

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; GAWKER MEDIA, LLC
aka GAWKER MEDIA; GAWKER MEDIA
GROUP, INC. aka GAWKER MEDIA;
GAWKER ENTERTAINMENT, LLC;
GAWKER TECHNOLOGY, LLC; GAWKER
SALES, LLC; NICK DENTON; A.J.
DAULERIO; KATE BENNERT, and
BLOGWIRE HUNGARY SZELLEMI
ALKOTAST HASZNOSITO KFT aka
GAWKER MEDIA,

Defendants.

AFFIDAVIT OF CHARLES J. HARDER

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

Charles J. Harder, Esq. being duly sworn, deposes and says:

1. I am a resident of Los Angeles, California, over the age of 18 years. I am an attorney duly licensed to practice before all courts of the State of California, the State of New York and the District of Columbia, among other courts. I am admitted *pro hac vice* to this court for the captioned action, and am a partner of the law firm Harder Mirell & Abrams LLP, lead counsel for Plaintiff Terry Gene Bollea, professionally known as Hulk Hogan ("Mr. Bollea"). The statements made herein are based on my personal knowledge.

2. I provide this affidavit in support of Mr. Bollea's Motion to Determine Confidentiality of Court Records and for Protective Order to Exclude the Public at Trial for

Certain Evidence and Argument. This motion is made in good faith and is supported by a sound factual and legal basis.

3. On October 4, 2012, Defendants published a 1 minute 41 second video showing Mr. Bollea naked and having sex at Gawker.com (the “Sex Video”), along with an article summarizing the Sex Video.

4. As part of Mr. Bollea’s case in chief at trial, and potentially as part of Mr. Bollea’s opening and closing statements, we likely will need to play the Sex Video to the jury, and show the jury images from the Sex Video. I also believe that counsel for Defendants may utilize the Sex Video at trial, and also may attempt to introduce the full 30-minute version of the sex tape.

5. A sound factual and legal basis exists for the Court to determine that the Sex Video, the full 30-minute version of the sex tape, and images from videos be deemed confidential and sealed and that the public be excluded from seeing those images at the trial during the presentation of this evidence and argument utilizing this evidence.

6. Florida public policy recognizes a fundamental right to privacy. *See Fla. Const. Art. 1 § 23*. The law specifically provides a remedy for an invasion of that privacy. *Allstate Insurance Co. v. Ginsberg*, 863 So.2d 156, 162 (Fla. 2003) (stating that the tort vindicates the “right of a private person to be free from public gaze”).

7. Excluding the public from being able to view very limited images during the presentation of argument and evidence complies with the established public policy of privacy. The very essence of Mr. Bollea’s claims is that his privacy was invaded by Gawker’s posting online on Gawker.com, video and audio footage showing Mr. Bollea naked and engaged in

sexual intercourse. Mr. Bollea already has suffered significant harm from the publication of the Sex Video.

8. Additionally, excluding the public from seeing very limited images during presentation of argument and evidence in this case will ensure that Mr. Bollea receives a fair trial. Having the public present during presentation of the Sex Video likely will prejudice Mr. Bollea with the jury. Giving a wide public audience to the playing of the Sex Video may legitimize its publication by Defendants with the jury, and audible and visually recognizable reactions from the public likely will taint the jurors' own perception.

9. Further, excluding the public from seeing very limited images during presentation of argument and evidence in this case will preserve order and decorum in the courtroom and further the administration of justice. The intimate and sexual nature of the Sex Video likely will be offensive to certain persons in the gallery, especially having the video and images viewed in a public setting. Such a public viewing likely will incite disorder in the courtroom and distract the jury from the evidence.

10. Lastly, no reasonable alternative appears to be available to accomplish the desired result, and Mr. Bollea is seeking the least restrictive closure necessary to accomplish its purpose. Mr. Bollea is not seeking to exclude the public from all testimony and evidence at trial, just the explicit imagery that invaded his most intimate privacy.

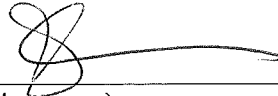
I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information and belief.

Executed this 15th day of June, 2015.



CHARLES J. HARDER

Sworn to and subscribed before me this 15 day of June, 2015 by Charles Harder who is personally known to me or X who has produced California Drivers License (type of I.D.) as identification (check one).



(Signature)

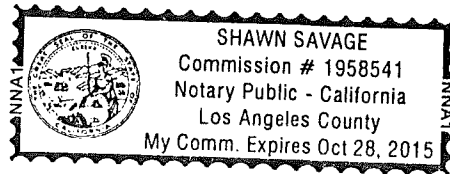


(Type or Print Name)

Notary Public

My Commission Expires: 10/28/15

Commission No.: 1958541



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail via the e-portal system this 15th day of June, 2015 to the following:

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