

EXHIBIT 2

to the

**GAWKER DEFENDANTS' NOTICE OF FILING OF
CORRESPONDENCE TO COURT REGARDING PROPOSED ORDERS**

Bajo | Cuva | Cohen | Turkel
ATTORNEYS AT LAW

September 11, 2015

Via Hand Delivery

The Honorable Pamela A.M. Campbell
Civil Division, Section 11
St. Petersburg Judicial Building
545 1st Avenue North, Room 300
St. Petersburg, Florida 33701

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

Dear Judge Campbell:

We have a Case Status Conference/Hearing scheduled for October 1, 2015 to address several pending issues in this case. There are a few outstanding orders that we believe can be resolved now, and doing so would reduce the number of matters that we would need to discuss on October 1:

1. Proposed Orders on Plaintiff's Motion to Exclude Public & Press from Viewing the Sex Video: In open court on July 30, 2015, the parties provided Your Honor with competing orders on your July 1, 2015 ruling concerning the protections which will be afforded when the video of Mr. Bollea is played at trial; along with a transcript of the July 1, 2015 hearing. Enclosed are copies of the competing orders.
2. Proposed Orders on Plaintiff's Emergency Motion for Clarification: On August 14, 2015, we provided Your Honor with the parties' competing Orders addressing your July 30, 2015 rulings on Mr. Bollea's Emergency Motion for Clarification regarding the Protective Order. A copy of our August 14, 2015 letter, the parties' competing orders and the July 30, 2015 transcript, are enclosed.
3. Proposed Order Granting Emergency Motion for Leave to Conduct Discovery Concerning Potential Violation of Protective Order: On August 28, 2015, we provided Your Honor with copies of Mr. Bollea's proposed Order Granting Emergency Motion for Leave to Conduct Discovery regarding the potential violation of this Court's Protective Order. A copy of our August 28, 2015 letter and proposed Order are also enclosed.

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The Honorable Pamela A.M. Campbell

Page 2

September 11, 2015

If Your Honor intends to act on the above-referenced orders prior to the October 1 hearing, doing so now would reduce the number of items for the parties to prepare for and argue on October 1. Otherwise, the parties will prepare themselves to address these matters, and we will notice them for hearing, for the October 1 hearing. Please ask Teresa to let us know, so the parties can prepare accordingly. As always, thank you for your attention regarding these matters.

Respectfully,

BAJO | CUVA | COHEN | TURKEL

A handwritten signature in black ink, appearing to be 'K. Turkel', written over a horizontal line.

Kenneth G. Turkel

Enclosures

cc: Counsel of record via email

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

TERRY GENE BOLLEA professionally
known as HULK HOGAN,

Plaintiff,

Case No.: 12012447-CI-011

vs.

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

Defendants.

**ORDER ON PLAINTIFF'S MOTION TO DETERMINE CONFIDENTIALITY OF
COURT RECORDS AND FOR PROTECTIVE ORDER EXCLUDING
THE PUBLIC AND PRESS AT TRIAL FOR CERTAIN EVIDENCE AND ARGUMENT**

THIS CAUSE came before the Court on July 1, 2015 on the Motion of Plaintiff Terry Gene Bollea to Determine Confidentiality of Court Records and for Protective Order Excluding the Public and Press At Trial for Certain Evidence And Argument (the "Motion"). Charles Harder, Esq. and Kenneth Turkel, Esq. appeared on behalf of Mr. Bollea. Rachel Fugate, Esq. and Seth Berlin, Esq. appeared on behalf of Defendants Gawker Media, LLC, Nick Denton and A.J. Daulerio (the "Gawker Defendants"). Alison Steele, Esq. appeared on behalf of Intervenor, Times Publishing Company. Timothy Conner, Esq. appeared on behalf of Intervenors, First Look Media, Inc., WFTS-TV and WPTV-TV, Scripps Media, Inc., WFTX-TV, Journal Broadcast Group, Vox Media, Inc., Cable News Network, Inc., BuzzFeed, and The Associated Press.¹ The Court has reviewed the Motion and Oppositions, heard argument of

¹ Mr. Conner advised the court during the hearing that Media General Operations, Inc. (WFLA) opted out of the opposition to Mr. Bollea's Motion.

counsel for the parties and Intervenors, and is otherwise fully advised. Accordingly, it is ORDERED and ADJUDGED as follows:

1. The Motion's request for a determination that the video footage of Mr. Bollea and Heather Cole (f/k/a Heather Clem) naked and engaged in sexual relations (the "Video") is confidential under Rule 2.420 of the Florida Rules of Judicial Administration is GRANTED. The Video is CONFIDENTIAL.

2. Mr. Bollea has asserted privacy rights in this case and seeks, among other relief, an injunction prohibiting further public display of the Video. These rights would be compromised if the Video is publicly displayed during the trial.

3. Ms. Cole is now a third party, having reached a settlement agreement with Mr. Bollea. As a third-party, she has an even stronger privacy right to prohibit the public display of the Video.

4. Confidentiality of the Video therefore is required to avoid substantial injury to Mr. Bollea and Ms. Cole.

5. Confidentiality of the Video also is required based on established public policy set forth in the Florida and United States Constitutions, as well as controlling case law. "Both the rights to freedom of speech and freedom of the press, as guaranteed by the First Amendment, and the right to privacy, as guaranteed by the Due Process Clause, are fundamental constitutional rights. The Constitution directs no hierarchy between them. Thus, courts are required to engage in a fact-intensive balancing, with an eye toward that which is reasonable and that which resonates with our community morals, in order to protect the Constitution as a whole." *Toffoloni v. LFP Publishing Group, LLC*, 572 F.3d 1201, 1207-08 (11th Cir. 2009).

6. Maintaining confidentiality of the Video through the measures prescribed in this Order is reasonable and resonates with our community morals, to protect the Constitution as a whole.

7. Confidentiality of the Video also is required to prevent serious and imminent threat to the fair, impartial and orderly administration of justice. This requires a consideration of potential impact on the jury of publicly displaying the Video that Mr. Bollea seeks to keep private, as well as balancing the chilling effect that publicly displaying the Video could have on lawsuits to protect privacy rights, against the public's right to access to the courts. These factors also weigh in favor of maintaining confidentiality of the Video during the trial.

8. Independently, the Video is tangible evidence under Florida Rule of Judicial Administration 2.420 rather than documentary evidence, and is not encompassed within Florida's open judicial records rules.

9. The relief requested in Mr. Bollea's Motion as originally written (seeking closure of the courtroom and exclusion of the press while the Video is played) is DENIED.

10. The relief sought in the Motion was modified orally in open court on July 1, 2015 to seek only that monitors be turned to shield the public and press from viewing or recording the Video when it is played for the jury. The Motion, as modified, is GRANTED.

11. When the Video is played for the jury at trial, the monitors shall be turned in such a way so that only the jury, the parties, their trial counsel, and court personnel may see the Video. The public and press shall not be excluded from the courtroom when the Video is played, and the pooled camera shall not be turned off during such time.

12. The Motion, as modified on July 1, 2015, is the least restrictive measure available to protect the confidentiality of the Video.

13. The degree, duration, and manner of confidentiality ordered herein concerning the Video is no broader than necessary to protect the important privacy interests described above.

14. The Clerk is directed to publish this Order consistent with the terms of Fla. Jud. Admin. R. 2.420(e)(4).

DONE and ORDERED in Chambers at Pinellas County, Florida this _____ day of July, 2015.

Pamela A.M. Campbell
Circuit Court Judge

Copies furnished to:
Counsel of Record

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

TERRY GENE BOLLEA professionally
known as HULK HOGAN,

Plaintiff,

Case No.: 12012447-CI-011

vs.

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

Defendants.

**ORDER ON PLAINTIFF'S MOTION TO DETERMINE CONFIDENTIALITY OF
COURT RECORDS AND FOR PROTECTIVE ORDER EXCLUDING
THE PUBLIC AND PRESS AT TRIAL FOR CERTAIN EVIDENCE AND ARGUMENT**

THIS CAUSE came before the Court on July 1, 2015, on the Motion of Plaintiff, Terry Gene Bollea, to Determine Confidentiality of Court Records and for Protective Order Excluding the Public and Press At Trial for Certain Evidence And Argument. Charles Harder, Esq. and Kenneth Turkel, Esq. appeared on behalf of Mr. Bollea. Rachel Fugate, Esq. and Seth Berlin, Esq. appeared on behalf of Defendants Gawker Media, LLC, Nick Denton and A.J. Daulerio (the "Gawker Defendants"). Alison Steele, Esq. appeared on behalf of Intervenor, Times Publishing Company. Timothy Conner, Esq. appeared on behalf of Intervenors, First Look Media, Inc., WFTS-TV and WPTV-TV, Scripps Media, Inc., WFTX-TV, Journal Broadcast Group, Vox Media, Inc., Cable News Network, Inc., BuzzFeed, and The Associated Press.¹ The Court has reviewed the Motion and Oppositions, heard argument of counsel for the parties and Intervenors,

¹ Mr. Conner advised the court during the hearing that Media General Operations, Inc. (WFLA) opted out of the opposition to Mr. Bollea's Motion.

and is otherwise fully advised. Accordingly, for the reasons stated in open court at the July 1, 2015, hearing on this matter, it is ORDERED and ADJUDGED as follows:

1. The Motion of Plaintiff, Terry Gene Bollea, to Determine Confidentiality of Court Records and for Protective Order Excluding the Public and Press At Trial for Certain Evidence And Argument as written is DENIED.

2. Based on Plaintiff's counsel's modification of the relief requested at the hearing, and over the objections of counsel for Gawker and the Intervenors, however, the Court grants the following relief.

3. When the Video which is the subject of this case is played for the jury at trial, the video monitors used for viewing the Video shall be positioned in such a way so that only the jury, the parties, their trial counsel, and court personnel may see the Video. Any video monitors used for members of the public to view evidence or testimony shall be turned off when the Video which is the subject of this case is played. The public and press shall not be excluded from the courtroom when the Video is played, and the pool camera shall not be turned off during such time. Following the Video being introduced into evidence, the Video will be placed under seal until the trial is concluded, at which time the Court will consider whether the Video should remain under seal, and the Court will entertain any further motions related to the Video and its being placed under seal that may be filed.

DONE and ORDERED in Chambers at Pinellas County, Florida this ____ day of July, 2015.

Pamela A.M. Campbell
Circuit Court Judge

Copies furnished to:

Counsel of Record

1 keep that private for the past two years.

2 The right of privacy is constitutional. It's
3 fundamental and it co-exists with the other rights
4 that have been discussed here. It co-exists. It
5 is not killed off.

6 Thank you, Your Honor.

7 THE COURT: Thank you.

8 So I believe in ruling on this, the Court
9 needs to look really to Toffoloni and some of the
10 other cases and look at the balancing act
11 between -- which basically is what this case is
12 all about, the right of the freedom of the press
13 versus the right of privacy. So it is in that
14 context that I look at this balancing act.

15 I want the ruling to be clear that the
16 Plaintiff's Motion to Determine Confidentiality of
17 Court Records and for protective order excluding
18 the public and press at trial for certain evidence
19 and argument, the motion as written is denied. I
20 believe that the request that has come this
21 morning is different from the motion. So the
22 motion as it's written is denied. However, the
23 Court, in the balancing act of these two
24 fundamental rights, will grant the protection that
25 the plaintiffs are requesting this morning, and

1 that is to -- during the -- whenever -- at
2 whatever part during the trial the minute and
3 41 second recording, the sex recording, is to be
4 viewed by the jury that the method in which they
5 are going to be viewing this, either through a
6 laptop or a TV monitor, however that method is
7 going to be that it will be slanted in such a way
8 so that the jury will see it and not the public.
9 I will not request that the pooled camera be
10 turned off during that time frame. So it's just
11 in such a way that the monitor will be focused
12 toward the jury. This is a very common thing.
13 It's done all the time. Generally it's for the
14 purposes of -- so that the jury can see it up
15 close is why it's generally close to the jury and
16 closer than -- so it's not encroaching into the
17 jury box, but it's close enough for the jury to
18 see. But in this particular case, it will be at
19 an angle so that the public and the -- whatever
20 cameras are in the courtroom won't be allowed to
21 record this video.

22 I do see and I agree with Ms. Fugate that
23 that is the core issue of the case; it is the
24 contents on this tape. It is the issue that is
25 most relevant in determining this. And the Court,

1 in balancing the right of the public and the right
2 of the First Amendment, this is the defining
3 aspect of it so that that is why at this point in
4 time I'm agreeing to show that to the jury only.
5 It would be my intent to seal that particular
6 recording device and then, after the jury trial --
7 it certainly would come into evidence. The jury
8 would be able to look at it on their own. But as
9 far as sealing it and then after the jury trial
10 and after the jury makes their decision, at that
11 point in time, I'll consider other motions.

12 Now, in looking -- in preparing for this case
13 and looking at some of the cases we think about,
14 you go back to post Newsweek and some of the other
15 cases we've talked about this morning and you
16 think about technology. And it's interesting
17 looking back to read those cases and go, oh, the
18 technology from the '70s and you go, oh, they were
19 thinking it was really quite advanced at that
20 point in time. Well, they didn't have the social
21 media that we have at this point. But I do take
22 into mind that the social media aspects or the
23 technology of the time was new to them then and
24 this will be new to us now.

25 But I think this is a defining case and it's

1 a very important case and it's important for the
2 jury to decide this issue, not necessarily the
3 public, not necessarily the public's influence
4 onto the jury. We've already discussed on Monday
5 certain perhaps limitations. I certainly will be
6 instructing the jury all along the way about not
7 watching the news reports of this trial. The
8 attorneys are instructed to instruct each of their
9 witnesses not to be watching the news reports of
10 this trial. So these -- these CDs, this sex tape,
11 is the central issue. And it's important that
12 just the jury decide this during this trial.

13 As far as embarrassment to Mr. Bollea, as far
14 as the motives and intentions of the defendants,
15 in reviewing all the motions in limine that we'll
16 be going through later on, there's plenty of
17 opportunity on both sides for both sides to be
18 embarrassed. So that is not really a factor. The
19 embarrassment part is not a factor. There's going
20 to be plenty of other things in the trial that
21 would be.

22 I think the Court also has to balance the
23 chilling effect that this could have on a privacy
24 issue of bringing litigation in the first place.
25 There is always the access to courts. And I think

1 the Court has to factor access to courts into that
2 aspect of it.

3 I would like to comment just briefly on some
4 of Mr. Conner's thoughts of the openness of
5 courtrooms, especially when he brought up the
6 mortgage foreclosure thoughts which, when we
7 received the information, I thought for sure on
8 all the mortgage foreclosure, surely that had come
9 in stapled to the wrong documents. But as I was
10 reading, I realized it wasn't.

11 My only comment would be I would love for the
12 legislature to fund sufficient courtrooms for all
13 the judges. Oftentimes the reason the judges have
14 things in chambers is because there are more
15 judges than courtrooms. So, Mr. Conner, you don't
16 know me, but pretty much all my hearings are in
17 the courtroom because I always welcome people to
18 come in and I -- in this case and in all cases, I
19 think it's a very educational process. And that's
20 why we have students from USF and from Stetson
21 generally come to watch my trials. I imagine
22 they'll be here to watch this one as well.

23 So with that, I'm going to ask you,
24 Mr. Harder, to please prepare that order and then
25 we can go from there.

1 Any questions so far as that particular
2 ruling, Mr. Harder?

3 MR. HARDER: No, Your Honor.

4 THE COURT: Mr. Berlin?

5 MR. BERLIN: No, Your Honor. Just as a point
6 of clarification, because you had asked a
7 question. I'm assuming Mr. Harder will share the
8 draft of the order with us, but I assume you would
9 also like him to share it with Ms. Steele and
10 Mr. Connor before it's presented.

11 THE COURT: To me, this wasn't noticed as an
12 evidentiary hearing for their participation in it.
13 So certainly they need to be involved in the
14 circulation of the order as well.

15 Ms. Steele, any questions from you?

16 MS. STEELE: As I understand the Court's
17 ruling, you are sealing the public's ability to
18 observe the video until the conclusion of the case
19 and a jury verdict. And, at that point, we are
20 welcome to bring any further motions we have
21 concerning the matter.

22 THE COURT: Yes.

23 MS. STEELE: Thank you, Your Honor.

24 THE COURT: Mr. Conner, anything additional?

25 MR. CONNER: No, Your Honor.

Bajo | Cuva | Cohen | Turkel
ATTORNEYS AT LAW

August 14, 2015

VIA HAND DELIVERY

The Honorable Pamela A.M. Campbell
Civil Division, Section 11
St. Petersburg Judicial Building
545 1st Avenue North, Room 300
St. Petersburg, Florida 33701

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

Judge Campbell:

As Your Honor may be aware, Gawker Defendants recently filed their unilateral "Withdrawal of Consent to Proceeding Before Special Discovery Magistrate," a copy of which is enclosed. Mr. Bollea objects to this action. A copy of Mr. Bollea's Objection and Response is also enclosed. As set forth therein, we believe Judge Case should continue to serve as Special Discovery Magistrate.

Given Gawker Defendants' position regarding Judge Case, the parties were unable to agree on the form of the proposed order on Your Honor's rulings orally announced at the hearing on July 30, 2015 on Mr. Bollea's Emergency Motion for Clarification.

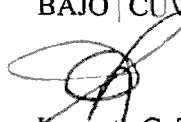
Accordingly, enclosed are the originals and additional copies of the parties' competing Orders on Emergency Motion for Clarification. We have included a copy of the July 30, 2015 hearing transcript as well.

We respectfully request that Your Honor review the enclosed materials and enter whichever Order on Emergency Motion for Clarification the Court deems appropriate. We have enclosed self-addressed, stamped envelopes for Ms. McCreary's convenience in returning conformed copies of the order to counsel for the parties.

As always, your Honor's attention to this matter is greatly appreciated.

Respectfully,

BAJO | CUVA | COHEN | TURKEL



Kenneth G. Turkel

Enclosures

cc: Counsel of record via email

100 North Tampa Street, Suite 1900, Tampa Florida 33602

Telephone: (813) 443-2199 / Facsimile: (813) 443-2193

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Mr. Bollea's
Proposed Order

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

TERRY GENE BOLLEA professionally
known as HULK HOGAN,

Plaintiff,

Case No.: 12012447-CI-011

vs.

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

Defendants.

ORDER ON PLAINTIFF'S EMERGENCY MOTION FOR CLARIFICATION

THIS CAUSE came before the Court on July 30, 2015 on the Emergency Motion of Plaintiff Terry Gene Bollea for an order clarifying and confirming the stipulated procedure governing documents and materials produced in response to the FOIA request of Gawker Media, LLC ("Gawker") and its attorneys (the "Motion"), as well as the July 14, 2015 letter response filed by Gawker Defendants. The Court has reviewed the Motion, letter response, pleadings and Court file, and is otherwise fully advised in the premises. It is thereupon, ORDERED and ADJUDGED as follows:

1 The Report and Recommendation of Special Discovery Magistrate Judge James Case (Ret.), dated October 20, 2014, and the parties' Stipulated Protocol governing the production of records, documents and materials by the United States Government to Gawker and its attorneys under FOIA (the "Stipulated Protocol"), a copy of which is attached hereto as **Exhibit A**, is AFFIRMED.

2 Plaintiff has designated all records, video and audio recordings, documents and other materials produced by the United States Government to Gawker's counsel and the Court under FOIA and the Authorizations ordered by this Court on February 26, 2014 as "Highly Confidential – Attorneys' Eyes Only" under the Court's July 25, 2013 Agreed Protective Order Governing Confidentiality and the Court's permission to designate certain materials as "Highly Confidential Attorney's Eyes Only" at the hearing on February 26, 2014.

3 In the Gawker Defendants' July 14, 2015 letter, they maintain that they have "scrupulously followed the protocol approved by Judge Case ... [and] ... will continue to do so." They also confirm that all records and materials produced by the United States Government are being treated as "Highly Confidential—Attorneys' Eyes Only" in light of plaintiff's confidentiality designations.

4 All records, video and audio recordings, documents and other materials produced by the United States Government to Gawker's counsel under FOIA and the Authorizations ordered by this Court on February 26, 2014 are "Highly Confidential – Attorney's Eyes Only" under the Court's July 25, 2013 Agreed Protective Order Governing Confidentiality, subject to the rulings set forth herein, and unless otherwise ordered by this Court.

5 The DVDs provided to this Court on June 29, 2015 and on July 16, 2015 by the United States Government shall be immediately delivered to Judge Case for preservation and compliance with the procedures set forth in the Stipulated Protocol.

6 The originals and all copies of all audio recordings produced by the United States Government to Gawker's counsel under FOIA and the Authorizations ordered by this Court on February 26, 2014 shall be treated in the same manner as DVDs, and shall be immediately delivered to Judge Case for preservation and compliance with the procedures set forth in the

Stipulated Protocol. No copies of the audio recordings shall remain in Gawker Defendants' counsels' possession, custody or control.

7 Gawker Media, LLC President/General Counsel, Heather Dietrick, is hereby REMOVED as a "Qualified Person" under the Court's July 25, 2013 Agreed Protective Order Governing Confidentiality with respect to any and all records, video and audio recordings, documents and other materials produced by the United States Government to Gawker's counsel under FOIA and the Authorizations ordered by this Court on February 26, 2014. No copies of any records, video and audio recordings, documents and other materials produced by the United States Government to Gawker's counsel under FOIA and the Authorizations ordered by this Court on February 26, 2014 shall remain in Ms. Dietrick's possession, custody or control.

8 Within seven (7) days of the date of this Order, counsel for Gawker Defendants shall file a Notice with the Court confirming compliance with paragraphs 6 and 7, above.

9 For the purpose of any records, video and audio recordings, documents and other materials produced by the United States Government to Gawker's counsel under FOIA and the Authorizations ordered by this Court on February 26, 2014, the term "Highly Confidential – Attorney's Eyes Only" shall mean that such materials may only be received or viewed by: (a) attorneys of record for the parties in this litigation, and staff of such attorneys to whom it is necessary that the material be shown for purposes of this litigation; (b) the Court and its staff, and any mediator, provided they are filed under seal or otherwise provided to the Court or mediator outside of the public docket; and (c) any other person designated by the Court after notice to all parties and an opportunity to be heard. Further, these materials and their contents shall not be disclosed, discussed or made available to any other person or entity absent further court order.

10 As set forth in the Stipulated Protocol, Gawker's counsel shall provide copies of all records, documents and materials produced to them by the United States Government to Mr. Bollea's counsel within two business days of receiving them.

11 The Authorizations executed by Mr. Bollea and his counsel pursuant to this Court's February 26, 2014 Order are limited and provide exclusively for records, documents and materials (other than DVDs and audio recordings, as set forth above) to be provided to Gregg Thomas, Esq. in this lawsuit. The Authorizations do not and shall not be construed to authorize the release of any records, documents, DVDs, audio recordings or other materials by the United States Government to any other person, for any other purpose.

12 The Court refers the balance of Mr. Bollea's Emergency Motion for Clarification, including any requests to modify the rulings set forth herein, to Special Discovery Magistrate James Case.

DONE and ORDERED at Pinellas County, Florida this ____ day of August, 2015.

Pamela A.M. Campbell
Circuit Court Judge

Copies furnished to: Counsel of Record

EXHIBIT A

OCT 22 2014

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. 12012447C1-011

HEATHER CLEM, *et al.*,

Defendants.

STIPULATED REPORT & RECOMMENDATION

Plaintiff Terry Gene Bollea and Defendant Gawker Media, LLC jointly stipulate to the protocol for the Freedom of Information Act request to be made by Gawker's counsel as outlined in the correspondence attached hereto as Exhibit 1.

Dated: October 14, 2014

Respectfully submitted,

HARDER MIRELL & ABRAMS LLP

THOMAS & LOCICERO PLLC

By: 

By: 

Charles J. Harder
Pro Hac Vice Number: 102333
Douglas Mirell
Pro Hac Vice Number: 109885
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Counsel for Defendant Gawker Media, LLC

SO RECOMMENDED:

10.20.14
YES / JAMES R. CASE

James R. Case
Special Discovery Magistrate

Copies furnished to: Counsel of Record

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of October, 2014, I caused a true and correct copy of the foregoing to be served electronically upon the following counsel of record at their respective email addresses via the Florida Courts E-Filing Portal:

Kenneth G. Turkel, Esq.
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September 29, 2014

VIA E-MAIL

Charles J. Harder, Esq.
Harder Mirell & Abrams LLP
1925 Century Park East, Suite 800
Los Angeles, CA 90067

Re: *Bollea v. Clem, et al.*
No. 12012447-CI-011 (Fla. Cir. Ct.)

Dear Charles:

I write to follow up our conversations about a mutually agreeable protocol for our Freedom of Information Act ("FOIA") request seeking records concerning the federal government's investigation relating to the sex tape(s) involving plaintiff.

As Seth, you, and I discussed, we understand that plaintiff firmly believes that these records are not relevant and that our request for this information is not reasonably calculated to lead to the discovery of admissible evidence. We, in turn, disagree with plaintiff's belief about the records' relevance and his position that Gawker and its counsel should not be able to review certain materials that might be in the government's files without the Court reviewing them first. Nevertheless, both sides recognize that the Court has issued rulings that bear on these issues, and, in the spirit of compromise and in an effort to move the process along, we have agreed to establish a protocol for facilitating the FOIA request and subsequent review of any records provided by the government, without intending to waive our respective positions in connection with earlier rulings by the Court.

Based on our discussion, I set out below what I understand we agreed to in principle. Both sides understand that this agreement is intended only to address the procedure with respect to the FOIA request. Each party is preserving its rights and positions concerning the discoverability, relevance, or admissibility of any material the government produces in response to the FOIA request, and each party is preserving its right to challenge Judge Case's rulings, including any rulings on a party's confidentiality designations:



Washington New Mexico Philadelphia Denver



LEVINE SULLIVAN
KOCH & SCHULZ, LLP

Charles J. Harder, Esq.
September 29, 2014
Page 2

- Counsel for the Gawker defendants, along with counsel for plaintiff, will call the U.S. Attorney's office and/or FBI before Gawker's counsel makes the FOIA request to explain our agreed upon protocol and seek their guidance on how best to ensure the government's assistance in complying with it.
- Plaintiff and his counsel will provide signed authorizations for the release of records to the Gawker defendants. Gawker will treat the Social Security numbers on the authorizations as "Highly Confidential – Attorney's Eyes Only" and will not disseminate them to anyone other than in submitting the FOIA request to the government.
- Counsel for the Gawker defendants will make the FOIA request, copying plaintiff's counsel. The request will note that plaintiff believes that records relating to the investigation are not relevant to this litigation, but he and his counsel have provided signed FOIA waivers based on a court order. We will provide a draft of the request to you before submitting it to the government, for you to review and revise as it pertains to plaintiff's position. Alternatively, if plaintiff prefers, we will include a separate letter from you stating plaintiff's position.
- **Responsive Documents:** Any documents that Gawker's counsel receives from the government will be treated as "Highly Confidential – Attorney's Eyes Only" pending plaintiff's review of the documents. Gawker's counsel will FedEx copies of the documents to plaintiff's counsel within two business days of receiving them. Plaintiff then will have 30 days from the date of receipt to review the documents and decide whether to designate any of them as "Confidential" under the Protective Order or "Highly Confidential – Attorney's Eyes Only" under Judge Campbell's April 23, 2014 ruling.
- **DVDs or Other Video Footage:** In the call with the government and in the FOIA request itself, counsel for Gawker will ask the government to provide any videos that the government agrees to produce in response to the request in a separate sealed envelope addressed to Judge James Case (Ret.), who will personally pick up the videos in Tampa. If the government inadvertently sends any video to Gawker's counsel, counsel will not open any sealed envelope containing videos and will not review any videos provided by the government, except as provided below. Gawker's counsel will send any videos to Judge Case within two business days of receiving them.

Charles J. Harder, Esq.
September 29, 2014
Page 3

- Prior to reviewing any video, Judge Case will provide the parties' counsel with an index of what he has received, describing the number of videos, their form (*i.e.*, DVD, tape, etc.), and any title that is on the video. Judge Case will preserve the videos until the final disposition of this case, including any appeals.
- Judge Case will review any videos provided to him, in their entirety, to determine if they contain any nudity, or any sexual content, or any material covered by the protective order plaintiff sought during the July 18, 2014 hearing (any and all of which is referred to herein as "Nudity, Sexual Content, or Protective Order Material"). If any videos do not contain any Nudity, Sexual Content, or Protective Order Material, then Judge Case will provide such videos to Gawker's counsel, and Gawker's counsel will then provide copies to plaintiff's counsel and will treat them as "Highly Confidential – Attorney's Eyes Only" until plaintiff's counsel has had 30 days to review them and make any confidentiality designations.
- With respect to videos that contain any Nudity, Sexual Content, or Protective Order Material, Judge Case will review them to determine whether the videos or any portions of the videos are relevant or reasonably calculated to lead to the discovery of admissible evidence. In connection with Judge Case's conducting that review and making his recommendations, Gawker might request of Judge Case to make a confidential, *ex parte* proffer to Judge Case about Gawker's theories on why content that might be on the recordings should be deemed to be relevant or reasonably calculated to lead to the discovery of admissible evidence. (Plaintiff opposes any *ex parte* communications between Gawker and Judge Case, or any protocol contemplating any such *ex parte* communications.) If Judge Case permits any *ex parte* proffer by Gawker's counsel: Judge Case will not provide Gawker's counsel with any information about the contents of any videos, except as provided below; any such proffer by Gawker will be treated as confidential and not shared with plaintiff or his counsel; and any such proffer will be made on the record and transcribed by a court reporter, in case it is needed for further review of Judge Case's recommendations concerning his review of the videos.
- If Judge Case recommends that any portion of the videos is not relevant or reasonably calculated to lead to the discovery of admissible evidence, he will provide the parties with something akin to a privilege log, generally describing any footage being withheld and the basis for withholding it, providing sufficient detail so that his recommendations could, if needed, be subject to further review, but while respecting the privacy interests of the plaintiff.

Charles J. Harder, Esq.
September 29, 2014
Page 4


- If Judge Case determines that any statements reflected on the videos containing Nudity, Sexual Content, or Protective Order Material or any portion thereof are relevant or reasonably calculated to lead to the discovery of admissible evidence, then he will arrange for a court reporter to transcribe those statements (at Gawker's expense). Each side retains the right to seek from Judge Case any portions of the videos, including any portions of the audio, that he finds to be relevant or reasonably calculated to lead to the discovery of admissible evidence in which there is no Nudity, Sexual Content, or Protective Order Material. Any transcript, audio recording, or video will be treated as "Highly Confidential – Attorney's Eyes Only" until plaintiff has had 30 days to review them and make any confidentiality designations.
- Prior to Gawker's counsel making the FOIA request, the parties will inform Judge Case of the agreed-upon protocol and provide him with a stipulation and proposed recommendation memorializing the proposed procedure for his receipt, review, and ruling on any videos.

Please confirm that plaintiff agrees to this protocol or let us know if he proposes any revisions. If you have any questions or would like to discuss the protocol, please call me or Seth. If this is otherwise agreeable, please provide us with the signed authorizations as directed by the Court.

We appreciate your working with us to develop a mutually agreeable procedure.

Very truly yours,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By: 
Michael Betry

cc: Seth D. Berlin, Esq.

Gawker
Defendants'
Proposed Order

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

TERRY GENE BOLLEA professionally
known as HULK HOGAN,

Plaintiff,

Case No.: 12012447-CI-011

vs.

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

Defendants.

_____ /

ORDER ON PLAINTIFF'S EMERGENCY MOTION FOR CLARIFICATION

THIS CAUSE came before the Court on July 30, 2015 on the Emergency Motion of Plaintiff Terry Gene Bollea for an order clarifying and confirming the stipulated procedure governing documents and materials produced in response to the FOIA request of Gawker Media, LLC ("Gawker") and its attorneys (the "Motion"), as well as the July 14, 2015 letter response filed by Gawker Defendants. The Court has reviewed the Motion, letter response, pleadings and Court file, and is otherwise fully advised in the premises. It is ORDERED and ADJUDGED as follows:

1 The Report and Recommendation of Special Discovery Magistrate Judge James Case (Ret.), dated October 20, 2014, and the parties' Stipulated Protocol governing the production of records, documents and materials by the United States Government to Gawker and its attorneys under FOIA (the "Stipulated Protocol"), a copy of which is attached hereto as **Exhibit A**, is AFFIRMED.

2 Plaintiff has designated all records, video and audio recordings, documents and other materials produced by the United States Government to Gawker's counsel under FOIA and the Authorizations ordered by this Court on February 26, 2014 as "Highly Confidential — Attorneys' Eyes Only" under the Court's July 25, 2013 Agreed Protective Order Governing Confidentiality and the Court's permission to designate certain materials as "Highly Confidential Attorney's Eyes Only" at the hearing on February 26, 2014.

3 In the Gawker Defendants' July 14, 2015 letter, they maintain that they have "scrupulously followed the protocol approved by Judge Case ... [and] ... will continue to do so." They also confirm that all records and materials produced by the United States Government are being treated as "Highly Confidential—Attorneys' Eyes Only" in light of plaintiff's confidentiality designations.

4 The DVDs provided to this Court on June 29, 2015 and on July 16, 2015 by the United States Government shall be maintained under seal until further order of this Court.

5 As set forth in the Stipulated Protocol, Gawker's counsel shall provide copies of all records, documents and materials produced to them by the United States Government to Mr. Bollea's counsel within two business days of receiving them.

DONE and ORDERED at Pinellas County, Florida this ____ day of August, 2015.

Pamela A.M. Campbell
Circuit Court Judge

Copies furnished to: Counsel of Record

EXHIBIT A

OCT 22 2014

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.

STIPULATED REPORT & RECOMMENDATION

Plaintiff Terry Gene Bollea and Defendant Gawker Media, LLC jointly stipulate to the protocol for the Freedom of Information Act request to be made by Gawker's counsel as outlined in the correspondence attached hereto as Exhibit 1.

Dated: October 14, 2014

Respectfully submitted,

HARDER MIRELL & ABRAMS LLP

THOMAS & LOCICERO PLLC

By: 

By: 

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Douglas Mirell
Pro Hac Vice Number: 109885
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and

and

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Florida Bar No. 954497
BAJO CUYA COHEN TURKEL

Seth D. Berlin
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Counsel for Defendant Gawker Media, LLC

SO RECOMMENDED: 10.20.14
vs. JAMES R. CASE
James R. Case
Special Discovery Magistrate

Copies furnished to: Counsel of Record

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of October, 2014, I caused a true and correct copy of the foregoing to be served electronically upon the following counsel of record at their respective email addresses via the Florida Courts E-Filing Portal:

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Gregg Thomas
Attorney



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Michael Berry
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mberry@lskslaw.com

September 29, 2014

VIA E-MAIL

Charles J. Harder, Esq.
Harder Mirell & Abrams LLP
1925 Century Park East, Suite 800
Los Angeles, CA 90067

Re: *Bollea v. Clem, et al.*
No. 12012447-CI-011 (Fla. Cir. Ct.)

Dear Charles:

I write to follow up our conversations about a mutually agreeable protocol for our Freedom of Information Act ("FOIA") request seeking records concerning the federal government's investigation relating to the sex tape(s) involving plaintiff.

As Seth, you, and I discussed, we understand that plaintiff firmly believes that these records are not relevant and that our request for this information is not reasonably calculated to lead to the discovery of admissible evidence. We, in turn, disagree with plaintiff's belief about the records' relevance and his position that Gawker and its counsel should not be able to review certain materials that might be in the government's files without the Court reviewing them first. Nevertheless, both sides recognize that the Court has issued rulings that bear on these issues, and, in the spirit of compromise and in an effort to move the process along, we have agreed to establish a protocol for facilitating the FOIA request and subsequent review of any records provided by the government, without intending to waive our respective positions in connection with earlier rulings by the Court.

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Washington New York Philadelphia Boston



LEVINE SULLIVAN
KOCH & SCHULZ, LLP

Charles J. Harder, Esq.
September 29, 2014
Page 2

- Counsel for the Gawker defendants, along with counsel for plaintiff, will call the U.S. Attorney's office and/or FBI before Gawker's counsel makes the FOIA request to explain our agreed upon protocol and seek their guidance on how best to ensure the government's assistance in complying with it.
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- **DVDs or Other Video Footage:** In the call with the government and in the FOIA request itself, counsel for Gawker will ask the government to provide any videos that the government agrees to produce in response to the request in a separate sealed envelope addressed to Judge James Case (Ret.), who will personally pick up the videos in Tampa. If the government inadvertently sends any video to Gawker's counsel, counsel will not open any sealed envelope containing videos and will not review any videos provided by the government, except as provided below. Gawker's counsel will send any videos to Judge Case within two business days of receiving them.

Charles J. Harder, Esq.
September 29, 2014
Page 3

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- With respect to videos that contain any Nudity, Sexual Content, or Protective Order Material, Judge Case will review them to determine whether the videos or any portions of the videos are relevant or reasonably calculated to lead to the discovery of admissible evidence. In connection with Judge Case's conducting that review and making his recommendations, Gawker might request of Judge Case to make a confidential, *ex parte* proffer to Judge Case about Gawker's theories on why content that might be on the recordings should be deemed to be relevant or reasonably calculated to lead to the discovery of admissible evidence. (Plaintiff opposes any *ex parte* communications between Gawker and Judge Case, or any protocol contemplating any such *ex parte* communications.) If Judge Case permits any *ex parte* proffer by Gawker's counsel: Judge Case will not provide Gawker's counsel with any information about the contents of any videos, except as provided below; any such proffer by Gawker will be treated as confidential and not shared with plaintiff or his counsel; and any such proffer will be made on the record and transcribed by a court reporter, in case it is needed for further review of Judge Case's recommendations concerning his review of the videos.
- If Judge Case recommends that any portion of the videos is not relevant or reasonably calculated to lead to the discovery of admissible evidence, he will provide the parties with something akin to a privilege log, generally describing any footage being withheld and the basis for withholding it, providing sufficient detail so that his recommendations could, if needed, be subject to further review, but while respecting the privacy interests of the plaintiff.



LEVINE SULLIVAN
KOCH & SCHULZ, LLP

Charles J. Harder, Esq.
September 29, 2014
Page 4

- If Judge Case determines that any statements reflected on the videos containing Nudity, Sexual Content, or Protective Order Material or any portion thereof are relevant or reasonably calculated to lead to the discovery of admissible evidence, then he will arrange for a court reporter to transcribe those statements (at Gawker's expense). Each side retains the right to seek from Judge Case any portions of the videos, including any portions of the audio, that he finds to be relevant or reasonably calculated to lead to the discovery of admissible evidence in which there is no Nudity, Sexual Content, or Protective Order Material. Any transcript, audio recording, or video will be treated as "Highly Confidential – Attorney's Eyes Only" until plaintiff has had 30 days to review them and make any confidentiality designations.
- Prior to Gawker's counsel making the FOIA request, the parties will inform Judge Case of the agreed-upon protocol and provide him with a stipulation and proposed recommendation memorializing the proposed procedure for his receipt, review, and ruling on any videos.

Please confirm that plaintiff agrees to this protocol or let us know if he proposes any revisions. If you have any questions or would like to discuss the protocol, please call me or Seth. If this is otherwise agreeable, please provide us with the signed authorizations as directed by the Court.

We appreciate your working with us to develop a mutually agreeable procedure.

Very truly yours,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By: _____

Michael Berry

cc: Seth D. Berlin, Esq.

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

TERRY GENE BOLLEA, professionally
known as HULK HOGAN,

Plaintiff,

vs.

Case No. 12-012447-CI-011

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

Defendants.

HEARING BEFORE THE HONORABLE PAMELA A.M. CAMPBELL

Case Management and Status Conference

DATE: July 30, 2015

TIME: 10:00 a.m. to 11:48 a.m.

PLACE: Pinellas County Courthouse
545 First Avenue North
Third Floor, Courtroom C
St. Petersburg, Florida

BEFORE: Valerie A. Hance, RPR
Notary Public, State of
Florida at Large

Pages 1 to 92

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Attorneys for Defendant
17 Gawker Media, LLC

18 ALSO PRESENT:

19 Terry Gene Bollea
20
21
22
23
24
25

I N D E X

PLAINTIFF'S EMERGENCY MOTION FOR CLARIFICATION ON PROTOCOL	Page 5
PLAINTIFF'S EMERGENCY MOTION FOR CLARIFICATION	Page 63
COURT RULING	Page 72
PLAINTIFF'S NOTICE THAT ACTION IS AT ISSUE AND MOTION TO SET CAUSE FOR TRIAL	Page 77
REPORTER'S CERTIFICATE	Page 92

E X H I B I T S
(None marked.)

1 review them for relevancy and a transcript would be
2 prepared if anything on them was relevant to this
3 case. That does them absolutely no harm whatsoever.

4 Whereas, on the converse side, as we have seen
5 what has transpired over the past few days, there is
6 an extreme prejudice to Mr. Bollea if they're
7 allowed to continue to keep these items. And that
8 prejudice far outweighs what we're asking the Court
9 to do with respect to these recordings.

10 THE COURT: Thank you. So as far as --

11 MR. BERLIN: Can I clarify just two things?
12 I'm sorry, but this is not right. I'm sorry to --
13 we have to get this right.

14 One is, I don't think a lawyer should have to
15 come to the Court and share with his adversary.

16 THE COURT: Why don't we do this. Let me make
17 my ruling. And then at that point in time, if you
18 have some question or a point, then you can -- I'll
19 give you an opportunity to ask your question at that
20 point.

21 MR. BERLIN: Happily, Your Honor.

22 THE COURT: Thank you.

23 All right. So at this point in time, the
24 plaintiff's motion for clarification is denied in
25 part and granted in part, in the fact that at this

1 point in time, the material that has been provided,
2 not only to the Court, but also to the parties, from
3 the FBI is to be considered confidential and under
4 attorneys eyes only as had been provided under the
5 prior agreement between the attorneys.

6 At this point, I would agree with the
7 plaintiffs to exclude Ms. Dietrick. I would like
8 the audios provided to Judge Case as part of the
9 discovery. The part that I'm not sure about is for
10 Judge Case to have some transcript made, that I'm
11 going to defer to Judge Case as to whether or not
12 that's appropriate with all the circumstances. And
13 that all of this material be treated confidential.

14 The Court has been concerned with the how would
15 these DVDs that were delivered to the Court be
16 treated. They're not exactly evidence. It's not
17 like someone has asked me to receive these into
18 evidence. So the Court has viewed them as a neutral
19 place for them to be maintained until Judge Case
20 returned.

21 Judge Case returns this weekend to Florida.
22 And at such time, all of the DVDs that I have
23 received, which are five, will be delivered to
24 Judge Case. And at that point in time, when you all
25 have an opportunity to get before Judge Case on some

1 of the various issues as to how to handle these
2 materials, which would include dealing with
3 Ms. Dietrick in those, I think they should be
4 addressed first to Judge Case who will have the
5 opportunity to see and review all of them, and then
6 you all can take the time with him to go through all
7 these individual things.

8 Some of these rulings are in a vacuum. I
9 haven't seen the 1100 pages. I haven't seen the
10 audio. I'm handed five inches of paper this morning
11 to review and I've not reviewed it. And nor is
12 there time on the Court's calendar to be doing that.
13 So while I will certainly take the opportunity to
14 review these materials before I make a ruling on the
15 plaintiff's request for additional discovery, so
16 I'll reserve on that motion. But at that point in
17 time, I think all of this is considered discovery.
18 Whether or not you're going to use it in trial or
19 not will be determined some other day.

20 And so at this thing, I'm going to appoint it
21 then to send it over to Judge Case as the discovery
22 magistrate to make those rulings.

23 Anybody have any questions on that aspect of
24 it? Mr. Berlin?

25 MR. TURKEL: Judge, I just have one question on

1 your last statement.

2 You're reserving on the emergency motion to
3 conduct discovery. Are you sending that one over to
4 Judge Case for --

5 THE COURT: No.

6 MR. TURKEL: Okay. I didn't know if that last
7 statement covered --

8 THE COURT: I think I needed to read all this
9 material. And then at that point in time, I'll make
10 my ruling.

11 MR. TURKEL: I understand.

12 THE COURT: No, I'm referring the motion for
13 clarification, all those things.

14 MR. TURKEL: Got it.

15 THE COURT: The denial aspect of the motion
16 under the protocol is, should there be some court
17 reporter to come and make a transcript of an audio
18 recording that I'm hearing, it sounds like there's
19 already transcripts available. Yeah, I don't know
20 that that's really appropriate.

21 MR. TURKEL: I just wanted to make sure.
22 That's how I understood your statement.

23 THE COURT: Thank you.

24 Mr. Berlin.

25 MR. TURKEL: I'm fine. Thank you.

1 MR. BERLIN: Your Honor, two things. Let me
2 start with the audio file first.

3 Mr. Vogt represented to you that there was a
4 transcript of the audio file, and that is not
5 correct. There is a partial transcript of the audio
6 file. Some of it is not on there.

7 We are highly concerned about, while we're
8 continuing to litigate a FOIA case, having to part
9 with evidence that we need for the FOIA case and
10 give it to Judge Case. And so --

11 THE COURT: I'll let you make that argument to
12 him.

13 MR. BERLIN: Well, I'm not done yet. Let me if
14 I may, Your Honor.

15 And the second thing is, it is simply untenable
16 to have a huge swath of documents that you have now
17 ruled -- that are marked "Attorneys Eyes Only" that
18 I cannot discuss the contents of with Ms. Dietrick.

19 THE COURT: I have not seen those materials, so
20 that's why I'm saying I think that -- let Judge Case
21 look at those materials, and then maybe he'll make
22 that recommendation.

23 MR. BERLIN: Well, Your Honor, it's just simply
24 untenable. I'm asking you for an immediate stay of
25 that ruling so that we can seek appellate review.

1 It's just we can't litigate a case where we have no
2 client. We have no client that we can discuss about
3 the merits of the case. I have deadlines.

4 THE COURT: He'll be in town on Saturday and
5 so, hopefully, you can get before him right away.

6 Okay. Thank you.

7 MR. BERLIN: So that you're denying the motion
8 to stay?

9 THE COURT: Yes.

10 MR. BERLIN: Very well, Your Honor.

11 THE COURT: Thank you.

12 All right. Anything else on the motion for
13 clarification?

14 All right. So let's go ahead then and move to
15 when we're going to set the trial.

16 So I appreciate the fact that the plaintiff
17 would like me to set the trial right away on an
18 expedited basis. I don't see the -- one, the
19 Court's calendar is totally full. So on an
20 expedited basis, I can't bump other people's cases
21 for this one.

22 So at this point in time, the next availability
23 of a two-week docket, which I think this case is
24 still going to be on a two-week docket, is going to
25 be in March 2016. March 7th, 2016.

1 MR. TURKEL: Judge, one suggestion we would
2 make. And if it please the Court, I understand the
3 practical aspect of setting the trial. We had --

4 THE COURT: It's not a staying of the trial.

5 MR. TURKEL: No, no, I know, Judge. And the
6 one thing we'd just suggest was -- we had cited the
7 priority ruling. That does give you discretion. My
8 suggestion, from a practical standpoint, was going
9 to be this.

10 And, Judge, I'm saying this understanding what
11 you're saying about your dockets, because I've known
12 your dockets are, I think, six and seven deep in
13 September.

14 THE COURT: No, 14.

15 MR. TURKEL: 14 now?

16 THE COURT: Right, I have 14 trials for
17 September. I have -- November and December are
18 one-week trials where there is eight and nine per
19 trial -- per docket. January is a one-week docket.
20 February already has 14 on it. And March is the
21 first available.

22 MR. TURKEL: The only suggestion I was going to
23 make -- and we made it in our motion. And I'm
24 assuming, by virtue of moving us into March, you
25 maybe have considered it and rejected -- was the

1 right to set certain priority cases.

2 We are almost three years old. Put us at the
3 front of the docket, the normal -- the normal
4 pretrial settlements occur, maybe you're left with
5 two or three and then --

6 THE COURT: Here is where I'm at.

7 MR. TURKEL: -- you can refer them down the
8 hall maybe.

9 THE COURT: Unfortunately, I can't, but here is
10 what I am going to require; is that the case go to
11 mediation before October 1st, which is our next
12 hearing.

13 MR. TURKEL: Certainly we'll abide by that.

14 Judge, if you're saying March is all we can do,
15 I mean --

16 THE COURT: March is the soonest.

17 MR. TURKEL: Okay.

18 THE COURT: If everybody is available in March.

19 MR. TURKEL: Certainly. And the only problem
20 we have, I think Mr. Bollea may have a conflict in
21 March.

22 THE COURT: I'm sorry.

23 MR. TURKEL: Okay. Judge, you're aware of how
24 badly we want this case to get to trial, so I'm not
25 going to waste your time --

1 THE COURT: We've tried to get this case to
2 trial for a year. We started talking about this
3 trial a year ago, so -- and just to let everybody
4 know, there were 13 media trucks had reserved space
5 for July 6th. Five local, eight from New York.
6 People had reserved restaurant spaces, which
7 apparently whoever the attorneys were that reserved
8 spaces in the restaurant, the restaurants ordered
9 extra food and nobody called them to tell them the
10 trial was off. And Friday was a Court holiday.
11 So -- and I didn't know people had reserved spaces
12 in restaurants. So those restaurants then sustained
13 damage because they had extra food.

14 And we had 150 jurors coming for that Monday
15 and 150 jurors coming for that Tuesday. So a lot of
16 work had been put into July.

17 I appreciate the fact of the appellate court's
18 ruling, but, you know, unfortunately, the reality
19 is, just as soon as we can get it back on. I mean,
20 I would love for it to be sooner than that, but,
21 unfortunately, there are many other cases that have
22 already been set and people that have been working
23 very diligently to bring their cases to trial.

24 MR. TURKEL: I'll make a suggestion. And I'm
25 sure it's going to be qualified with if the parties

1 agree.

2 Would the Court be amenable if the parties were
3 to agree to let Judge Case try it if we could try it
4 earlier?

5 THE COURT: You need to talk to your appellate
6 attorneys about some of that, but I don't know that
7 you would agree with that.

8 MR. TURKEL: Yeah, I was more thinking him
9 since he's senior judge status here.

10 THE COURT: It comes under Chapter 44 as a
11 voluntary trial lawyer, but I believe there are some
12 appellate limitations on that.

13 So I don't have any problem with it, but I
14 imagine that since everything I say gets appealed, I
15 certainly doubt that a trial, both parties would
16 agree to not having any appellate review.

17 MR. TURKEL: If I can -- let me confer with my
18 client one moment on the March date, Judge.

19 THE COURT: That's fine. Why don't we take
20 just a few minutes break so everybody can talk about
21 it, look at their calendars. You all can look at
22 your calendar, so let's take a five-minute break.

23 (Recess taken.)

24 THE COURT: Mr. Turkel, was March a good date,
25 please?

1 MR. TURKEL: Judge, yes, with a caveat. I
2 mean, I was just on the phone with Wil Florin and he
3 is representing Mr. Bollea's suit which is specially
4 set before Judge St. Arnold in that month, but we
5 really -- we need to get this case tried.

6 THE COURT: This is March 7th for that two
7 weeks. Usually that third --

8 MR. TURKEL: You all don't have the same
9 dockets, right?

10 THE COURT: Usually we would not.

11 MR. TURKEL: He may have been March 14th. He
12 may have been starting March 14th, Wil, I mean.

13 THE COURT: Okay.

14 MR. TURKEL: But I think that what we would
15 prefer is just go ahead and set this and we'll take
16 action as needed in the other case, because we need
17 to get this case tried.

18 Judge, and just so I'm clear and so my
19 colleagues that are attending by phone are clear,
20 because, for whatever reason, the calendar is
21 showing up in docket time in September and October,
22 but you're 14 deep in September already and -- on
23 your jury trial week? And how deep in October?

24 THE COURT: Some of those, some have already
25 settled, but that doesn't mean that you -- the Court

1 counts on them settling before. Obviously, I can't
2 do 14 trials in two weeks.

3 MR. TURKEL: Right. And October equally?
4 Okay. I just wanted to make sure Mr. Harder and
5 Mr. Houston heard that, because I think they had
6 looked online and saw, for whatever reason --

7 THE COURT: I don't know where they're looking
8 online. There isn't an online calendar that you
9 look at.

10 MR. TURKEL: Maybe they spoke to Ms. McCreary.
11 They both -- whatever the case would be --

12 THE COURT: All right. October had had 16
13 trials at one point, so currently I'm down to 12,
14 but --

15 MR. TURKEL: Okay. Judge, given that, with the
16 qualifications I told you, we're fine with that
17 March date.

18 THE COURT: Mr. Berlin, March, March 7?

19 MR. BERRY: Your Honor --

20 THE COURT: Mr. Berry.

21 MR. BERRY: -- we had actually talked to
22 Mr. Turkel a couple weeks back, and I thought that
23 they had come to an agreement that we're both
24 available in February. And at that time, we
25 understood your calendar was open in February. If

1 that's not the case, then March is acceptable to us.
2 But going --

3 MR. TURKEL: Obviously, we prefer February,
4 Judge, but you sort of prefaced it all with the idea
5 that February was already stacked. If you can put
6 us in February, we prefer that.

7 THE COURT: February has 15.

8 So looks like -- so -- and, I mean, when I set
9 this for July, I didn't set 14 on July because,
10 clearly, this one was anticipated to go.

11 MR. TURKEL: Understood.

12 THE COURT: So I have to -- when I plan this
13 one, I won't be scheduling 14 others around the same
14 timeframe, because if this one is not resolved prior
15 to October 1st, we're going. So --

16 All right. So mediation prior to October 1st,
17 please, and a trial date then for March. And the
18 date is March 7th. We'll send out a pretrial order
19 to that effect. And the pretrial is February 16th
20 at 9:30.

21 So what I would like to do is, if you all
22 could -- pending my ruling on your request for
23 discovery, the plaintiff's request for -- I know,
24 Mr. Berlin, I'm looking at you, but the plaintiff's
25 request for discovery. Pending my ruling on that

1 issue, I'd like for the two parties to get together
2 and determine other types of how much trial time do
3 you need based on whatever additional discovery
4 needs to happen, so we can go ahead and put those --
5 block those dates out like we did before on the
6 Court's calendar. I know that we already have
7 October 1st for a half a day in the morning.

8 MR. TURKEL: Just the same practice where we
9 held Fridays sort of as a catchall day for status,
10 et cetera?

11 THE COURT: Well, I don't know. That's what
12 I'm saying. I don't know that there is much more
13 discovery. In my view, it looked like we were --
14 everybody was ready for trial. The discovery had
15 been done. The things that nobody -- and that may
16 have changed at this point in time. So I don't hold
17 Fridays open. I packed Fridays with mortgage
18 foreclosures. So usually 100 to 150 mortgage
19 foreclosure trials on Friday.

20 So unless these are specifically reserved dates
21 for you, they're packed with something else. So
22 that's why I'm saying --

23 MR. TURKEL: I think the only discovery issue,
24 Judge, that was lingering -- and I'm glad you
25 brought this up -- was we had one to finish the

1 financial work discovery, and we got to a point
2 there was just no time left before trial, so that
3 issue was left lingering not because of the merits
4 of it, but because we had no time left. We do want
5 to finish that discovery.

6 Perhaps what we'll do is look and just -- I
7 thought it was nice when we held a few hours every
8 two or three weeks just to have status in this case.
9 We always found ways to use that. Sometimes needed
10 more time. So if the Court's amenable to that,
11 we'll look at your calendar, get with Ms. McCreary
12 and maybe hold some of those dates so we can at
13 least have checkpoints.

14 MR. BERLIN: I think that makes sense,
15 Your Honor. We -- as you may recall when we were
16 together on the 1st of July for the series of
17 something like, I think, there were about 42 motions
18 in limine, that evidentiary rule, some of those
19 rulings were made without prejudice to you actually
20 looking at the exhibits and it might be --

21 THE COURT: Really, they were made without
22 prejudice until the trial started going, because I'm
23 not going to prejudge the whole trial by motions in
24 limine.

25 MR. BERLIN: Also true.

1 THE COURT: No, I had -- let's make it really
2 clear. Before the motions in limine, I had reviewed
3 all those records, so I have those notebooks and I
4 still have them. So those rulings are still going
5 to stand. We're not doing them again.

6 MR. BERLIN: No, I'm not asking you to do them
7 again, but there were a couple that you said, "I'd
8 like to look at the specific evidence" --

9 THE COURT: Evidence during the trial.

10 MR. BERLIN: Your Honor, if I could just
11 finish, I think I can try and help you. Okay.

12 What the issue was at the time was you had
13 directed the parties to try and sit down and reduce
14 the number of exhibits, which we had agreed to do.
15 And what I'm proposing -- the only thing I was
16 proposing, I was trying to agree with Mr. Turkel in
17 setting some dates to deal with some of these issues
18 that will come up as we try and do that. That's all
19 I was proposing, Your Honor.

20 THE COURT: All right.

21 MR. BERLIN: Sorry for causing any confusion.

22 MR. BERRY: Just so we're very clear, I'm not
23 coming back and arguing over 40 motions in limine.

24 MR. TURKEL: We've ruled on those. You've
25 defined for us the boundaries of that very well.

1 And if it's other stuff, look, it was my suggestion,
2 okay, having a few dates on the calendar. That's
3 fine, Judge.

4 THE COURT: So if you all would like to,
5 between yourselves, figure out how regularly you
6 want those to be held, I don't know that they're
7 going to be on Fridays.

8 MR. TURKEL: Whenever.

9 THE COURT: As you all -- some of you from out
10 of town don't know, the mortgage foreclosures came
11 back to us, so we no longer have a mortgage
12 foreclosure division, so our calendars are pretty
13 stacked.

14 So you are welcome to see when the -- when the
15 calendar is open and then we'll go from there. So
16 probably I would imagine if you all get together,
17 figure out how much time you think you need, how
18 often, and then we'll figure out where we can
19 accommodate that on the calendar. Okay?

20 MR. TURKEL: Thank you, Judge.

21 MR. BERLIN: Your Honor, if I may, just a
22 housekeeping matter. I did start my remarks on the
23 discovery motion seeking additional discovery from
24 Mr. Turkel, that saying that we had just gotten it
25 yesterday and asking if we could file the proper

1 response. And I was going to just ask if we could
2 have 14 days to do that.

3 THE COURT: That's fine. No.

4 MR. TURKEL: Judge, can we truncate --

5 THE COURT: Not 14 days. I would really like
6 to get it done sooner than that, because I'd like --
7 I really would like to get the order out. And so if
8 you want to make -- or if you want to supplement
9 your oral remarks that you made today, which I took
10 quite a lot of notes from, but if you want to
11 supplement that, if you can have them -- if you
12 could really supplement it by the 10th or 11th, by
13 August 10th or 11th.

14 MR. BERLIN: Yes. Look at my calendar,
15 Your Honor.

16 If we can do the 11th, that would be great,
17 Your Honor.

18 THE COURT: Okay.

19 MR. BERLIN: We'll make that work.

20 THE COURT: Thank you. Anything else,
21 Mr. Berlin?

22 MR. BERLIN: No, Your Honor.

23 THE COURT: Anything else, Mr. Turkel?
24 Mr. Vogt?

25 MR. VOGT: Yes, Your Honor, I have copies of --

1 we've actually e-mailed -- clearly, Mr. Conner and
2 I, we have competing orders on the order -- on the
3 ruling that Your Honor made concerning the video,
4 displaying of the video at trial, as well as the
5 transcript. So I've informed that we would bring
6 these.

7 THE COURT: And these are the competing orders?

8 MR. VOGT: Yes, Your Honor.

9 THE COURT: There's one from each side?

10 MR. VOGT: One from each side and additional
11 copies. I put a post-it on them. And the
12 transcript is there as well.

13 THE COURT: Okay. Perfect. Great. Thank you.

14 And I think there are a number of other orders
15 too that still need to be entered from all the --
16 especially the ones on the motions in limine and all
17 the other things that --

18 MR. VOGT: I think those are -- we have not
19 prepared written orders on any of those rulings yet.

20 THE COURT: Okay.

21 MR. TURKEL: We've got time.

22 MR. VOGT: But we can get to those.

23 THE COURT: Thank you. Anything else?

24 MR. TURKEL: I think that's it.

25 MR. BERLIN: Nothing from us, Your Honor.

1 Thank you, Your Honor.

2 THE COURT: Thank you. See you October 1st.

3 (Proceedings concluded at 11:48 a.m.)

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1 REPORTER'S CERTIFICATE

2
3 STATE OF FLORIDA

4 COUNTY OF HILLSBOROUGH

5
6 I, Valerie A. Hance, Registered Professional
7 Reporter, certify that I was authorized to and did
8 stenographically report the foregoing proceedings and
that the transcript is a true and complete record of my
stenographic notes.9
10 I further certify that I am not a relative,
employee, attorney, or counsel of any of the parties,
11 nor am I a relative or employee of any of the parties'
attorney or counsel connected with the action, nor am I
12 financially interested in the outcome of the foregoing
action.13
14 Dated this 30th day of July, 2015, IN THE CITY
OF TAMPA, COUNTY OF HILLSBOROUGH, STATE OF FLORIDA.15
16
17 Valerie A. Hance, RPR
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Bajo | Cuva | Cohen | Turkel
ATTORNEYS AT LAW

August 28, 2015

Via Hand Delivery

The Honorable Pamela A.M. Campbell
Civil Division, Section 11
St. Petersburg Judicial Building
545 1st Avenue North, Room 300
St. Petersburg, Florida 33701

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

Dear Judge Campbell:

As you may recall, Mr. Bollea filed an Emergency Motion seeking electronic and other discovery concerning a potential violation of this Court's Protective Order. Gawker Defendants and their counsel filed a Joint Opposition to Mr. Bollea's Emergency Motion on August 11, 2015.

Enclosed is a copy of Mr. Bollea's Reply¹ to the Joint Opposition. Although Gawker Defendants have requested a hearing on this matter, the Court already heard argument from the parties at the July 30, 2015 hearing. The parties' respective papers are thorough and speak for themselves. Additional oral argument will not add anything of substance to the Court's analysis. In fact, Your Honor stated at the July 30, 2015 hearing that you would be ruling based upon the parties' filings and the arguments made at the July 30, 2015 hearing.

Also, Gawker Defendants recently filed motions asking the Court to remove the confidentiality designations associated with the materials that were leaked to the press, and scheduled those motions for hearing on October 1, 2015. Essentially, they are asking the Court to approve the leak before we can verify whether they are responsible for it.

Accordingly, we respectfully request that the Court review the parties' submissions and rule accordingly as soon as practicable, with due respect for the Court's schedule and case load.

We enclose the original and additional copies of a proposed order granting Mr. Bollea's Emergency Motion, which we request be entered. This proposed order provides a detailed

¹ We were delayed in preparing this Reply due to several recent emergency matters and the relocation of Mr. Harder's law offices.

The Honorable Pamela A.M. Campbell

Page 2

August 28, 2015

protocol governing the computer forensic examination Mr. Bollea is seeking, and also provides for certain limited written discovery and depositions. Notably, the protocol explicitly provides an opportunity for Gawker Defendants' counsel to review all data compiled during the forensic examination for any privileged or work product materials before production to Mr. Bollea. It also provides for specific, narrowly tailored search terms which will govern the forensic examination.

Finally, we have been trying without success over the past several weeks to schedule the mediation Your Honor ordered at the July 30, 2015 hearing. Unfortunately, it appears that the mediation cannot be scheduled by the October 1, 2015 deadline Your Honor established. We enclose a Status Report detailing our efforts to schedule mediation. We felt obligated to apprise Your Honor of this situation before the hearing scheduled for October 1, 2015, given Your Honor's directive at the last hearing.

As always, Your Honor's attention to this matter is greatly appreciated.

Respectfully,

BAJO | CUVA | COHEN | TURKEL

A handwritten signature in black ink, appearing to read 'K. Turkel', written over a horizontal line.

Kenneth G. Turkel

Enclosures

cc: Counsel of record via email

Mr. Bollea's
Proposed
Order

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

TERRY GENE BOLLEA professionally
known as HULK HOGAN,

Plaintiff,

Case No.: 12012447-CI-011

vs.

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

Defendants.

**ORDER GRANTING EMERGENCY MOTION FOR LEAVE TO CONDUCT
DISCOVERY CONCERNING POTENTIAL VIOLATION OF PROTECTIVE ORDER
AND TO COMPEL TURNOVER OF CONFIDENTIAL DISCOVERY MATERIALS**

THIS CAUSE came before the Court for hearing on July 30, 2015 on the Emergency Motion of Plaintiff Terry Bollea, professionally known as Hulk Hogan ("Mr. Bollea"), for Leave to Conduct Discovery Concerning Potential Violation of Protective Order and to Compel Turnover of Confidential Discovery Materials (the "Motion"). On August 11, 2015, defendants Gawker Media, LLC ("Gawker"), Nick Denton ("Denton") and A.J. Daulerio ("Daulerio") (collectively, "Gawker Defendants") and their counsel filed their Joint Opposition to the Motion. On August 25, 2015, Gawker Defendants filed their Supplemental Joint Opposition to the Motion. On August 28, 2015, Mr. Bollea filed his Reply to the Joint Opposition and Supplemental Joint Opposition. The Court has reviewed the Motion, Opposition and Reply papers, heard argument of counsel, and is otherwise fully advised. Accordingly, it is ORDERED and ADJUDGED as follows:

1. Mr. Bollea's Motion is GRANTED. Mr. Bollea is granted leave to conduct discovery concerning a potential violation of this Court's Protective Order.

2. Mr. Bollea is entitled to a forensic examination of desktop and laptop computers, servers, backup tapes, devices such as disks and USB drives, and cloud-based services such as e-mail services and storage services, computer networks, systems, tablets, and smart phones/cell phones of each of the Gawker Defendants including any of their respective employees and agents, for any and all data, files, emails, messages, texts, phone records and similar electronically stored information, which information shall be subject to the requirements and limitations set forth in paragraphs 3 through 10, below (the "Examination").

3. **Appointment of Examiner:** Gawker Defendants shall permit computer forensic examiner, E-Hounds, to forensically image and inspect computers, servers, backup tapes and devices such as disks and USB drives, cloud based services such as email services (Gmail, Yahoo, Outlook, etc.) and storage services (Dropbox, OneDrive, Google Drive, Amazon Storage, Bitcasa, etc.), computer networks, systems, tablets, cell phones and smart phones (collectively, the "Network and Devices"), which are in the care, custody or control of or used by Gawker Defendants.

4. **Scope of Inspection:** The purpose of the inspection shall be for Plaintiff to obtain information and discovery regarding the following topics or issues:

- a. any data or material which in any way demonstrates that Gawker Defendants or anyone else associated with them communicated, directly or indirectly, with anyone associated with the *National Enquirer* or *Radar Online*, including, without limitation, Dylan Howard, Lachlan Cartright, Melissa Cronin, Michael Jaccarino and Amber Goodhand/Ryland, or any other members of the media or third-parties (other than third parties permitted to receive such information under this Court's protective orders) concerning

Mr. Bollea, this lawsuit or the related Freedom of Information Act federal lawsuit between Gawker and the FBI/Executive Office of the United States Attorney;

- b. the search terms identified in **Exhibit A**;
- c. the language quoted in **Exhibit B**;
- d. any video or audio recording of Mr. Bollea or Heather Clem, as well as any actual or purported transcripts of such recordings;
- e. Identification of any system operations, specific commands, or other evidence of processes or events by or during which data have been moved, modified, deleted, or erased from the Network and Devices, whether through normal operation or otherwise, that may explain or affect the presence or absence of the information falling within this designated Scope of Inspection; and
- f. Confirmation that there have been no deliberate attempts to compromise the integrity of any information or Data within the scope of paragraph 4(a)-(d), above, on the Network and Devices since the initiation of this litigation.

This scope of inspection may be modified and amended only by stipulation of the parties or by a motion seeking leave of Court for such modification or amendment.

5. **Procedure for Inspection.** Within five (5) business days of this Order, Gawker Defendants shall permit E-Hounds access to the Network and Devices to inspect and copy information from them. Gawker Defendants shall have the right to be present during E-Hounds' inspection and imaging of Gawker Defendants' Network and Devices, but shall not interfere with the inspection or copying in any way. E-Hounds shall be permitted to perform any forensic tests necessary to obtain the information described in the Scope of Inspection herein, including, but

not limited to, making a copy of any memory, programs, or data contained on the Network and Devices. E-Hounds shall be permitted to take forensic images back to its place of business for further testing and inspection. E-Hounds shall not remove any of the Network and Devices from Gawker Defendants' premises. E-Hounds shall not use any inspection or copying methods that result in the destruction of any business or personal information contained on Gawker Defendants' Network and Devices.

6. **Restrictions on Disclosure by E-Hounds.** E-Hounds shall strictly observe the procedure described in this paragraph, and shall not transmit to or discuss with Plaintiff or any other third party the information obtained or copied from Gawker Defendant's Network and Devices, until after E-Hounds has complied with all of the requirements of this paragraph.

- a. Once E-Hounds completes its inspection of Gawker Defendants' Network and Devices, E-Hounds shall provide counsel for Gawker Defendants with one or more discs containing all information obtained by E-Hounds that appears to be responsive to the Scope of Inspection set out in paragraph 4, above.
- b. Within seven (7) days after Gawker Defendants' counsel's receipt of such disc(s), counsel for Gawker Defendants shall give written notice to counsel for Plaintiff and to E-Hounds of all items or data on the disc(s) that Gawker Defendants object to E-Hounds producing to Plaintiff. Such objections shall be limited to the following grounds: (i) attorney-client privilege; and (ii) work-product protection. Any such objections must identify the specific document or data for which protection is sought, and must state specifically for each document or data the foundation for the claim of privilege or protection, including the sender, all recipients and subject matter of each such

document or data. Failure to object within the seven (7) day time period shall be deemed a waiver of objection.

- c. Any information within the Scope of Inspection that is not the subject of an objection from Gawker Defendants may be produced to Plaintiff by E-Hounds after the expiration of this seven-day period.
- d. If objections are made, counsel shall meet (telephonically or in person) within seven (7) days to confer with the object of resolving any disputed objections.
- e. Any unresolved objections that remain after this meeting shall be presented to Special Discovery Magistrate Judge James Case (Ret.) in the form of a Motion for Protective Order filed by Gawker Defendants within five (5) days after the meeting of counsel in paragraph 6(d), and Judge Case will review expeditiously Gawker Defendants' objections and determine the need for protection, if any.
- f. E-Hounds shall not produce or disclose any information that is subject to an objection by Gawker Defendants until such time as Gawker Defendants' objections are removed by agreement of the parties or by order of the Court.

7. **Appointment by Court.** E-Hounds and all of its employees shall be deemed to be acting as a Court-appointed expert as of the date on which E-Hounds first gains access to Gawker Defendants' Network and Devices. E-Hounds shall continue to function in this capacity until all of Gawker Defendants' objections to the production of information obtained during the inspection are resolved or if no objections are raised by Gawker Defendants, until the seven-day period specified in 6(b) elapses. During the period that E-Hounds is functioning as Court-appointed expert, neither party shall have *ex parte* contact with E-Hounds regarding the

substance of the information obtained by E-Hounds during its inspection. However, counsel for the parties may discuss technical issues with E-Hounds regarding the methods used by E-Hounds to conduct its inspection or the format used by E-Hounds to produce documents to Gawker Defendants for review. Once E-Hounds is released from its service as a Court-appointed expert, it may then function as an expert retained by Plaintiff.

8. **Confidentiality.** Other than as specified in this Order, E-Hounds shall not provide, discuss, or disclose information derived from the Network and Devices, or in any way reveal the nature of information derived from the Network and Devices, to anyone other than a party to the litigation (or its counsel), Judge Case or this Court. E-Hounds may produce information that falls within the Scope of Inspection to Plaintiff's counsel only after E-Hounds has complied with the notice process described in paragraph 6 of this Order. E-Hounds is prohibited from producing to Plaintiff any information obtained during the inspection that does not fall within the Scope of Inspection.

9. **No Retention of Information.** At the conclusion of this litigation, E-Hounds shall return to Gawker Defendants or destroy all copies of the information retrieved and copied from Gawker Defendant's Network and Devices.

10. **Cost of Expert.** Any costs related to the hiring of E-Hounds or its participation in this lawsuit shall be borne by Plaintiff without prejudice, and the Court reserves jurisdiction to determine allocation of this expense.

11. **Written Discovery:** Mr. Bollea is also entitled to serve written discovery upon Gawker Defendants concerning each of the topics of issues identified in the Scope of Inspection set forth in paragraph 4, above. However, the scope of such written discovery shall be limited to requests for production of non-electronic documents and records (*i.e.*, phone records/bills, letters,

etc.), and ten (10) interrogatories. The response time to such written discovery shall be reduced to fourteen (14) days.

12. **Depositions:** Mr. Bollea may notice and take the depositions of: (1) any current or former Gawker employees or agents revealed by the computer forensic examination to have been in contact with or communicated with the *National Enquirer* or *Radar Online*, directly or indirectly, concerning Mr. Bollea, this lawsuit, or the related federal lawsuit between Gawker and the FBI/EOUSA; and (2) any current or former Gawker employees or agents who otherwise provided to any third party (other than third parties permitted to receive information pursuant to the protective orders entered in this case) any information or materials containing any of the statements attributed to Mr. Bollea in the reporting by the *National Enquirer* and *Radar Online*. Mr. Bollea may also notice and take the depositions of Nick Denton, A.J. Daulerio and Heather Dietrick on the topic of communications or contact, directly or indirectly, with the *National Enquirer* or *Radar Online*, or any other members of the media or third-parties (other than third parties permitted to receive such information under this Court's protective orders), concerning Mr. Bollea, this lawsuit or the related federal lawsuit between Gawker and the FBI/EOUSA.

13. **Third-Party Discovery:** Mr. Bollea is also entitled to issue subpoenas for documents/records and the depositions of third-parties concerning each of the topics or issues identified in the Scope of Inspection set forth in paragraph 4, above.

14. **Turnover of Transcripts and Recordings:** Gawker Defendants' counsel, including Heather Dietrick, shall immediately turn over to Special Discovery Magistrate James Case, the originals and all hard and electronic copies of the "HIGHLY CONFIDENTIAL—ATTORNEY'S EYES ONLY" transcripts and audio and video recordings of Mr. Bollea

gathered as part of discovery or the FBI's extortion investigation. Gawker Defendants' counsel shall be permitted access to these materials upon motion for good cause shown.

15. **Judge Case as Special Master for E-Discovery:** Special Discovery Magistrate James Case shall continue to serve as Special Master, and shall supervise the electronic discovery process, written discovery, depositions and any Court-permitted access to audio and video recordings ordered herein.

16. Any violations of this order or prior discovery and/or protective orders by Gawker Defendants will result in discovery sanctions and treated as a contempt of court.

DONE and ORDERED at Pinellas County, Florida this _____ day of _____, 2015.

Pamela A.M. Campbell
Circuit Court Judge

Copies furnished to:
Counsel of Record

Exhibit A

Search Terms

The Scope of Inspection shall include the following search terms, including all reasonable iterations of these terms that are calculated to obtain responsive documents and to avoid false positive hits:

- "Hulk"
- "Hogan"
- "HH"
- "Bollea"
- "TB"
- "Clem"
- "Bubba" "Love Sponge"
- "BTLS"
- "Heather Cole"
- "BC"
- "HC"
- "Keith Davidson"
- "Davidson"
- "Calt"
- "Cowhead"
- "MRCOWHEAD"
- "Richard Peirce"
- "richpeirce"
- "Tony Burton"
- "Burton"
- "Bostick"
- "DVD details"
- "Hulk Hogan/Heather Clem Sex Tape from July 2007"
- "Hulk_Hogan_Sex_Tapes.doc"
- "Matt Loyd"
- "SpiceBoy"

Exhibit B

Statements

The Scope of Inspection shall include searches for the following quotes from *The National Enquirer* articles, in whole or in part, and including all reasonable iterations of such quotes or the terms that are calculated to obtain responsive documents and to avoid false positive search results:

- “My daughter Brooke jumped sides on me”
- “Black Billionaire Guy”
- “He had Jamie Foxx coming in on the 22nd track”
- “She is making some real bad decisions now”
- “The one option Brooke had, Brooke’s career besides me”
- “sell beach records”
- “south beach records”
- “VH1 wanted me to do a big thing and go back to the house I grew up in”
- “enamored with Linda”