EXHIBIT 4

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October 16, 2014

VIA ELECTRONIC MAIL

The Honorable James R. Case
205 Palm Island NW
Clearwater, FL 33767
jimcase@tampabay.rr.com

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

Dear Judge Case:

We write in response to the letter from plaintiff's counsel dated October 15, 2014. As we wrote previously, when the Rules permit a trial schedule to be entered, we hope that the parties and the Court can work together to develop a realistic schedule. We have reached out to plaintiff's counsel over the past several months to discuss how the parties can work together to move the case forward efficiently, and we would welcome the opportunity to discuss that same topic with Your Honor. In addition, we would welcome the opportunity to discuss with Your Honor the relevance of the testimony and evidence we intend to seek from each of the third-party witnesses mentioned in our previous letter. To that end, we are open to discussing all of these issues at the conclusion of Monday afternoon's telephonic hearing or, if Your Honor would prefer, to schedule a separate status conference to discuss them.

We write now to respond briefly to plaintiff's proposed schedule and several charges leveled by plaintiff's counsel:

1. Plaintiff's proposed schedule is unrealistic. For example, its suggested fact discovery deadline – January 26, 2015 – is workable only if Gawker is prohibited from taking the third-party discovery it seeks (all of which is necessary to its defense), or if plaintiff withdraws his objections and does not object to the subpoenas Gawker intends to serve on the other third parties mentioned in its letter. Likewise, the proposed last date for the Court to hear motions – May 1, 2015 – is just eleven days after the proposed cut off for expert discovery. Meeting that deadline is not realistic given that plaintiff intends to engage a journalism expert to opine about the newsworthiness of the Gawker posting, which undoubtedly will be a central

issue for summary judgment. Holding the summary judgment hearing just 30 days before trial will hamstring the parties' (and the Court's) ability to address the significant evidentiary issues presented by the case sufficiently in advance of trial to ensure orderly trial presentations. Given the sensitive nature of this case, we firmly believe that it is vital that any schedule provide adequate time to address these pretrial issues.

2. Plaintiff bears responsibility for "run[ning] up the costs of this litigation." Plaintiff initially chose to file two separate actions in two separate courts, only to dismiss his federal action against the Gawker Defendants and start the case again from scratch. Plaintiff chose to file *five* motions for injunctive relief, all unsuccessful, while this case was in federal court, and then chose to file a sixth (ultimately unsuccessful) injunction motion in this Court. Plaintiff chose to sue every single Gawker entity in the Gawker corporate family, even though we have explained from the outset of this case that only Gawker Media, LLC was responsible for the posting. And, plaintiff chose to appeal every single adverse discovery ruling since Your Honor was named Special Discovery Magistrate, all of which have been affirmed. (Plaintiff's counsel also appealed, and then sought reargument on appeal, of an adverse discovery ruling concerning his publicist in New York.) If plaintiff is serious about seeking to reduce costs and conserve resources, Gawker would be willing to agree to a voluntary stay of this action pending the District Court of Appeal's review of Gawker case-dispositive petition for a writ of certiorari, the filing of which was expressly authorized by the appellate court.

3. Gawker is not engaged in discovery "delay tactics." Gawker has explained to plaintiff for many months the discovery it intends to take. Plaintiff, however, objects to Gawker's taking that discovery and has thrown up procedural roadblocks to forestall it. In the case of nearly every third-party witness Gawker seeks to subpoena, it only learned the identity of the witness and his/her potential relevance to the case from plaintiff's deposition or the deposition of Bubba Clem, which took place in March of this year, or from discovery provided after those depositions. Moreover, as noted in Gawker's opposition to plaintiff's motion to set a trial date being filed today, throughout this litigation, Gawker has been stymied in its efforts to learn the identity of people who might have knowledge of plaintiff's claims and alleged damages because of his inability or refusal to provide meaningful discovery responses. *See* Opp. at 9-10. And, Gawker's ability to take third-party discovery has been substantially delayed by plaintiff's insistence on appealing each adverse discovery ruling, including adverse rulings in other jurisdictions. *See, e.g.*, *id.* at 10-11 & 12 n.5.

4. Gawker is not seeking to "punish" plaintiff or "harass" third-party witnesses. Plaintiff does not point to any request to support this claim. Gawker simply seeks to defend itself against a suit in which plaintiff seeks $100 million. Suffice it to say, this case is more involved than plaintiff's contention that Gawker "violated Mr. Bollea's privacy rights and caused him substantial damages." Corr. at 5. He has filed other claims (including for commercial misappropriation and intentional infliction of emotional distress). Gawker is entitled to discovery into (a) the value of plaintiff's publicity rights, (b) the extent of his alleged emotional distress, (c) whether he actually sought to protect his privacy in connection with the sex tape at

issue, and (d) whether he sought to take advantage of the publicity provided by the Gawker Publication. To accomplish that goal, Gawker seeks to take narrowly targeted discovery from third-party witnesses, discovery that it agreed to further narrow in multiple "meet and confer" discussions with plaintiff's counsel.[1]

Gawker is eager for this case to be resolved on the merits. And, while Gawker intends to defend itself against plaintiff's claims vigorously, we are eager to do so as efficiently as possible. We look forward to having an opportunity to talk with Your Honor about the remaining discovery and, when the Rules permit, setting a realistic pretrial and trial schedule.

Respectfully submitted,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By: _____
Seth D. Berlin
Michael Berry

cc: Counsel of Record (via email)

[1] In contrast to this narrow discovery, plaintiff has served, and seeks to continue to serve, wide-ranging discovery on defendants and third-parties. For instance, he served defendant Nick Denton with voluminous written discovery requests seeking details about his wedding and honeymoon, to which Denton responded. Likewise, plaintiff served over 100 document requests on Tony Burton and his agency, making requests such as: "all documents, including communications, that relate to plaintiff and which were generated, sent or received at any time during the period of January 1, 2007 to the present." With respect to Mr. Burton, plaintiff is simply wrong that the question of who supplied the sex tape to Gawker "already has been determined through document discovery." Corr. at 3. Mr. Burton did ***not*** supply the tape to Gawker, as the discovery produced in this case makes clear. He supplied A.J. Daulerio's contact information to whoever supplied the tape to Gawker. Gawker still does not know who provided the tape, and, more importantly, does not know what that witness knows about the circumstances under which the tape was created and stored and what plaintiff did or did not know about those topics. Judge Campbell specifically highlighted the importance of this issue at the last hearing. *See* April 23, 2014 Hrg. Tr. at 25:23 – 26:1 (inquiring whether discovery has provided "ultimate answer" to how Gawker got the tape).