

EXHIBIT 1

to

GAWKER'S OPPOSITION TO PLAINTIFF'S
RENEWED MOTION TO COMPEL AND REQUEST
FOR RULING ON CLAIM OF PRIVILEGE
ASSOCIATED WITH "TRANSFER PRICING STUDY"

Bajo | Cuva | Cohen | Turkel
ATTORNEYS AT LAW

December 11, 2015

Via E-mail & FedEx

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:

Enclosed is a courtesy copy of Mr. Bollea's Memorandum of Law Concerning the Applicable Standard Governing Attorneys' Eyes Only Designations, which Your Honor requested at the hearing on November 18, 2015.

We received a copy of Gawker Defendants' Supplemental Brief re. Standards for Motion Challenging Plaintiff's Confidentiality Designations. Their Supplemental Brief raises new issues which were not addressed at the November 18, 2015 hearing, makes additional arguments, to which we object, and does not specify the exact standard to be used in the review of designated documents. As such, the document falls short of that requested by the Court and allowed by the procedural rules. We would like an opportunity to respond to these arguments at the January 13, 2015 Case Status Conference, before Your Honor makes any rulings.

Specifically, Gawker Defendants raise arguments regarding a recent Tampa Police Department report. We would like to point out to the Court that, in this report, Bubba Clem and Heather Cole again confirmed that Mr. Bollea did not know he was being recorded. Gawker Defendants continue to focus on the offensive language issue when discussing the files relating to the extortion attempt against Mr. Bollea—yet consistently ignore the evidence in these files that confirms that Mr. Bollea did not know he was being recorded.

We also object to Gawker Defendants mischaracterization of Judge Bucklew's rulings in the Federal FOIA lawsuit; as these arguments are inconsistent with Your Honor's rulings and the purpose and intent of Your Honor's order requiring Mr. Bollea to execute FOIA authorizations. Specifically, Gawker Defendants assert that Judge Bucklew ordered that the federal government's files being produced in the FOIA litigation are "public records." We disagree with Gawker Defendants' interpretation of Judge Bucklew's rulings. Moreover, Your Honor ruled in paragraph 11 of the September 23, 2015 Order on Plaintiff's Emergency Motion for Clarification that:

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

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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.

Notably, Gawker Defendants have **not** appealed this portion of Your Honor's September 23, 2015 Order.

Also in connection with the November 18, 2015 hearing, enclosed are the original and copies of a proposed Order on Plaintiff's Motion to Compel Complete Production of Documents in Response to Financial Worth Discovery. Counsel for the parties have reviewed and agreed upon the form of this proposed Order. Accordingly, if it meets with Your Honor's approval, please enter the original. We have enclosed self-addressed, stamped envelopes to return conformed copies to counsel.

Your Honor will note that paragraph 3 of this proposed order requires Gawker Defendants to provide a document entitled "Economic Analysis of Royalty Payments Between Gawker Media, LLC and Blogwire Hungary KFT" (the "**Transfer Pricing Study**") to the Court for *in camera* review in order to determine whether this document is, in whole or in part, protected by the attorney-client privilege.

In connection with making this determination, we are also enclosing some cases for the Court's review. First, enclosed is a copy of *Skorman v. Hovnanian of Florida, Inc.*, 382 So.2d 1376 (Fla. 4th DCA 1980); which distinguishes legal advice from business advice for purposes of attorney-client privilege. Second, we enclose *Brookings v. State*, 495 So.2d 135, 139 (Fla. 1986), which recognizes the axiom that "[i]t is the communication with counsel which is privileged, **not the facts.**" (emphasis added)

Third, we enclose a copy of *In re DeCoro USA, Ltd.*, 2014 Bankr. LEXIS 1075 (M.D.N.C. Mar. 18, 2014). This case provides an overview of the Transfer Pricing Regulations, as well as the process involved in calculating the "arm's length standard" applied to prevent avoidance of taxes by transferring income between commonly controlled businesses (*i.e.*, Gawker Media and Kinja). We are providing this case because it identifies numerous **facts** taken into consideration in Transfer Pricing Studies. Mr. Bollea believes that, to the extent **facts** are memorialized in the Gawker Media/Kinja Transfer Pricing Study, those **facts** are not privileged and should be disclosed. *See, Brookings, infra.*

We have also filed and enclose a copy of an Affidavit from our Financial Worth Expert, James Donohue, which provides the Court with some additional guidance on Transfer Pricing Studies. Please note that **Exhibit 1** to this Affidavit has been designated by Gawker Defendants as "**CONFIDENTIAL,**" and has therefore been filed under **seal** and should be reviewed *in camera*.

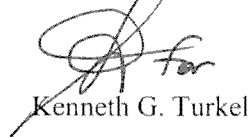
We appreciate that these are additional materials regarding the privilege issue, and therefore ask that the Court withhold any ruling on the Transfer Pricing Study until it can be addressed at the January 13, 2015 Case Status Conference as well.

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As always, Your Honor's attention to these materials is greatly appreciated.

Respectfully,

BAJO | CLVA | COHEN | TURKEL

A handwritten signature in black ink, appearing to read "K. Turkel", is written over the printed name "Kenneth G. Turkel".

Kenneth G. Turkel

Enclosures

cc: Seth D. Berlin, Esq. (via email)
Gregg D. Thomas, Esq. (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.

GAWKER MEDIA,
LLC aka GAWKER MEDIA, et al.,

Defendants.

**ORDER ON PLAINTIFF'S MOTION TO COMPEL COMPLETE
PRODUCTION OF DOCUMENTS IN RESPONSE TO FINANCIAL
WORTH DISCOVERY AND RECONSIDERATION OF RULING
REGARDING FINANCIAL WORTH DEPOSITIONS; REQUEST FOR SANCTIONS**

THIS CAUSE came before the Court for hearing on November 18, 2015 on the Motion of Plaintiff, Terry Gene Bollea, professionally known as Hulk Hogan ("Mr. Bollea"), to Compel Complete Production of Documents in Response to Financial Worth Discovery and Reconsideration of Ruling Regarding Financial Worth Deposition; Request for Sanctions. The Court has reviewed the Motion and Opposition, heard argument of counsel for the parties, and is otherwise fully advised. Accordingly, it is ORDERED and ADJUDGED that Mr. Bollea's Motion is GRANTED IN PART and DENIED IN PART, as follows:

1. Mr. Bollea's request for additional net worth depositions is DENIED WITHOUT PREJUDICE, based upon Gawker Defendants' counsel's agreement to provide updated financials for each of the Gawker Defendants as of December 31, 2015 on or before February 1, 2016;

2. Mr. Bollea's request for adverse inferences and to compel Mr. Denton is DENIED; however, Mr. Bollea is GRANTED leave to pursue a third-party subpoena, pursuant to Fla. R. Civ. P. 1.351, requesting the documents establishing the trust at issue, and any amendments thereto;

3. Mr. Bollea's motion is GRANTED IN PART and DENIED IN PART as to the document entitled, "Economic Analysis of Royalty Payments Between Gawker Media LLC and Blogwire Hungary KFT." The Gawker Defendants shall provide to the document to the Court for an *in camera* review within five days. If the Court concludes that the document is privileged, it shall return the document to counsel for Gawker. If the Court overrules Gawker's privilege objection and orders production, such order will be stayed for three weeks to allow Gawker to seek appellate review and a further stay.

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

_____, 2015.

Pamela A.M. Campbell
Circuit Court Judge

Copies furnished to:
Counsel of Record