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, *et al.*,

Defendants.
_____/

GAWKER MEDIA, LLC'S EXCEPTIONS TO REPORT & RECOMMENDATION AUTHORIZING PLAINTIFF TO SERVE 30 ADDITIONAL INTERROGATORIES

Pursuant to Rule 1.490 of the Florida Rules of Civil Procedure, Defendant Gawker Media, LLC ("Gawker") hereby files these exceptions to the Special Discovery Magistrate's Report & Recommendation dated September 1, 2014. The Report & Recommendation authorized Plaintiff Terry Gene Bollea ("Bollea") to propound an additional thirty interrogatories to Gawker. Because Plaintiff's request to propound these interrogatories was both procedurally improper and because he failed to show good cause, Gawker respectfully files these Exceptions to the Report & Recommendation, and states as follows:

1. On August 27, 2014, counsel for Plaintiff sent a letter to Special Discovery Magistrate James R. Case requesting that Plaintiff be allowed to propound an additional thirty interrogatories to Gawker. A copy of the letter is attached as Exhibit A. The letter stated that Plaintiff would be prepared to discuss this request during an August 29 scheduling conference with Judge Case. Id. Plaintiff did not file a motion or notice of hearing on this issue.

2. Rule 1.340 of the Florida Rules of Civil Procedure states that the number of interrogatories shall not exceed thirty "unless the court permits a larger number on motion and notice and for good cause."

3. Plaintiff's letter making a "request" and seeking to have the issue heard two days later without notice at an unrelated hearing is not a properly noticed motion. Fla. R. Civ. P. 1.100. Counsel for Gawker was disadvantaged by Plaintiff's failure to file a proper motion and notice of hearing – for example, it had no opportunity to file any opposition.

4. Moreover, before additional interrogatories may be allowed, Plaintiff must show good cause. Fla. R. Civ. P. 1.340; see also Beekie v. Morgan, 751 So. 2d 694, 697 (Fla. 5th DCA 2000) ("A party seeking more than this must show good cause and seek an order.").

5. When Plaintiff's counsel raised the issue during the August 29 conference, counsel for Gawker requested that Plaintiff file a properly noticed motion and that Plaintiff show good cause for the requested additional interrogatories, given that the Gawker Defendants have already responded to more than 300 written discovery requests, produced roughly 25,000 pages of documents and sat for multiple full-day depositions. Gawker's counsel added that, if Plaintiff identified specific information that he still needed notwithstanding that exhaustive discovery already provided, he could work cooperatively with Plaintiff's counsel as to that request. A copy of the transcript of the portion of the August 29 conference addressing Plaintiff's request for additional interrogatories is attached as Exhibit B.

6. Here, Plaintiff made no showing of good cause, and, despite Gawker's request that he do so, offered the Special Discovery Magistrate no information about the substance of the additional interrogatories he requested or why they were necessary given the extensive discovery to date. Rather, Plaintiff simply argued that this case involves multiple defendants and multiple

causes of action. Exhs. A & B. Plaintiff complains that he has been required to answer multiple interrogatories from the multiple defendants against whom he brought suit (for a sum total of forty-six interrogatories), while he has only been allowed to ask each defendant a maximum of thirty interrogatories. Id.

7. But that is true in every case in which a single plaintiff sues multiple defendants, and may be required to answer more interrogatories than any single defendant. The rule governing interrogatories anticipates co-parties, but does not allow for a party to aggregate or multiply his interrogatories based on the existence of co-parties. Fla. R. Civ. P. 1.340. Indeed, the practical effect of the rule is that Plaintiff is entitled to serve the same number of interrogatories on the Gawker Defendants as a group as they can serve on him.

8. Plaintiff has not yet served 30 numbered interrogatories[1] on Gawker, and he has made no showing of the nature of the additional discovery needed, its relevance, or why it can only be obtained through additional interrogatories. It is unclear why Plaintiff needs additional interrogatories when other methods of discovery are available and he has not yet exhausted his initial thirty interrogatories.

CONCLUSION

The Report and Recommendation granting Plaintiffs' request for thirty additional interrogatories to propound to Gawker should be overruled, and Plaintiff should not be allowed to propound more than thirty total interrogatories to Gawker, at least without filing a properly noticed motion and demonstrating good cause as required by the rules. Pursuant to Rule 1.490(i), Gawker respectfully requests that this Court resolve these exceptions at a hearing.

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[1] Fairly viewed, Plaintiff has already exhausted his allotted thirty interrogatories to Gawker by serving interrogatories that include nearly 100 subparts. *See* Fla. R. Civ. P. 1.340(a) (limit of 30 interrogatories includes "all subparts"). Although Gawker memorialized objections to Plaintiff's excessive use of subparts, it nevertheless responded to those interrogatories in their entirety.

Dated: September 11, 2014

Respectfully submitted,

THOMAS & LOCICERO PL

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of September 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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