EXHIBIT 3

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VIA EMAIL & FEDEX
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Re: ***Terry Gene Bollea v. Heather Clem, Gawker Media LLC, et al***
Circuit Court of the Sixth Judicial Council in and for Pinellas County, Florida
Case Number 12012447CI-011

Dear Judge Case and Counsel:

We write in response to Gawker's counsel's October 10, 2014 letter regarding setting a trial date and discovery schedule for this matter. As a preliminary matter, we note that this lawsuit has now been pending for **two years** exactly, as of this week. Gawker's letter does not appear to request anything from Judge Case or the parties, but it does reveal that Gawker will take whatever measures are available to delay (and altogether avoid) a trial on the merits, so that its counsel can continue to run up the costs of this litigation—and their attorneys' fees, paid for by insurance—in hopes that Mr. Bollea will **never** get to trial, and that the extreme delay and cost of litigation will force him to finally bend to the financial pressures of this litigation, and either dismiss his lawsuit, bankrupt himself in the process, or accept whatever lowball settlement Gawker is willing to offer him. Gawker's efforts to perpetually delay a trial in this case, and severely prejudice Mr. Bollea in the process, should not be permitted.

Mr. Bollea therefore requests that Judge Case recommend the following Discovery Plan for this matter, to ensure that it proceeds to trial in a timely and cost-efficient manner:

First, recommend a two week trial date to commence on June 1, 2015, which is more than seven months from now. For the past **six months**, Mr. Bollea's counsel has asked Judge Campbell, and Judge Case, for a trial date. On October 22, 2014, Judge Campbell will hear Mr. Bollea's motion to set a trial date on June 1, 2015, and to sever from the case defendant Kinja KFT (which is currently appealing Judge Campbell's denial of Kinja's motion to dismiss), so that the matter against Gawker and its employees, Nick Denton and A.J. Daulerio, and defendant Heather Clem, can proceed to trial next year. Also on October 22, Judge Campbell will hear Ms. Clem's motion to dismiss, as well as Gawker's Exceptions to Judge Case's Recommendation to permit Mr. Bollea leave to propound 30 additional interrogatories.

Second, based on a June 1, 2015 trial date, Mr. Bollea requests a pre-trial schedule, and proposes the following dates:

EVENT	**PROPOSED DATE**
Non-Expert Discovery Cut-Off	Jan. 26, 2015 [18 weeks before trial]
Expert Disclosure (Initial)	Feb. 9, 2015 [16 weeks before trial]
Expert Disclosure (Rebuttal)	March 2, 2015 [13 weeks before trial]
Expert Discovery Cut-Off	April 20, 2015 [6 weeks before trial]
Last Date to Hear Motions	May 1, 2015 [30 days before trial – Judge Campbell's stated preference]
Final Pretrial Conference	May 19, 2015 [per Judge Campbell's calendar]
Jury Trial Date	**June 1, 2015** (Trial estimate: 2 weeks)

Third, Mr. Bollea requests a Discovery Plan that is reasonable for this case. After nearly two years of active discovery, and following the completion of the depositions of all parties and

witnesses with first-hand knowledge of the facts relevant to this case (with the sole exception of Heather Clem), the only remaining matters for fact discovery are:

(a) Heather Clem's deposition;

(b) Mr. Bollea's third day of deposition, regarding limited subject areas; and

(c) follow-up and clarifying written discovery requests.

These can easily be completed by the end of January 2015. Any argument otherwise is unfounded. Moreover, the delay in completing this remaining discovery is due to Gawker's own delay tactics. For example:

1. It has been **seven months** since Heather Clem unilaterally canceled her previously-scheduled deposition. Gawker has not brought a motion to compel her deposition or even asked Mr. Bollea's counsel for their available dates for her continued deposition.

2. Gawker filed exceptions to Judge Case's recommendation that Mr. Bollea be allowed to propound 30 additional interrogatories to Gawker. As a result, the parties have been required to engage in formal motion practice, set a hearing before Judge Campbell, and appear in Florida for oral argument—all on a minor discovery issue.

3. The extensive non-party discovery sought by Gawker is **completely unnecessary** and designed for no other purpose than to: delay trial; needlessly increase costs on Mr. Bollea (while Gawker's costs are paid for by insurance) so that the case becomes too expensive for Mr. Bollea to continue, thus forcing him to give up; and engage in an unwarranted fishing expedition.

Regarding Gawker's discovery tactics, Gawker noticed its intent to serve **14 non-party subpoenas** in July of this year—one year and six months into the discovery process. All or nearly all of these 14 non-parties were known to Gawker as of the time discovery began. It was not until Mr. Bollea's counsel began to actively press for the scheduling of a trial date that Gawker commenced non-party discovery.

The names on Gawker's very long list of potential deponents reveal that the non-party discovery is a sideshow designed to delay trial, run up costs, and misdirect the court's and parties' attention from the matters that are actually at issue in this litigation. This case is about whether Gawker is liable to Mr. Bollea for its six-month publication of an unauthorized, clandestinely-recorded, one minute and forty-one seconds of explicit footage of Mr. Bollea naked and engaged in private, consensual sexual relations in a private bedroom. This case is **not** about:

- Who stole the sex tape from Bubba Clem and sent it to Gawker. The issue is irrelevant, and already has been determined through document discovery. It is

undisputed that Gawker obtained a 30 minute sex tape from Tony Burton of the Buchwald Agency in New York; edited the footage into a 1 minute and 41 second "highlight reel" (the term used by Gawker's own editor-in-chief A.J. Daulerio); and published it for six consecutive months at Gawker.com, where millions of people watched it. Documents produced by Burton and the Buchwald Agency show that Mike "Cowhead" Calta (Bubba Clem's on-air competitor) was involved in sending the 30-minute tape to his agent Burton, who then sent the tape to A.J. Daulerio of Gawker. Given that Gawker **admits** that it received, edited and posted the sex video, it would serve no purpose in this case for Gawker to depose every person who was in any way involved in the chain of custody before Gawker received it, and doing so would be unnecessary, unduly burdensome and costly.

- The extortionist who was the subject of the FBI investigation. The extortionist's documents have been produced by Bollea and his counsel. The FBI and U.S. Attorneys' Office are being asked by Gawker to produce their records pursuant to a FOIA request (and it is unclear if the government offices in Washington D.C. that review FOIA requests will decide to turn over any such documents and, if so, which documents and when). In any event, taking a deposition of the extortionist's counsel, Keith Davidson, and Mr. Bollea's counsel, David Houston, who represented Mr. Bollea in connection with the extortion attempt, is unnecessary, harassing to Mr. Bollea and his counsel, and unduly burdensome and costly.

- The names of every person that Mr. Bollea ever spoke to or texted with in March, April and October 2012. Mr. Bollea is responding to discovery and providing all information in his possession regarding same; however, for Gawker to seek to **depose** people just because they spoke to or texted with Mr. Bollea during this time period is unnecessary, harassing to Mr. Bollea and the non-parties, an interference with Mr. Bollea's business and personal relationships with these non-parties, and unduly burdensome and costly.

- Mr. Bollea's publicist (Elizabeth Rosenthal Traub and her company EJ Media). She has produced all of her documents relating to this lawsuit and its subject matter, including all of her communications with Mr. Bollea's counsel–ordered to be produced by a New York trial court judge. There is nothing in those documents relating to Gawker's liability, defenses, or Mr. Bollea's damages, that would warrant a deposition of Ms. Traub, and deposing her is completely unnecessary, unwarranted, harassing to Mr. Bollea and Ms. Traub, an interference with Mr. Bollea's business relationship with her, and unduly burdensome and costly.

- Mr. Bollea's media tour for the TNA Bound for Glory pay-per-view event, which was pre-scheduled months in advance. Mr. Bollea and the non-parties have produced all of their documents regarding same. There is no justification for

people associated with TNA, including TNA's **former** employee, to be deposed. It is unnecessary, harassing to Mr. Bollea and the non-parties, an interference with his business relationship with TNA, and unduly burdensome and costly.

Even though **none** of the foregoing topics is in any way relevant to the issues in this case (Gawker's liability, Gawker's alleged First Amendment defenses, and Mr. Bollea's damages), each of these issues is the subject of the long bullet-pointed list of "remaining discovery" listed at pages 2–4 of Gawker's October 10 letter. Gawker wants to make this case about anything **other than** what the case is actually about: Gawker's unauthorized publication of the sex video; its willful refusal to comply with Mr. Bollea's repeated demands to take it down; Gawker's alleged First Amendment defenses; and Mr. Bollea's damages. Gawker should not be permitted to continue to use such peripheral matters to justify unnecessary and oppressive discovery, for the purpose of perpetually delaying a trial on the merits (in a case that is now two years old), and oppressively increasing litigation costs to make it impossible for Mr. Bollea to continue, so that Gawker will win by attrition, rather than on the merits.

Importantly, this case is about **Gawker's acts** that violated Mr. Bollea's privacy rights and caused him substantial damages. Yet at every turn, Gawker has sought to use this litigation as a means to repeatedly punish Mr. Bollea for bringing this case, seeking to violate his personal, financial and sexual privacy, and seeking to interfere with his personal and business relationships, cause harm to his career, harass him with numerous sets of written discovery, multiple long days of a videotaped deposition, repeated meritless motions seeking terminating sanctions, endless nonparty discovery and depositions, at a substantial cost, both economic and psychological. All this, together, amounts to **continued injustice** by Gawker against Mr. Bollea. The end result is justice turned on its head—where a plaintiff, wronged by a defendant, is forced to undergo a process that is so long in duration (well over 2 years), so expensive, so inconvenient, harassing and oppressive, and so threatening to the plaintiff's career, that seeking and obtaining justice becomes a virtual impossibility. No defendant should be permitted to use the process in such a way, and no plaintiff should be denied justice in this way.

The remaining **legitimate** discovery in this case easily can be completed in time for a June 1, 2015 trial. Mr. Bollea has not asked for **any** depositions in the past six months, and is in the process of completing expert-related discovery, including interrogatories regarding same, and document subpoenas to Google Inc. and Fastly, Inc. (Gawker's contention that Mr. Bollea intends to seek 6–7 depositions is completely inaccurate; none have been noticed or requested.)

Fourth, as part of a Discovery Plan, there should be a reasonable limit on the number of depositions that each side can take, and a reasonable amount of time allowed for each such deposition, so that the matter can proceed in a timely and cost-efficient manner. Mr. Bollea proposes that each side be allowed a total of ten (10) depositions, each limited to seven hours taken in one single day or broken into two consecutive days, in accordance with Federal Rule of Civil Procedure, Rule 30. The notes to Rule 30 provide that one "objective" of the ten-deposition limit "is to emphasize that **counsel have a professional obligation to develop a**

mutual cost-effective plan for discovery in the case." (Emphasis added.) That is what Mr. Bollea seeks by requesting this Discovery Plan.

Without a limit on the number of depositions, Gawker will abuse the procedure and seek to take live depositions of every person whose name has appeared in any papers filed in this case, starting with the 13 additional deponents expressly identified in Gawker's October 10 letter.[1] The resulting costs, inconvenience, burden, harassment and oppression, against Mr. Bollea and the non-parties, will be astronomical. Moreover, the scheduling of all such depositions, based on the schedules of the non-parties, defense counsel (which already has delayed seven months in the rescheduling of Heather Clem's deposition alone), plaintiff's counsel, and Judge Case, and given that these depositions would take place throughout the United States, will cause potentially **years** of further delay. Moreover, the **costs** of having litigation counsel and Judge Case travel to and attend each of the depositions, and for each side to be required to pay one-half of Judge Case's time to do the same, will exponentially increase the costs of this case.

The Florida Bar's Guidelines for Professional Conduct provide that "[d]epositions should be taken **only when actually needed** to ascertain facts or information or to perpetuate testimony. Depositions **never** should be used as a means of **harassment** or to generate **expense**." (Emphasis added.) The depositions that Gawker seeks to take are not "actually needed to ascertain facts or information" relevant to the claims or legitimate defenses in the case. As explained above, this case is not about who stole the video from Bubba Clem, or how many videos an unrelated extortionist brought to an FBI sting, etc., and depositions on such peripheral topics are intended, not to ascertain relevant facts or information or perpetuate relevant testimony, but rather as a means to harass and generate unnecessary expense, in direct contravention of Florida's Guidelines for Professional Conduct.

In light of the fact that Gawker's insurance carrier is paying its defense costs, which allows Gawker to file countless motions, exceptions, and appeals, and serve countless subpoenas, take countless depositions, and otherwise ensure that discovery (and its related costs) will go on (and up) indefinitely, **reasonable limitations** need to be placed on the remaining discovery in this case. Otherwise, Gawker will continue to cast a wider and wider net, and seek to take more and more discovery, and the process will take many more years to complete, and become cost prohibitive to Mr. Bollea, thus resulting in a denial of justice, by default.

[1] Heather Clem, Jennifer Bollea, Elizabeth Traub, EJ Media, two Cox Media employees, Jules Wortman Pomeroy, Brent Hatley, Tom Bean, Matt Loyd, Keith Davidson, David Houston and David Houston's law firm.

This case, on its two-year anniversary, needs to finally proceed toward a trial on the merits, and pursuant to a Discovery Plan that is reasonable. We look forward to discussing these matters with you during the telephonic hearing on October 20, 2014.

Very truly yours,

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