to-day operations.

To the extent that Gawker understands this Request, it further objects on the grounds that by requesting “all documents” that “relate to” this topic, this Request appears to (1) seek documents that may be protected by the attorney-client privilege and under the work product doctrine, (2) be overbroad and unduly burdensome, and (3) seek documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, including without limitation to the extent that it seeks information about websites other than *gawker.com*, given that the Court has already sustained Gawker’s objection to providing information for websites other than *gawker.com*. *See* Order dated February 26, 2014 at ¶ 5 (sustaining Gawker’s objections to producing documents concerning revenue and traffic information for websites other than *gawker.com*).

Gawker further objects to this Request to the extent that it purports to incorporate the definition of “YOU,” “YOUR,” and “GAWKER” set forth in the introductory section of Plaintiff’s Fourth Request for Production of Documents. Gawker’s response is limited to documents as to which it, as the responding party, has within its possession, custody and control.

Subject to and without waiving these objections, and interpreting this Request to seek information concerning the purchase and/or sale of traffic, Gawker states that it does not

purchase or sell traffic (nor has it done so at any time within the relevant period), and thus does not believe that it has documents responsive to this Request within its possession, custody or control. In an abundance of caution, Gawker also states that it (a) provides bonuses to its staff based on overall traffic to a site (as previously disclosed to plaintiff, *see* S. Kidder Dep. Tr. at 116:13 – 136:10; 153:4-19; Gawker’s Suppl. Response to Interrog. No. 13 (dated March 18, 2014)), and (b) recently began making traffic-based payments to certain non-staff contributors (*see* <http://joel.kinja.com/introducing-recruits-1520191540>), which Gawker discloses even though such payments did not begin until nearly 18 months after the post at issue was published.

To the extent that Gawker has misunderstood this Request, it is willing to consider a revised Request from plaintiff that explains precisely the type of information he is seeking.

REQUEST NO. 118: All DOCUMENTS that constitute or RELATE TO the average revenue per user (“ARPU”) charged or incurred by GAWKER for each of the GAWKER WEBSITES, including the home page or any page, article or audiovisual material therein, from January 1, 2011, to the present, including the websites GAWKER.COM, DEADSPIN.COM, GIZMODO.COM, IO9.COM, JALOPNIK.COM, JEZEBEL.COM, KOTAKU.COM and LIFEHACKER.COM and any of their respective sub-sites.

RESPONSE: Gawker objects to this Request on the grounds that, by seeking “all documents” that “relate to” this topic it seeks information protected by the attorney-client privilege and under the work product doctrine.

Gawker further objects to this Request to the extent that it purports to incorporate the definition of “YOU,” “YOUR,” and “GAWKER” set forth in the introductory section of Plaintiff’s Fourth Request for Production of Documents. Gawker’s response is limited to documents as to which it, as the responding party, has within its possession, custody and control.

Gawker further objects to this Request on the grounds that it seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. In addition, Gawker objects to this Request to the extent that it seeks information about websites other than gawker.com, because the Court has already sustained Gawker's objection to providing such information. *See* Order dated February 26, 2014 at ¶ 5 (sustaining Gawker's objections to producing documents concerning revenue generated by websites other than gawker.com).

Subject to and without waiving these objections, Gawker states that it does not measure "average revenue per user," and thus does not believe that it has any documents responsive to this Request in its possession, custody or control.

REQUEST NO. 119: All DOCUMENTS and COMMUNICATIONS that RELATE TO all revenue generated by each of the GAWKER WEBSITES from January 1, 2011, to the present, including the websites GAWKER.COM, DEADSPIN.COM, GIZMODO.COM, IO9.COM, JALOPNIK.COM, JEZEBEL.COM, KOTAKU.COM and LIFEHACKER.COM and any of their respective sub-sites.

RESPONSE: Gawker objects to this Request on the grounds that by requesting "all documents and communications" that "relate to all revenue," this Request (1) seeks information protected by the attorney-client privilege and under the work product doctrine, and (2) is overbroad and unduly burdensome.

Gawker further objects to this Request on the grounds that it is duplicative of plaintiff's Request Nos. 38, 40 and 93. To the extent that this Request seeks the production of documents relating to revenue for websites other than gawker.com, Gawker objects on the grounds that such documents are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. In that regard, Gawker objects because the Court has already sustained Gawker's

objection to providing such information, including in response to plaintiff's Request No. 40. *See* Order dated February 26, 2014 at ¶ 5 (sustaining Gawker's objections to producing documents concerning revenue generated by websites other than gawker.com).

To the extent that this Request seeks revenue information for gawker.com and for Gawker Media, LLC generally, Gawker further objects to this Request on the grounds that it seeks documents Gawker has already produced in response to Request Nos. 38 and 93, including without limitation:

- GAWKER 1147_C (statement of monthly revenue for gawker.com);
- GAWKER 18321_C (updated statement of monthly revenue for gawker.com);
- GAWKER 1430_C (income statement for Gawker Media, LLC);
- GAWKER 18323_C (updated income statement for Gawker Media, LLC);
- GAWKER 1431_C to 1434_C (balance sheets for Gawker Media, LLC);
- GAWKER 18319_C to 18320_C (updated balance sheets for Gawker Media, LLC);
- GAWKER 1439_C (statement of monthly revenue for Gawker Media, LLC);
- GAWKER 18322_C (updated statement of monthly revenue for Gawker Media, LLC);
- GAWKER 1608_C to GAWKER 16708_C (more than 15,000 pages of advertising insertion orders for period from 2009 through mid-March 2014).

Plaintiff's repeated requests for supplemental revenue data (this is now the third such request) are unduly burdensome, given the minimal relevance of the company's or the gawker.com site's revenues for a time period some 18 months after the post at issue was published.

Subject to and without waiving these objections, Gawker states that it will produce an updated balance sheet, income statement, and statement of monthly revenue for both Gawker Media, LLC and gawker.com for 2014 (*i.e.*, through June 30, 2014).

REQUEST NO. 120: All financial statements, including but not limited to balance sheets, income statements (which shall include identification of all revenue sources and expenses), statements of retained earnings and cash flows, and statements of changes in financial position, for Gawker Media, LLC, including each of the GAWKER WEBSITES, covering all periods from January 1, 2011 through the present.

RESPONSE: Gawker objects to this Request on the grounds that by requesting “all financial statements,” this Request is unduly burdensome and overbroad.

Gawker further objects to this Request on the grounds that it is duplicative of plaintiff’s Request Nos. 38, 40 and 93. To the extent that this Request seeks the production of documents relating to revenue for websites other than gawker.com, Gawker objects on the grounds that such documents are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. In that regard, Gawker objects because the Court has already sustained Gawker’s objection to providing such information, including in response to plaintiff’s Request No. 40. *See* Order dated February 26, 2014 at ¶ 5 (sustaining Gawker’s objections to producing documents concerning revenue generated by websites other than gawker.com).

To the extent that this Request seeks revenue information for gawker.com and for Gawker Media, LLC generally, Gawker further objects to this Request on the grounds that it seeks documents Gawker has already produced in response to Request Nos. 38 and 93, including without limitation:

- GAWKER 1147_C (statement of monthly revenue for gawker.com);

- GAWKER 18321_C (updated statement of monthly revenue for gawker.com);
- GAWKER 1430_C (income statement for Gawker Media, LLC);
- GAWKER 18323_C (updated income statement for Gawker Media, LLC);
- GAWKER 1431_C to 1434_C (balance sheets for Gawker Media, LLC);
- GAWKER 18319_C to 18320_C (updated balance sheets for Gawker Media, LLC);
- GAWKER 1439_C (statement of monthly revenue for Gawker Media, LLC);
- GAWKER 18322_C (updated statement of monthly revenue for Gawker Media, LLC);
- GAWKER 1608_C to GAWKER 16708_C (advertising insertion orders for period from 2009 through mid-March 2014).

Plaintiff's repeated requests for supplemental revenue data (this is now the third such request) is unduly burdensome, given the minimal relevance of the company's revenues some 18 months after the post at issue was published.

Subject to and without waiving these objections, Gawker states that it will produce an updated balance sheet, income statement, and statement of monthly revenue for both Gawker Media, LLC and gawker.com for 2014 (*i.e.*, through June 30, 2014).

REQUEST NO. 121: All financial statements, including but not limited to balance sheets, income statements (which shall include identification of all revenue sources and expenses), statements of retained earnings and cash flows, and statements of changes in financial position, for Kinja KFT f/k/a Blogwire Hungary Szellemi Alkotast Hasznosito KFT, covering all periods from January 1, 2011, through the present.

RESPONSE: Gawker objects to this Request on the grounds that it seeks financial statements related to Blogwire Hungary, a separate entity that is not the party to which these Requests are directed or the party responding to them. For the avoidance of doubt, Gawker further objects to this Request on the grounds that (1) by requesting “all financial statements,” this Request is unduly burdensome and overbroad, (2) financial statements for an entity that played no role in the allegedly tortious conduct at issue are not relevant to this action or likely to lead to the discovery of admissible evidence, and (3) the exercise of this court’s jurisdiction over Blogwire Hungary is currently on appeal to the Second District Court of Appeal.

REQUEST NO. 122: All DOCUMENTS that constitute or RELATE TO the number of visitors to each of the GAWKER WEBSITES from January 1, 2011, to the present, including the websites GAWKER.COM, DEADSPIN.COM, GIZMODO.COM, IO9.COM, JALOPNIK.COM, JEZEBEL.COM, KOTAKU.COM and LIFEHACKER.COM and any of their respective sub-sites, who used YOUR discussion/publishing platform, “Kinja,” including the resulting conversion rate (which, for this purpose, shall be defined as the proportion of visitors to the GAWKER WEBSITES who “join[ed] the discussion on Kinja” through third party websites, including Facebook, Twitter and/or Google).

RESPONSE: Gawker objects to this Request on the grounds that it is vague and confusing, and Gawker is unable to determine precisely what documents plaintiff is seeking, including without limitation because of (1) the Request’s use and definition of the term “conversion rate,” which, as best as Gawker understands the term, Gawker does not use or measure in its day-to-day operations, and (2) its reference to “visitors to the GAWKER WEBSITES who ‘join[ed] the discussion on Kinja’ through third party websites, including Facebook, Twitter and/or Google,” since visitors may register as users of Gawker’s websites

using their Facebook, Twitter or Google login credentials, but they do not “join the discussion” through those websites themselves.

Gawker further objects to this Request on the grounds that by requesting “all documents” that “relate to” this topic, this Request appears to (1) seek documents protected by the attorney-client privilege and under the work product doctrine, and (2) be overbroad and unduly burdensome.

Gawker further objects to this Request to the extent that it purports to incorporate the definition of “YOU,” “YOUR,” and “GAWKER” set forth in the introductory section of Plaintiff’s Fourth Request for Production of Documents. Gawker’s response is limited to documents as to which it, as the responding party, has within its possession, custody and control.

To the extent that this Request appears to seek some subset of documents relating to traffic data, Gawker objects to this Request on the grounds that (a) it is duplicative of plaintiff’s Request No. 39 and Plaintiff’s Second Request No. 115 (*see note 1 supra*), (b) Gawker has already produced, and is continuing to produce, substantial traffic data, and (c) the Request seeks the production of documents relating to traffic for websites other than gawker.com, given that the Court has already sustained Gawker’s objection to providing such information, including in response to plaintiff’s Request No. 39. *See* Order dated February 26, 2014 at ¶ 5 (sustaining Gawker’s objections to producing documents concerning traffic information for websites other than gawker.com).

To the extent that this Request appears to seek documents reflecting traffic data related to visitors to Gawker’s websites who were also using and logged into the Kinja software platform used to operate those websites, Gawker further objects to this Request on the grounds that documents relating to users of the Kinja software platform are neither relevant nor reasonably

calculated to lead to the discovery of admissible evidence given that Gawker did not commence using the Kinja software platform for publishing or facilitating comments on gawker.com until approximately April 2013, some six months after the post at issue in this action was published. Moreover, except for some limited testing, Gawker did not begin collecting login data from users of the Kinja software platform until October 25, 2013, more than a year after the post was published.

Subject to and without waiving these objections, Gawker states that it will produce reports it generated from Google Analytics reflecting:

(a) visitors to gawker.com between January 1, 2011 and June 30, 2014, who were also logged into the Kinja software platform (*i.e.*, for the full period of plaintiff's request);

(b) visitors to gawker.com between October 25, 2013 and June 30, 2014, who were also logged into the Kinja software platform (*i.e.*, starting on the date on which such data started routinely being collected);

(c) visitors to gawker.com who registered and created a log-in using their credentials from Facebook, Twitter, or Google, or who registered using a "Burner" log-in, between January 1, 2011 and June 30, 2014 (*i.e.*, for the full period of plaintiff's request); and

(d) visitors to gawker.com who registered and created a log-in using their credentials from Facebook, Twitter, or Google, or who registered using a "Burner" log-in, between October 25, 2013 and June 30, 2014 (*i.e.*, starting on the date on which such data started routinely being collected).

In an effort to be responsive to plaintiff's Request, Gawker generated these documents from Google Analytics, but cautions that, (a) as reflected on the reports, they are based on an extremely small sample size (as processed by Google Analytics); (b) as a result they do not

necessarily provide reliable data concerning the users who logged in or registered, or what credentials they used; and (c) they do not therefore provide the type of data that Gawker typically relies upon in its business operations.

To the extent that Gawker has misunderstood this Request, it is willing to consider a revised Request from plaintiff that explains precisely the type of information he is seeking.

REQUEST NO. 123: All DOCUMENTS that constitute or RELATE TO the use, retention, collection, sale and/or transmission of data collected by YOUR discussion/publishing platform, “Kinja,” including the use, retention, collection, sale and/or transmission of the data collected as a result of visitors to the GAWKER WEBSITES “join[ing] the discussion on Kinja” through third party websites, including Facebook, Twitter and/or Google, for the period January 1, 2011, to the present.

RESPONSE: Gawker objects to this Request on the grounds that it is vague and confusing, and Gawker is unable to determine precisely what documents plaintiff is seeking, including without limitation because of the Request’s reference to “visitors to the GAWKER WEBSITES ‘join[ing] the discussion on Kinja’ through third party websites, including Facebook, Twitter and/or Google,” since visitors may register as users of Gawker’s websites using their Facebook, Twitter or Google login credentials, but they do not “join the discussion” through those websites themselves.

Gawker further objects to this Request on the grounds that by requesting “all documents” that “relate to” this topic, this Request appears to (1) seek documents protected by the attorney-client privilege and under the work product doctrine, and (2) be overbroad and unduly burdensome.

Gawker further objects to this Request to the extent that it purports to incorporate the definition of “YOU,” “YOUR,” and “GAWKER” set forth in the introductory section of Plaintiff’s Fourth Request for Production of Documents. Gawker’s response is limited to documents as to which it, as the responding party, has within its possession, custody and control.

To the extent that this Request appears to seek some subset of documents relating to the collection of traffic data, Gawker objects to this Request on the grounds that (a) it is duplicative of plaintiff’s Request No. 39 and Plaintiff’s Second Request No. 115 (*see* note 1 *supra*), (b) Gawker has already produced, and is continuing to produce, substantial traffic data, and (c) the Request seeks the production of documents relating to traffic for websites other than gawker.com, given that the Court has already sustained Gawker’s objection to providing such information, including in response to plaintiff’s Request No. 39. *See* Order dated February 26, 2014 at ¶ 5 (sustaining Gawker’s objections to producing documents concerning traffic information for websites other than gawker.com).

To the extent that this Request appears to seek documents concerning visitors to Gawker’s websites who were also using and logged into the Kinja software platform used to operate those websites, Gawker further objects to this Request on the grounds that documents relating to users of the Kinja software platform is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence given that Gawker did not commence using the Kinja software platform for publishing or facilitating comments on gawker.com until approximately April 2013, some six months after the post at issue in this action was published. Moreover, except for some limited testing, Gawker did not begin collecting login data from users of the Kinja software platform until October 25, 2013, more than a year after the post was published.

Subject to and without waiving these objections, and to the extent that Gawker understands this Request, Gawker will produce its privacy policy in effect in October 2012, which describes the collection, retention and use of data about website visitors. As stated therein, Gawker does not sell or transmit such data, and thus has no non-privileged documents in its possession, custody or control responsive to the portion of this Request seeking documents relating to the sale or transmission of user data.

To the extent that Gawker has misunderstood this Request, it is willing to consider a revised Request from plaintiff that explains precisely the type of information he is seeking.

REQUEST NO. 124: All DOCUMENTS that constitute or RELATE TO COMMUNICATIONS between any GAWKER officers, managers, or employees and any officers, managers, or employees of digital news media sites, including without limitation TMZ, Vice, Huffington Post, Politico, BuzzFeed, Bleacher Report, Mashable, Business Insider, etc., sent or received at any time during the period of January 1, 2011, through the present, that RELATE TO the SEX VIDEO and/or POSTED SEX VIDEO.

RESPONSE: Gawker objects to this Request on the grounds that, by seeking all documents that “relate to” communications with third parties, it seeks information protected by the attorney-client privilege and under the work product doctrine.

Gawker further objects to this Request to the extent that it purports to incorporate the definition of “YOU,” “YOUR,” and “GAWKER” set forth in the introductory section of Plaintiff’s Fourth Request for Production of Documents. Gawker’s response is limited to documents as to which it, as the responding party, has within its possession, custody and control.

Gawker further objects to this Request on the grounds that it is duplicative of plaintiff’s Request Nos. 1, 3, 5, 7, 10, 11, 12, 24 and 33, among others. In connection with plaintiff’s First

Request for the Production of Documents, Gawker undertook extensive (and expensive) searches of the email accounts of numerous of Gawker's officers and employees (and former employees) for information about the plaintiff, which by definition included documents that relate to the Gawker Story and/or the Excerpts. As the result of that search, Gawker produced, on July 25, 2013, all non-privileged responsive documents about the plaintiff resulting from these searches, including communications with "digital news media sites." *See, e.g.*, GAWKER 00140, 00146, 00152, 00165, 00167 (emails from TMZ); GAWKER 00166 (email from Radar Online); GAWKER 00181 (email from Gothamist.com); GAWKER 00182-00185, 00188-00189 (emails with Village Voice).

To the extent that plaintiff seeks documents related to communications occurring after July 25, 2013, although Gawker has no reason to believe any such documents exist, Gawker is willing to undertake updated searches for such communications at plaintiff's expense and upon written confirmation from plaintiff that he will promptly reimburse Gawker for such expenses.

REQUEST NO. 125: All DOCUMENTS that RELATE TO any claim or assertion that dissemination of the SEX VIDEO and/or POSTED SEX VIDEO demonstrates hypocrisy on the part of PLAINTIFF.

RESPONSE: Gawker objects to this Request on the grounds that that it overlaps with and is duplicative of Plaintiff's Request Nos. 1, 2, 26, 56, 57 and 58, among others, in response to which Gawker has already produced substantial numbers of documents. Gawker has likewise also provided plaintiff with documents responsive to this request in connection with (1) various pleadings that have been filed in the United States District Court for the Middle District of Florida, in the United States Court of Appeals for the Eleventh Circuit, in this Court, and in the Second District Court of Appeals and (2) plaintiff's deposition in this case.

Gawker objects to this Request on the grounds that by requesting “all documents” that “relate to” this topic, this Request seeks information protected by the attorney-client privilege and under the work product doctrine, including to the extent that this Request seeks documents that have been collected by counsel in the course of preparing this litigation. Consistent with the Report and Recommendation of the Special Discovery Magistrate dated June 6, 2014, if Gawker intends to present such documents at forthcoming depositions, it will produce them at least five days in advance thereof. Gawker will likewise produce any such documents it intends to use at trial in accordance with the Court’s pretrial rules.

Subject to and without waiving these objections, Gawker states that it has no additional non-privileged (and non-work-product) responsive documents in its possession, custody or control.

REQUEST NO. 126: All DOCUMENTS that constitute, REFER TO or RELATE TO any and all of YOUR policies, notices and agreements, for the period January 1, 2011, through the present, RELATING TO the protection of YOUR privacy or confidentiality, including without limitation, non-disclosure agreements and confidentiality agreements with actual or prospective employees, vendors, business partners, or any other PERSON or ENTITY.

RESPONSE: Gawker objects to this Request on the grounds that, by requesting “all documents” that “refer to” or “relate” to this topic, the Request (1) seeks information that is protected from disclosure under the attorney-client privilege, the work-product doctrine, and by the reporters’ privilege, including under N.Y. Civil Rights Law § 79-h, Fla. Stat. § 90.5015, the First and Fourteenth Amendments to the U.S. Constitution, the common law, and any other applicable reporters’ privilege law, and (2) is overbroad and unduly burdensome.

Gawker further objects to this Request to the extent that it purports to incorporate the definition of “YOU,” “YOUR,” and “GAWKER” set forth in the introductory section of Plaintiff’s Fourth Request for Production of Documents. Gawker’s response is limited to documents as to which it, as the responding party, has within its possession, custody and control.

Gawker further objects on the grounds that the Request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, including without limitation because any steps taken by Gawker to protect the confidentiality of internal business affairs is not relevant to the publication of content relating to a matter of public concern by a news organization.

Subject to and without waiving these objections, Gawker will produce its standard independent contractor agreement, its standard employment agreement, its standard employee termination certificate, and its standard non-disclosure agreement, all of which contain confidentiality provisions.

Dated: July 11, 2014

THOMAS & LOCICERO PL

By: /s/ Gregg D. Thomas

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of July 2014, I caused a true and correct copy of the foregoing to be served via the Florida Courts' E-Filing Portal upon the following counsel of record:

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