

# EXHIBIT 5

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.

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**DEFENDANT A.J. DAULERIO'S RESPONSES TO PLAINTIFF'S  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Florida Rule of Civil Procedure 1.350, Defendant A.J. Daulerio ("Daulerio") hereby provides this response to Plaintiff's First Request for Production of Documents dated November 1, 2013.

**REQUESTS AND RESPONSES**

**REQUEST NO. 1:** All DOCUMENTS that RELATE TO PLAINTIFF and which were created or are dated after January 1, 2012.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine.<sup>1</sup> Subject to and without waiving this

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<sup>1</sup> Daulerio does not possess any documents protected by the attorney-client privilege and/or work product doctrine that were created prior to the commencement of the Lawsuit, as that term is defined in Plaintiff's Document Requests. Consistent with the prior practice of the parties, documents protected by attorney-client privilege and/or the work product doctrine do not need to be logged. Daulerio possesses one document protected by the reporter's privilege (*i.e.*, N.Y. Civil Rights L. § 79-h, Fla. Stat. § 90.5015, and the reporters' privilege recognized by the First and Fourteenth Amendments to the U.S. Constitution, by the common law, and by other applicable reporters' privilege laws), which he will redact and log. In addition, Daulerio's production will omit pleadings and other papers filed in the Lawsuit, and communications among all counsel after the filing of the Lawsuit, as all such documents are already in the possession of Plaintiff and his counsel.

objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 2:** All audio and/or video recordings of PLAINTIFF.

**RESPONSE:** Daulerio states that he has no documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 3:** All DOCUMENTS that RELATE TO audio and/or video recordings of PLAINTIFF.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 4:** All audio and/or video recordings of HEATHER CLEM.

**RESPONSE:** Daulerio states that he has no documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 5:** All DOCUMENTS that RELATE TO audio and/or video recordings of HEATHER CLEM.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 6:** All audio and/or video recordings of BUBBA CLEM.

**RESPONSE:** Daulerio states that he has no documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 7:** All DOCUMENTS that RELATE TO audio and/or video recordings of BUBBA CLEM.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 8:** The full-length VIDEO and all versions of it.

**RESPONSE:** Daulerio states that he has no documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 9:** All excerpts of the VIDEO prepared or generated by YOU, and all versions thereof, whether or not published.

**RESPONSE:** Daulerio states that he has no documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 10:** All DOCUMENTS that RELATE TO the VIDEO and all versions of it.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 11:** All DOCUMENTS that RELATE TO the SEX TAPE, including without limitation the preparation, editing, subtitling, posting and/or broadcast of the SEX TAPE.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 12:** All DOCUMENTS that RELATE TO the WEBPAGE.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 13:** All DOCUMENTS that RELATE TO internet traffic to, including page views of, the WEBPAGE.

**RESPONSE:** Daulerio states that he has no documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 14:** All DOCUMENTS that REFER or RELATE TO GAWKER'S record-keeping practices, including but not limited to intake notes, drafts of articles, revisions to articles, research, and memoranda.

**RESPONSE:** Without conceding that this Request seeks documents that are properly within the scope of discovery in this action or waiving any objections thereto, Daulerio states

**REQUEST NO. 35:** All DOCUMENTS that RELATE TO COMMUNICATIONS with advertisers and/or potential advertisers regarding BUBBA CLEM.

**RESPONSE:** Daulerio states that he has no documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 36:** All DOCUMENTS that RELATE TO COMMUNICATIONS with advertisers and/or potential advertisers regarding the LAWSUIT.

**RESPONSE:** Daulerio states that he has no documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 37:** All DOCUMENTS that RELATE TO YOUR departure from GAWKER in or about January 2013.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and the attorney work-product doctrine. Subject to and without waiving this objection, Daulerio will produce non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 38:** All DOCUMENTS authored by NICK DENTON or any officer or director of GAWKER MEDIA that RELATE TO any standards for posting content at GAWKER.COM.

**RESPONSE:** Without conceding that this Request seeks documents that are properly within the scope of discovery in this action or waiving any objections thereto, Daulerio states that he has no documents responsive to this Request in his possession, custody or control.

objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 46:** All DOCUMENTS that RELATE TO YOUR contention that YOU acted in good faith and had a reasonable belief that the WEBPAGE was legally permissible and not actionable.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 47:** All DOCUMENTS that RELATE TO YOUR contention that YOU acted in good faith and had a reasonable belief that YOUR posting of the SEX TAPE was legally permissible and not actionable.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 48:** All DOCUMENTS that RELATE TO whether PLAINTIFF had any knowledge that the VIDEO was being recorded at the time of the recording of the VIDEO.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this

objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 49:** All DOCUMENTS that RELATE TO whether PLAINTIFF consented to the recording of the VIDEO.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 50:** All DOCUMENTS that RELATE TO whether PLAINTIFF consented to the posting of the SEX TAPE.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 51:** All DOCUMENTS that RELATE TO whether PLAINTIFF consented to the posting of any portion of the WEBPAGE.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.



**REQUEST NO. 59:** All DOCUMENTS that RELATE TO whether HEATHER CLEM had any knowledge that the VIDEO was being recorded at the time of the recording of the VIDEO.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this objection, Daulerio will produce any non-privileged documents responsive to this Request in its possession, custody or control.

**REQUEST NO. 60:** All DOCUMENTS that RELATE TO whether HEATHER CLEM consented to the recording of the VIDEO.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 61:** All DOCUMENTS that RELATE TO whether HEATHER CLEM consented to the posting of the SEX TAPE.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 62:** All DOCUMENTS that RELATE TO whether HEATHER CLEM consented to the posting of any portion of the WEBPAGE.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 63:** All DOCUMENTS that RELATE TO any attempt made by YOU to determine if HEATHER CLEM consented to the recording of the VIDEO.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Daulerio further objects to this Request on the grounds that it is duplicative of Plaintiff's Document Request No. 60 to Daulerio. Subject to and without waiving the foregoing objections, Daulerio refers Plaintiff to, and incorporates by reference, his Response to Plaintiff's Document Request No. 60.

**REQUEST NO. 64:** All DOCUMENTS that RELATE TO any attempt made by YOU to determine if HEATHER CLEM consented to the posting of the SEX TAPE.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Daulerio further objects to this Request on the grounds that it is duplicative of Plaintiff's Document Request No. 61 to Daulerio. Subject to and without waiving the foregoing objections, Daulerio refers Plaintiff to, and incorporates by reference, his Response to Plaintiff's Document Request No. 61.

**REQUEST NO. 68:** All DOCUMENTS that RELATE TO any attempt made by YOU to confirm identity of any of the participants in the VIDEO before the WEBPAGE was posted on GAWKER.COM on or about October 4, 2012.

**RESPONSE:** Daulerio states that he has no documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 69:** All DOCUMENTS that support YOUR contention that the PERSONS depicted in the VIDEO are PLAINTIFF and HEATHER CLEM.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this objection, Daulerio will produce any non-privileged documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 70:** All DOCUMENTS that YOU relied on in making a good faith determination that posting the WEBPAGE, including the SEX TAPE, was legal.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney client privilege and attorney work-product doctrine. Subject to and without waiving this objection, Daulerio states that he has no documents responsive to this Request in his possession, custody or control.

**REQUEST NO. 71:** All DOCUMENTS that YOU relied on in making a good faith determination that posting THE WEBPAGE, including the SEX TAPE, was not tortious.

**RESPONSE:** Daulerio objects to this Request to the extent that it seeks the production of documents protected from discovery by privilege, including but not limited to the attorney

Dated: December 20, 2013

THOMAS & LOCICERO PL

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