

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

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

Defendants.

**MOTION TO DETERMINE CONFIDENTIALITY OF MOTION TO
COMPEL PLAINTIFF TO PRODUCE IMPROPERLY WITHHELD DOCUMENTS**

Pursuant to Rule 2.420 of the Florida Rules of Judicial Administration and this Court's Agreed Protective Order Governing Confidentiality, dated July 25, 2013 (the "Protective Order"), Defendants Gawker Media, LLC ("Gawker"), Nick Denton, and A.J. Daulerio (collectively, "Gawker") respectfully move to determine the confidentiality of their Motion to Compel Plaintiff to Produce Improperly Withheld Documents ("Motion to Compel"), and the Exhibits attached thereto.

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

1. Florida Rule of Judicial Administration 2.420(c)(9)(A)(iv) provides that certain court records are confidential if the Court determines that confidentiality is required in order to "obtain evidence to determine legal issues in a case."
2. This Court's Protective Order provides that both the parties and non-party witnesses may designate testimony and/or documents as "Confidential" if their substance falls into certain enumerated categories.

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

4. On September 28, 2015, the Court further expanded the scope of the Agreed Protective Order, affirming a prior Report and Recommendation of the Special Discovery Magistrate that permitted Bollea to designate as “Attorneys’ Eyes Only” materials produced by the federal government in connection with a Freedom of Information Act lawsuit brought by Gawker.

5. Concurrent with this motion, Gawker is filing its Motion to Compel, and the Exhibits attached thereto. That Motion argues, among other things, that Bollea failed to produce documents and information that he and his counsel David Houston provided to the FBI during the course of its investigation. The Motion to Compel also argues that, in light of records recently produced by the FBI, Bollea should be compelled to produce an array of documents and communications that he previously withheld from Gawker based on claims of privilege.

6. The Motion to Compel refers to and includes (a) records produced in the federal FOIA litigation that are provisionally subject to “Attorneys’ Eyes Only” treatment, and (b) other discovery material that plaintiff has provisionally designated as “Confidential” and/or “Highly Confidential – Attorneys’ Eyes Only.”

7. Counsel for Gawker certifies that this motion is made in good faith and is supported by a sound factual and legal basis. Although counsel for Gawker does not agree that the materials referenced in and attached to the Motion to Compel warrant “Confidential” or

“Attorneys’ Eyes Only” treatment, this motion is being filed to comply with Rule 2.420 and the Protective Order entered in this case.

WHEREFORE, Gawker respectfully requests that this Court determine the confidentiality of the Motion to Compel and the Exhibits attached thereto, including treating as confidential only those materials that are properly treated as such under Rule 2.420 and this Court’s Protective Order.

Dated: December 22, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of December, 2015, I caused a true and correct copy of the foregoing to be served via the Florida Courts' E-Filing Portal upon the following counsel of record:

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