

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA**

TERRY GENE BOLLEA professionally
known as HULK HOGAN,

Case No. 12012447 CI-011

Plaintiff,

vs.

HEATHER CLEM; GAWKER MEDIA, LLC
aka GAWKER MEDIA, et al.,

Defendants.

**RESPONSE AND OBJECTION OF TERRY BOLLEA
TO GAWKER'S IMPROPER "WITHDRAWAL OF CONSENT"
TO JURISDICTION OF SPECIAL DISCOVERY MAGISTRATE**

On August 11, 2015, Gawker Defendants filed a document purporting to "withdraw" their "consent" to the jurisdiction of Judge James Case as Special Discovery Magistrate in this matter. The Florida Rules of Civil Procedure do not permit Gawker Defendants to withdraw their consent. Accordingly, Mr. Bollea objects and respectfully requests that the Court strike the improper Notice, or alternatively deny the request that Judge Case's appointment be terminated.

Judge Case was duly appointed by this Court to handle all discovery matters. Mr. Bollea and the Gawker Defendants consented to his appointment and jurisdiction. The Order appointing Judge Case, dated October 28, 2013 (a copy of which is attached as **Exhibit A**), states that his appointment applies to "future discovery disputes" and runs "until final resolution of this action." Since his appointment, Judge Case has been intimately involved in this case, and heard numerous motions, resulting in numerous reports and recommendations which have been reviewed, and in many cases adopted, by this Court. Some of those reports and recommendations have been adverse to Mr. Bollea; however, Mr. Bollea never sought to "withdraw" his consent from Judge Case's

jurisdiction or, as Gawker Defendants are seeking, to unilaterally terminate the appointment of the Special Discovery Magistrate. In fact, Judge Case issued the Report and Recommendation, adopted by this Court, which required Mr. Bollea to execute the FOIA authorizations which allowed Gawker to discover the records, recordings and DVDs at the heart of the some of the most critical discovery disputes remaining in this case.

Pursuant to Fla. R. Civ. Proc. 1.490(c), a Referee may only be appointed with the **initial** consent of the parties. After such consent is given, Rule 1.490 provides the remedy if a party disagrees with the Referee's recommendation: the party may take exceptions to the recommendation and obtain review from the Court. Fla. R. Civ. Proc. 1.490(h). Gawker Defendants filed numerous such exceptions over the past 22 months since Judge Case was first appointed in this action. Rule 1.490 does **not** state, however, that once a Referee is appointed, any party retains any right to unilaterally strip the Referee of jurisdiction. Were that the law, Rule 1.490 would be rendered meaningless, because any time a party disagreed with the Referee's rulings, it could simply press "reset" and have a new Referee appointed, or have the Court rule on all matters without the benefit of any Referee.

In this case, Judge Case was duly appointed. The proper consents were given. His jurisdiction continues until final resolution of this action. There continue to be discovery disputes between the parties, including with respect to the audio and video recordings recently produced by the U.S. government, and the electronic discovery requested by Mr. Bollea to investigate the leaks of sensitive information to *The National Enquirer*. Judge Case is duly empowered to rule on them. In fact, this Court already orally ruled at the hearing on July 30, 2015 that Judge Case would handle all of these issues. Gawker Defendants raised no objection to the Court's rulings at that time.

Moreover, Gawker Defendants **stipulated** to a Protocol that specifically calls for **Judge Case** to receive and review certain materials produced by the U.S. government pursuant to the Gawker Defendants' FOIA request. Gawker Defendants' efforts to unilaterally terminate Judge Case's jurisdiction is a direct violation of the Stipulated Protocol, as well as the rulings by both Judge Campbell and Judge Case following the Stipulated Protocol. (As well as being unpermitted by Rule 1.490, as discussed above.)

For these reasons, Mr. Bollea respectfully requests that the Court strike the Gawker Defendants' so-called "Notice of Withdrawal" of their consent to Judge Case's jurisdiction, or alternatively deny the relief requested therein.

Dated: August 14, 2015.

Respectfully submitted,

/s/ Kenneth G. Turkel

Kenneth G. Turkel, Esq.

Florida Bar No. 867233

Shane B. Vogt

Florida Bar No. 0257620

BAJO | CUVA | COHEN | TURKEL

100 North Tampa Street, Suite 1900

Tampa, Florida 33602

Tel: (813) 443-2199

Fax: (813) 443-2193

Email: kturkel@bajocuva.com

Email: svogt@bajocuva.com

-and-

Charles J. Harder, Esq.

PHV No. 102333

Jennifer J. McGrath, Esq.

PHV No. 114890

HARDER MIRELL & ABRAMS LLP

1925 Century Park East, Suite 800

Los Angeles, CA 90067

Tel: (424) 203-1600

Fax: (424) 203-1601

Email: charder@hmafirm.com

Email: jmcgrath@hmafirm.com

Counsel for Plaintiff

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 14th day of August, 2015 to the following:

Barry A. Cohen, Esquire
Michael W. Gaines, Esquire
The Cohen Law Group
201 E. Kennedy Blvd., Suite 1950
Tampa, Florida 33602
bcohen@tampalawfirm.com
mgaines@tampalawfirm.com
jhalle@tampalawfirm.com
mwalsh@tampalawfirm.com
Counsel for Heather Clem

David R. Houston, Esquire
Law Office of David R. Houston
432 Court Street
Reno, NV 89501
dhouston@houstonatlaw.com
krosser@houstonatlaw.com

Michael Berry, Esquire
Levine Sullivan Koch & Schultz, LLP
1760 Market Street, Suite 1001
Philadelphia, PA 19103
mberry@lskslaw.com
*Pro Hac Vice Counsel for
Gawker Defendants*

Kirk S. Davis, Esquire
Shawn M. Goodwin, Esquire
Akerman LLP
401 E. Jackson Street, Suite 1700
Tampa, Florida 33602
kirk.davis@akerman.com
shawn.goodwin@akerman.com
Co-Counsel for Gawker Defendants

Gregg D. Thomas, Esquire
Rachel E. Fugate, Esquire
Thomas & LoCicero PL
601 S. Boulevard
Tampa, Florida 33606
gthomas@tlolawfirm.com
rfugate@tlolawfirm.com
kbrown@tlolawfirm.com
abcenc@tlolawfirm.com
Counsel for Gawker Defendants

Seth D. Berlin, Esquire
Paul J. Safier, Esquire
Alia L. Smith, Esquire
Michael D. Sullivan, Esquire
Levine Sullivan Koch & Schulz, LLP
1899 L. Street, NW, Suite 200
Washington, DC 20036
sberlin@lskslaw.com
psafier@lskslaw.com
asmith@lskslaw.com
msullivan@lskslaw.com
*Pro Hac Vice Counsel for
Gawker Defendants*

Timothy J. Conner
Holland & Knight LLP
50 North Laura Street, Suite 3900
Jacksonville, FL 32202
timothy.conner@hklaw.com

Charles D. Tobin
Holland & Knight LLP
800 17th Street N.W., Suite 1100
Washington, D.C. 20006
charles.tobin@hklaw.com
*Attorneys for Intervenors, First Look Media, Inc.,
WFTS-TV and WPTV-TV, Scripps Media, Inc.,
WFTX-TV, Journal Broadcast Group, Vox Media,
Inc., WFLA-TV, Media General Operations, Inc.,
Cable News Network, Inc., BuzzFeed and The
Associated Press.*

Allison M. Steele
Rahdert, Steele, Reynolds & Driscoll, P.L.
535 Central Avenue
St. Petersburg, FL 33701
amnestee@aol.com
asteel@rahdertlaw.com
ncampbell@rahdertlaw.com
*Attorneys for Intervenor Times Publishing
Company*

/s/ Kenneth G. Turkel

Attorney