

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.

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**DEFENDANT A.J. DAULERIO'S OBJECTION TO NOTICE OF HEARING**

Defendant A.J. Daulerio objects to the Notice of Hearing and Plaintiff's attempt to set two motions to be heard on August 11 on an expedited basis for the following reasons:

1. First, the Court previously issued an Order to Appear on August 11 at 3:30 p.m. in connection with proceedings supplementary. Those proceedings were filed and the order issued on an *ex parte* basis. The August 11 appearance date was thus set without consultation with Defendant's counsel. Mr. Daulerio's lawyers from his lead counsel firm (Levine Sullivan) are unable to appear on that date due to prior obligations in other courts and cases but, since the Court had set that date in its Order to Appear, arranged for Florida local counsel to attend to address Mr. Daulerio's extremely limited assets. At 5:34 p.m. on Friday, August 5, 2016, Plaintiff filed two more motions: a "renewed" motion for sanctions and other serious remedies, and a motion to tax costs. Plaintiff attempted to notice both motions for hearing on the August 11 date set by the Court in the Order to Appear, just four business days later. Mr. Daulerio objects to adding two substantive motions, which relate to many matters the Levine Sullivan firm has been handling, to a hearing they cannot attend on four business days' notice.

2. Second, neither motion is an emergency. The motion to tax costs relates to costs incurred over the course of the litigation, and there is no reason for this issue to be heard four business days after it was filed. In fact, in his rush to file the motion to tax costs, Plaintiff has failed to include the required affidavits of costs, as he himself admits. *See* Mot. to Tax Costs at ¶ 5. Thus, even if there were any reason to require Mr. Daulerio to respond to the motion on an emergency basis, he would be unable to do so. Without an affidavit of costs, Mr. Daulerio is unable to meaningfully respond or object to the costs Plaintiff seeks to recover or to assess whether to seek the evidentiary hearing to which he is entitled to determine whether the costs were reasonable and whether Plaintiff himself actually incurred those costs.

3. Similarly, the “renewed” motion for sanctions simply rehashes the same motion that Plaintiff filed two weeks ago and that the Court already adjudicated on July 29, 2016. Indeed, in denying a stay, the Court did not credit any of the allegations on which Plaintiff focuses in his “renewed” motion, and expressly took the remaining matters under advisement. It cannot be the case that, in taking the matter under advisement, the Court expected Plaintiff to move exactly one week later, on an expedited basis, for the same relief based on the same underlying allegations. Plaintiff has offered no justification for filing the same motion again, or the supposed need for treating it on an expedited basis.

4. Third, while claiming to do otherwise, both motions ask the Court to rule on issues that affect Mr. Daulerio’s co-defendants, Gawker Media, LLC (“Gawker”) and Nick Denton despite the bankruptcy stay. 11 U.S.C. § 362. For example, Plaintiff is asking the Court to rule on which of his costs may be taxed, determinations that obviously could affect the other two defendants. Similarly, the “renewed” motion asks the Court to make findings about alleged

“misrepresentations” involving Gawker and Mr. Denton.<sup>1</sup> Given that Mr. Daulerio has only nominal assets and a negative net worth, these motions appear to be nothing more than an improper attempt to end-run the bankruptcy stay imposed on proceedings against those two defendants. That would be improper under any circumstances. It is especially so where Plaintiff is trying to force Mr. Daulerio to respond on an expedited basis, and (as explained below) potentially without representation.

5. Fourth, Plaintiff has concealed the fact that, at the same time that he is threatening Mr. Daulerio with additional financial penalties and possible punishment for contempt in this Court, he has been trying to deprive Mr. Daulerio of legal representation in the bankruptcy proceeding. Specifically, one day before filing the two motions in this Court, Plaintiff, as part of the Committee of Gawker’s Creditors, filed papers in the Bankruptcy Court contending that the company should no longer be permitted to pay for Mr. Daulerio’s representation in this action, potentially leaving him without counsel to respond to these motions. *See Ex. A* at 10-11 (Objection to Appointment of Counsel, filed on Aug. 4, 2016). In addition, Plaintiff and the other creditors contend in the Bankruptcy Court that undersigned counsel should not be permitted to represent Mr. Daulerio *at all* in connection with this litigation, in part because of supposed conflicts of interest on issues relating to whether Gawker has an obligation to indemnify him – coincidentally one of the principal issues that Plaintiff has raised in his renewed motion for sanctions. *See id.* at 9-10; Pl.’s Renewed Mot. at 2-8.<sup>2</sup> In other words, while using a

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<sup>1</sup> *See, e.g.*, Renewed Mot. at 3 (discussing claims about Denton’s assets); *id.* at 4 nn. 2 & 3 (addressing Denton’s indemnification); *id.* at 5 (addressing Denton’s indemnification); *id.* at 6 (discussing what Gawker told Denton about his indemnification).

<sup>2</sup> Undersigned counsel explained to Mr. Daulerio at the outset of the case that, under the Rules of Professional Responsibility, they could not advise him about indemnification rights against Gawker since they are also representing the company. Because Plaintiff has objected in

Silicon Valley billionaire Peter Thiel's funding to try to convince this Court to levy severe sanctions, initiate criminal contempt proceedings, and tax hundreds of thousands of dollars in costs against Mr. Daulerio – a man with a negative net worth – Plaintiff has taken the position in the Bankruptcy Court that Mr. Daulerio should be left without counsel in these proceedings. Mr. Daulerio objects to briefing and a hearing until that issue is resolved in the Bankruptcy Court and Mr. Daulerio is assured that he has legal counsel to represent him in responding to the motions.

5. Fifth, Mr. Daulerio objects to a hearing on four days' notice because, even were there not a representation issue with respect to indemnification, it does not allow adequate time to file a brief in response to the "renewed" motion's accusations of misconduct or the lengthy list of items Plaintiff proposes to tax as costs.

For each of these reasons, Mr. Daulerio objects to the Notice of Hearing purporting to set the two motions for a hearing on August 11, 2016 at 3:30 p.m.

Dated: August 9, 2016

Respectfully submitted,  
THOMAS & LOCICERO PL  
By: /s/ Gregg D. Thomas  
Gregg D. Thomas  
Florida Bar No.: 223913  
Rachel E. Fugate  
Florida Bar No.: 0144029  
601 South Boulevard, P.O. Box 2602 (33601)  
Tampa, FL 33606  
Telephone: (813) 984-3060  
Facsimile: (813) 984-3070  
[gthomas@tlolawfirm.com](mailto:gthomas@tlolawfirm.com)  
[rfugate@tlolawfirm.com](mailto:rfugate@tlolawfirm.com)

Seth D. Berlin  
Pro Hac Vice Number: 103440  
Michael D. Sullivan

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the bankruptcy proceeding to Gawker's continuing to pay for his defense in this action, making that matter a live issue for the first time, Mr. Daulerio is attempting to engage separate counsel to address indemnification issues. That effort has proven difficult in light of Mr. Daulerio's financial circumstances.

Pro Hac Vice Number: 53347  
Michael Berry  
Pro Hac Vice Number: 108191  
Alia L. Smith  
Pro Hac Vice Number: 104249  
Paul J. Safier  
Pro Hac Vice Number: 103437  
LEVINE SULLIVAN KOCH & SCHULZ, LLP  
1899 L Street, NW, Suite 200  
Washington, DC 20036  
Telephone: (202) 508-1122  
Facsimile: (202) 861-9888  
[sberlin@lskslaw.com](mailto:sberlin@lskslaw.com)  
[msullivan@lskslaw.com](mailto:msullivan@lskslaw.com)  
[mberly@lskslaw.com](mailto:mberly@lskslaw.com)  
[asmith@lskslaw.com](mailto:asmith@lskslaw.com)  
[psafier@lskslaw.com](mailto:psafier@lskslaw.com)

*Counsel for Defendant A.J. Daulerio*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 9th day of August, 2016, I caused a true and correct copy of the foregoing to be served via the Florida Courts' E-Filing Portal on the following counsel of record:

Kenneth G. Turkel, Esq.  
[kturkel@BajoCuva.com](mailto:kturkel@BajoCuva.com)  
Shane B. Vogt, Esq.  
[shanc.vogt@BajoCuva.com](mailto:shanc.vogt@BajoCuva.com)  
Bajo Cuva Cohen & Turkel, P.A.  
100 N. Tampa Street, Suite 1900  
Tampa, FL 33602  
Tel: (813) 443-2199; Fax: (813) 443-2193  
*Attorneys for Plaintiff*

Kristin A. Norse  
[knorse@kmf-law.com](mailto:knorse@kmf-law.com)  
Stuart C. Markman  
[smarkman@kmf-law.com](mailto:smarkman@kmf-law.com)  
Kynes, Markman & Feldman, P.A.  
Post Office Box 3396  
Tampa, FL 33601-3396  
Tel: (813) 229-1118  
*Attorneys for Plaintiff*

David Houston, Esq.  
Law Office of David Houston  
[dhouston@houstonatlaw.com](mailto:dhouston@houstonatlaw.com)  
432 Court Street  
Reno, NV 89501  
Tel: (775) 786-4188  
*Attorney for Plaintiff*

Charles J. Harder, Esq.  
[charder@HMAfirm.com](mailto:charder@HMAfirm.com)  
Harder Mirell & Abrams LLP  
132 South Rodeo Drive, Suite 301  
Beverly Hills, CA 90212-2406  
Tel: (424) 203-1600; Fax: (424) 203-1601  
*Attorneys for Plaintiff*

Gregg Thomas  
Gregg Thomas