

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.

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**MOTION FOR STAY PENDING APPELLATE REVIEW**

Pursuant to Florida Rule of Appellate Procedure 9.310, Defendant Gawker Media, LLC (“Gawker”), by and through undersigned counsel, hereby moves the court for an order staying this case pending review of the Court’s order denying Gawker’s Motion for Disqualification, dated May 13, 2013 (the “Order”). In support of this motion, Gawker states:

1. On May 13, 2013, this Court denied, without hearing, Gawker’s Motion for Disqualification (the “Motion”).
2. Gawker intends to seek immediate appellate review of the denial of the Motion in the Second District Court of Appeal.
3. Given the “sensitivity and seriousness involved whenever the issue of judicial prejudice is raised,” Livingston v. State, 441 So. 2d 1083, 1086 (Fla. 1983), Gawker respectfully

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requests that this Court stay these proceedings entirely while Gawker seeks appellate review of the denial of the Motion.

4. Trial courts have broad discretion to grant stays. E.g., Air Comfort Mechanical, Inc. v. Simmons, 252 So. 2d 285, 285 (Fla. 2d DCA 1971).

5. Because the Motion for Disqualification goes to the very propriety of proceeding before this Court in this action, there is an inherent likelihood of harm should a stay not be granted. See Perez v. Perez, 769 So. 2d 389, 391 n.4 (Fla. 3d DCA 1999) (explaining that factors to be considered by the appellate court addressing a stay motion include “likelihood of harm should a stay not be granted” (citing State ex rel. Price v. McCord, 380 So. 2d 1037 (Fla. 1980))).

6. Moreover, a stay is warranted in cases where further trial court proceedings may be a waste of judicial resources and party labor and money if the appellate court reverses the lower court’s order. See Mann v. Brantley, 732 So. 2d 1090, 1091 (Fla. 4th DCA 1998) (trial court abused its discretion in refusing to stay lower court proceedings pending interlocutory appeal where further proceedings would be a waste of effort if the appellate court reversed the trial court’s order).

7. “Logically, any decision by a judge under a cloud of prejudice would be suspect, thus undermining the integrity of the court proceeding and any movement toward judgment.” Fuster-Escalona v. Wisotsky, 781 So. 2d 1063, 1066 (Fla. 2000).

8. The prudent course given the issues raised in the disqualification Motion is to let the appellate court review the denial of the Motion while the proceeding is stayed.

WHEREFORE, Gawker respectfully requests that this Court grant its motion for stay pending appellate review.

Respectfully submitted,

THOMAS & LOCICERO PL

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 14th day of May 2013, I caused a true and correct copy of the foregoing to be served by mail and email upon the following counsel of record:

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