

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, *et al.*,

Defendants.

**MOTION TO DETERMINE CONFIDENTIALITY OF CONFIDENTIAL
SUPPLEMENTAL OPPOSITION TO PLAINTIFF'S EMERGENCY MOTION**

Pursuant to Rule 2.420 of the Florida Rules of Judicial Administration and this Court's Agreed Protective Order Governing Confidentiality, dated July 25, 2013 (the "Protective Order"), undersigned counsel respectfully move on behalf of their clients – Defendants Gawker Media, LLC ("Gawker"), Nick Denton, and A.J. Daulerio (collectively, "Gawker") – and themselves to determine the confidentiality of their Confidential Supplemental Opposition to Plaintiff's Emergency Motion to Conduct Discovery Concerning Potential Violations of Protective Order, to Compel Turnover of Confidential Discovery Materials and For Order to Show Cause ("Confidential Supplemental Opposition"), and the Exhibits attached thereto.

As grounds for this motion, Gawker and its counsel state as follows:

1. Florida Rule of Judicial Administration 2.420(c)(9)(A)(iv) provides that certain court records are confidential if the Court determines that confidentiality is required in order to "obtain evidence to determine legal issues in a case."

2. This Court's Protective Order provides that both the parties and non-party witnesses may designate testimony and/or documents as "Confidential" if their substance falls into certain enumerated categories.

3. On April 23, 2014, this Court ordered Plaintiff Terry Gene Bollea to produce discovery related to an FBI investigation into the dissemination of sex tapes depicting plaintiff and Heather Clem (the "FBI discovery"). The Court instructed that this discovery could be designated "Attorneys' Eyes Only" and treated as confidential under the Confidentiality Order.

4. On October 20, 2014, the Special Discovery Magistrate issued a Stipulated Report and Recommendation permitting plaintiff to provisionally designate as "Attorneys' Eyes Only" materials produced by the federal government in connection with a Freedom of Information Act lawsuit brought by Gawker, as well as providing that all such materials will be provisionally treated as "Attorney's Eyes Only" until plaintiff has reviewed and designated them.

5. Concurrent with this Motion, the Gawker and its counsel are filing their Confidential Supplemental Opposition, and the Exhibits attached thereto, which refer to and include documents recently produced in the federal FOIA litigation that are provisionally subject to "Attorneys' Eyes Only" treatment.

6. Counsel for Gawker certifies that this motion is made in good faith and is supported by a sound factual and legal basis. Although counsel for Gawker does not agree that these materials warrant "Attorneys' Eyes Only" treatment, this motion is being filed to comply with Rule 2.420 and the Protective Order entered in this case.

WHEREFORE, Gawker and its counsel respectfully request that this Court determine the confidentiality of the Confidential Supplemental Opposition and the Exhibits attached thereto,

including treating as confidential only those materials that are properly treated as such under Rule 2.420 and this Court's Protective Order.

Dated: August 25, 2015

Respectfully submitted,

THOMAS & LOCICERO PL

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of August 2015, I caused a true and correct copy of the foregoing to be served via the Florida Courts' E-Filing Portal upon the following counsel of record:

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