

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.

_____ /

**DEFENDANT GAWKER MEDIA, LLC'S RESPONSES
TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Pursuant to Florida Rule of Civil Procedure 1.340, Defendant Gawker Media, LLC ("Gawker") hereby provides these responses to Plaintiff's First Set of Interrogatories dated May 21, 2013 ("Plaintiff's Interrogatories").

DEFINITIONS

1. The "Video" means the video and audio footage depicting Mr. Bollea that he claims was made without his consent in or about 2006 at issue in this lawsuit.
2. The "Gawker Story" means the story entitled "Even For a Minute, Watching Hulk Hogan Have Sex on a Canopy Bed is Not Safe For Work, But Watch It Anyway" published on www.gawker.com on or about October 4, 2012.
3. The "Excerpts" means the video file that was posted in connection with the Gawker Story, consisting of 101 seconds of footage excerpted from the Video.



ELECTRONICALLY FILED 8/21/2013 2:39:03 PM: KEN BURKE, CLERK OF THE CIRCUIT COURT, PINELLAS COUNTY

RESPONSES

INTERROGATORY NO. 1: With respect to each insurance policy which you contend covers or may cover you for the allegations set forth in Plaintiff's First Amended Complaint in this Lawsuit, state the name of the insurer, number of the policy, effective dates of the policy, coverage limits, and the name, address, and phone number of the custodian of the policy.

RESPONSE: Pursuant to Florida Rule 1.340(c), Gawker refers Plaintiff to its Response to Plaintiff's Document Request No. 83 and documents to be produced in connection therewith pursuant to an Agreed Protective Order once such order is entered by the Court.

INTERROGATORY NO. 2: For each person with knowledge of or involvement in the facts and events underlying the claims and defenses in this lawsuit, state all facts regarding the person's knowledge or involvement, including the name, company, title, all addresses and all telephone numbers of the person, and as much detail as possible about the person's knowledge and/or involvement.

RESPONSE: Gawker objects to this interrogatory as overly broad and unduly burdensome in that it seeks the identification of "each person with knowledge" and "all facts" related to that knowledge. Gawker further objects to this interrogatory as premature in that discovery in this case has just begun, and this request potentially calls for, among other things, the identity of persons known to Plaintiff but unknown to Gawker, as well as others the identity of whom Gawker has not yet discovered. Gawker further objects to this interrogatory to the extent that it calls for information protected from disclosure by the attorney-client privilege and attorney work-product doctrine. Subject to and without waiving the foregoing objections, and

reserving its right to supplement its response at a later date, Gawker responds to this

Interrogatory as follows:

Name, Company, Title	Address	Knowledge/Involvement
<p>Plaintiff Terry Gene Bollea professionally known as "Hulk Hogan"</p>	<p>c/o Harder Mirell & Abrams, LLP 1801 Avenue of the Stars, Suite 1120 Los Angeles, CA 90067 (424) 203-1600</p>	<p>Plaintiff has knowledge and information about the allegations of Plaintiff's Amended Complaint ("Complaint"); the events that are depicted on the Excerpts and Video; the circumstances in which the Video was recorded and, upon information and belief, the recording of other videos depicting Plaintiff and defendant Heather Clem; Plaintiff's knowledge of the video recording system on which the Video was recorded at Heather and Bubba the Love Sponge Clem's then-residence in 2006; Plaintiff's knowledge of the existence of the Video before the Gawker Story was published as well as instances in which its content and/or or its existence was shared with others before the Gawker Story was published; any prior efforts by Plaintiff to stop publication or dissemination of the Video and/or reports about its existence; Plaintiff's statements about the Video, the Gawker Story and/or other reports about the Video; Plaintiff's efforts to cultivate a public persona, including without limitation as alleged in the Complaint and in the affidavits he submitted in the Lawsuit, as that term is defined by Plaintiff's Interrogatories; the extent to which Plaintiff's actual conduct corresponded to the public persona Plaintiff attempted to cultivate, as well as public statements Plaintiff made about such conduct, including without limitation with respect to his marriages, his marital infidelities, his professional life, and his interactions with his family; the alleged value of Plaintiff's name, likeness and image at the time the Gawker Story was published and since that time, including without limitation Plaintiff's business ventures; and Plaintiff's alleged injuries,</p>

		including without limitation any alleged economic injury and/or alleged emotional distress.
Defendant Heather Clem	c/o The Barry A. Cohen Law Group Fifth Third Center 201 East Kennedy Blvd. Suite 1000 Tampa, FL 22602 (813) 225-1655	Defendant Heather Clem has knowledge and information about the events that are depicted on the Excerpts and Video; the circumstances in which the Video was recorded and, upon information and belief, the recording of other videos depicting Plaintiff (and/or others) and Defendant Clem; and the video recording system on which the Video was recorded at her then-residence in 2006; the existence of the Video before the Gawker Story was published as well as instances in which its content and/or its existence was shared with others before the Gawker Story was published; and any prior efforts by Plaintiff or Defendant Heather Clem to stop publication or dissemination of the Video and/or reports about its existence, including as part of the divorce proceedings between Defendant Heather Clem and Bubba the Love Sponge Clem.
Linda Bollea (aka Linda Hogan)	Currently unknown	This witness, Plaintiff's former wife, has knowledge and information about Plaintiff's efforts to cultivate a public persona, including without limitation as alleged in the Complaint and in the affidavits he submitted in the Lawsuit, as that term is defined by Plaintiff's Interrogatories; the extent to which Plaintiff's actual conduct corresponded to the public persona Plaintiff attempted to cultivate, as well as public statements Plaintiff made about such conduct, including without limitation with respect to his marriage, his marital infidelities, his professional life, and his interactions with his family; and Plaintiff's alleged injuries, including without limitation any alleged economic injury and/or alleged emotional distress.
Jennifer McDaniel Bollea (aka Jennifer Hogan)	Currently unknown	This witness, Plaintiff's current wife, has knowledge and information about Plaintiff's efforts to cultivate a public persona, including without limitation as alleged in

		<p>the Complaint and in the affidavits he submitted in the Lawsuit, as that term is defined by Plaintiff's Interrogatories; the extent to which Plaintiff's actual conduct corresponded to the public persona Plaintiff attempted to cultivate, as well as statements Plaintiff made about such conduct, including without limitation with respect to his marriage, his marital infidelities, his professional life, and his interactions with his family; Plaintiff's alleged injuries, including without limitation any alleged economic injury and/or alleged emotional distress.</p>
<p>Bubba the Love Sponge Clem (aka Todd Clem)</p>	<p>Currently unknown</p>	<p>This witness, the former husband of Defendant Heather Clem, has knowledge and information about the events that are depicted on the Excerpts and Video; the circumstances in which the Video was recorded and, upon information and belief, the recording of other videos depicting defendant Heather Clem, including with Plaintiff; the video recording system on which the Video was recorded at his then-residence in 2006; Plaintiff's knowledge of the video recording system on which the Video was recorded; Plaintiff's knowledge of the existence of the Video before the Gawker Story was published as well as instances in which its content and/or its existence was shared with others before the Gawker Story was published; any prior efforts by Plaintiff to stop publication or dissemination of the Video and/or reports about its existence; Plaintiff's statements about the Video, the Gawker Story and/or other reports about the Video; Bubba the Love Sponge Clem's statements about the Video, the Gawker Story and/or other reports about the Video, including without limitation his own comments that Plaintiff knew that he was being recorded having sex with Heather Clem and that he participated in the dissemination of the Video; and the lawsuit between himself and Plaintiff, and the settlement thereof (including without</p>

		limitation the purported assignment to Plaintiff of his alleged copyright interest in the Video). (<i>See also</i> Gawker's Response to Interrogatory No. 8.)
Albert James ("A.J.") Daulerio, Former Editor, Gawker.com	156 Hope Street Brooklyn, NY 11211	Gawker incorporates by reference its Response to Plaintiff's Interrogatory No. 5.
Kate Bennert, Former Video Editor, Gawker.com	218 S. 3rd Street Brooklyn, NY 11211	Gawker incorporates by reference its Response to Plaintiff's Interrogatory No. 5.
Nick Denton, President, Gawker Media, LLC	c/o Gawker Media, LLC 210 Elizabeth Street New York, New York 10012 (212) 655-9524	Scott Kidder (see below) discussed with Nick Denton the publication of the Excerpts from the Video.
Scott Kidder, Vice President of Operations, Gawker Media, LLC	c/o Gawker Media, LLC 210 Elizabeth Street New York, New York 10012 (212) 655-9524	A.J. Daulerio discussed with this witness the publication of the Excerpts from the Video.
Leah Beckmann, Assistant Managing Editor, Gawker.com	c/o Gawker Media, LLC 210 Elizabeth Street New York, New York 10012 (212) 655-9524	This witness, who was then an editorial assistant, copy edited the Gawker Story. In addition, she reviewed the Video when it arrived at Gawker.
Emma Carmichael, Editor-In-Chief, The Hairpin	254 Vanderbilt, Suite 2R Brooklyn, NY 11205	This witness, who was then Gawker's Managing Editor, edited the Gawker Story. In addition, she reviewed the Video when it arrived at Gawker and discussed the Gawker Story with A.J. Daulerio.
Diane Schwartz, Director of Account Services, Gawker Media	c/o Gawker Media, LLC 210 Elizabeth Street New York, New York 10012 (212) 655-9524	This witness is knowledgeable about the fact that Gawker did not post any advertisements on the Webpage and therefore derived no revenue directly from publication of the Webpage and/or the Excerpts.
Tony Burton	Don Buchwald & Associates, Inc. 10 East 44th Street 4th Floor New York, NY 10017 (212) 634-8384	Gawker incorporates by reference its Response to Plaintiff's Interrogatory No. 5.
Mike "Cowhead" Calta, WHPT-FM	WHPT-FM 11300 4th Street North Suite 300 Saint Petersburg, FL 33716 (727) 579-2000	Gawker incorporates by reference its Response to Plaintiff's Interrogatory No. 5.

Pursuant to Florida Rule 1.340(c), Gawker further refers Plaintiff to the documents being produced in response to Plaintiff's Requests for Production of Documents, including without limitation persons identified therein.

INTERROGATORY NO. 3: State all facts regarding the web traffic, including the number of page views and unique viewers (first time visitors), of the Webpage since it was posted on or about October 4, 2012.

RESPONSE: Gawker objects to this Interrogatory because it is overly broad and unduly burdensome in that it seeks "all facts" concerning the web traffic for the Webpage. Subject to and without waiving the foregoing objection, Gawker responds to this interrogatory as follows: Pursuant to Florida Rule 1.340(c), Gawker refers Plaintiff to its response to Plaintiff's Document Request No. 13 and the documents to be produced in connection therewith.

INTERROGATORY NO. 4: State all facts regarding the advertising revenue received by Gawker for advertisements on the Webpage, including without limitation the total advertising revenue received and the cost per impression of each advertisement, from the date of posting on or about October 4, 2012.

RESPONSE: Gawker did not post any advertising on the Webpage, and thus did not receive any revenue in connection with advertising on the Webpage.

INTERROGATORY NO. 5: State all facts regarding the making, editing, subtitling, dissemination, transmission, distribution, publication, sale and/or offering for sale of the Video, including without limitation, the name, company, title, all addresses and all telephone numbers of each person who was involved in such activities, and the specific involvement that each such person had in connection with such activities.

RESPONSE: Gawker objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome (calling for “all facts” on some nine separate topics) and that it seeks information protected by the attorney-client privilege and attorney work product doctrine. Subject to and without waiving the foregoing objections, Gawker responds to this Interrogatory as follows, addressing both the Excerpts and the Video (even though the interrogatory is limited to the Video):

1. “Making”: Gawker did not make the Video and has no personal knowledge about its creation.
2. “Editing”: Gawker did not edit the Video and has no personal knowledge about whether and to what extent the Video was edited prior to its receipt by Gawker. At Gawker, between approximately September 27, 2012, and October 4, 2012, the Video was edited from roughly 30 minutes in length to approximately three minutes and then further edited to one minute and 41 seconds to become the Excerpts. The Video was edited by Kate Bennert, pursuant to directions from A.J. Daulerio. The editing of the Video was deliberately designed to create Excerpts that would show only enough sexual activity to establish to readers that the Video from which the Excerpts were derived was a sex tape and to otherwise include only conversation.
3. “Subtitling”: The Video was not subtitled by Gawker. After receipt of the Video, the Excerpts were subtitled by Kate Bennert at the direction of A.J. Daulerio.
4. “Dissemination”: The Video was not disseminated by Gawker. On or about October 4, 2012, the Excerpts were “disseminated” by Gawker in connection with the Gawker Story in the sense that they were posted at www.gawker.com. The Excerpts

were removed from www.gawker.com on or about April 25, 2012, pursuant to a temporary injunction issued by Judge Pamela A.M. Campbell in this action.

5. "Transmission": The Video was not transmitted by Gawker. A DVD of the Video was transmitted to Gawker by an unknown person sometime between September 27, 2012, and October 2, 2012. On or about September 27, 2012, A.J. Daulerio was contacted by Tony Burton, an agent with Don Buchwald & Associates, Inc. Burton advised that a client had contacted him to obtain a suitable address to send a "significant DVD" anonymously. A package containing the DVD was thereafter sent to Mr. Daulerio's attention at Gawker. Although the package contained no return address, Gawker does not believe the Video was sent to Gawker by Mr. Burton.

Although Gawker did not know this information at the time, Gawker has subsequently learned that Mr. Burton's client, described above, was Mike "Cowhead" Calta, an on-air radio personality at radio station WHPT in Tampa/St. Petersburg, who Gawker understands was obtaining the address for an anonymous caller to the station. Gawker also does not believe the Video was sent to Gawker by Mr. Calta.

On or about October 4, 2012, the Excerpts were "transmitted" by Gawker in connection with the Gawker Story in the sense that they were posted on www.gawker.com. The Excerpts were removed from www.gawker.com on or about April 25, 2012 pursuant to a temporary injunction issued by Judge Pamela A.M. Campbell in this action.

6. "Distribution": The Video was not distributed by Gawker. Other than as set forth in subparagraphs 4 and 5 of this Response to Plaintiff's Interrogatory No. 5, the Excerpts were not distributed by Gawker.
7. "Publication": The Video was not published by Gawker. On or about October 4, 2012, the Excerpts were "published" by Gawker in connection with the Gawker Story in the sense that they were posted on www.gawker.com. The Excerpts were removed from www.gawker.com on or about April 25, 2012 pursuant to a temporary injunction issued by Judge Pamela A.M. Campbell in this action.
8. "Sale": Neither the Video nor the Excerpts were sold to or by Gawker.
9. "Offering for Sale": Neither the Video nor the Excerpts were offered for sale to or by Gawker.

Pursuant to Florida Rule 1.340(c), Gawker refers Plaintiff to Gawker's Responses to Plaintiff's Document Request Nos. 2, 3, 8, 9, 10, and 11 and the documents to be produced in connection therewith, which in some instances will be produced pursuant to an Agreed Protective Order once such order is entered by the Court.

The contact information for the persons identified in Gawker's Response to this Interrogatory is provided in Gawker's Response to Plaintiff's Interrogatory No. 2.

INTERROGATORY NO. 6: State all facts regarding your acquisition of the Video including, without limitation, the date you acquired it, the identity of the person(s) from whom you acquired it (including each such person's name, company, title, and all contact information (addresses, telephone numbers, email addresses, etc.)), the consideration that you paid for the

video, the terms of any agreements relating to your acquisition of the video, and all communications that constitute, refer or relate to your acquisition of the Video.

RESPONSE: Gawker objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome (calling for “all facts” on some five separate topics) and that it seeks information protected by the attorney-client privilege and attorney work product doctrine. Subject to and without waiving the foregoing objections, Gawker responds to this Interrogatory as follows:

1. Gawker believes that it received the Video between September 27, 2012 and October 2, 2012.
2. A DVD of the Video was transmitted to Gawker by an unknown person. *See* Gawker’s Response to Plaintiff’s Interrogatory No. 5 above.
3. Gawker did not pay any consideration for the Video.
4. Gawker did not enter into any agreement concerning its receipt of the Video.
5. With respect to communications concerning the acquisition of the Video, Gawker refers to its Response to Plaintiff’s Interrogatory No. 5 above.

Pursuant to Florida Rule 1.340(c), Gawker refers Plaintiff to Gawker’s Responses to Plaintiff’s Document Request Nos. 3, 10, and 85, and the documents to be produced in connection therewith, pursuant to an Agreed Protective Order once such order is entered by the Court.

INTERROGATORY NO. 7: State all facts that support your contention that the content of the Webpage, including the excerpts of the Video, quotations from the Video, and descriptions of the participants in the Video, are matters of legitimate public concern.

RESPONSE: Gawker objects to this Interrogatory as premature in that discovery in this case has just begun. Gawker further objects to this Interrogatory overly broad and burdensome in that it seeks the identification of “all facts” related to Gawker’s contention that the Gawker Story and Excerpts involved a matter of public concern, which by definition includes (a) facts related to Plaintiff’s efforts to cultivate a public persona, including without limitation as alleged in the Complaint and in the declarations he submitted in the Lawsuit, as that term is defined by Plaintiff’s Interrogatories; (b) the extent to which Plaintiff’s actual conduct corresponded to the public persona Plaintiff attempted to cultivate, as well as public statements Plaintiff made about such conduct, including without limitation with respect to his marriages, his marital infidelities, his professional life, and his interactions with his family; (c) the public’s interest in celebrities’ romantic and sex lives generally (as well as Hogan’s specifically); and (d) the ongoing public discussion of the Video and its contents at the time the Gawker Story and Excerpts were published. Gawker further objects on the grounds that whether a publication involves a matter of public concern is a legal determination, not a factual question susceptible to discovery. Subject to and without waiving the foregoing objections, and reserving its right to supplement its Response at a later date, Gawker states that the content of the Gawker Story, including without limitation the Excerpts, involves a matter of legitimate public concern because:

1. Hulk Hogan is a well-known public figure and celebrity who “has devoted a tremendous amount of his time and effort to developing his career as a professional champion wrestler, motion picture actor, and television personality.” First Amended Compl. ¶¶ 32, 77; Affidavit of T. Bollea (“Bollea Aff.”), dated April 18, 2013. In addition, as Hogan himself described it, he has “spent considerable time and effort developing [his] brand” for purposes of acting as a celebrity pitch-man. Bollea Aff.

¶ 4. His “name and image have been used” for, *inter alia*, “a blender known as the Hulk Hogan Thunder Mixer, an indoor grill known as The Hulk Hogan Ultimate Grill, . . . an energy drink known as Hogan Energy Drink, [and] a line of microwavable hamburgers, cheeseburgers, and chicken sandwiches . . . called ‘Hulkster Burgers.’” *Id.*

2. At the time the extra-marital sexual affair depicted on the Video took place, Hogan was the star of the popular VH-1 “reality” television series *Hogan Knows Best*, in which he presented himself to the public as a traditional 1950s-style father and a devoted family man – and not the sort of person who, while married, has sex with the wife of his best friend with his best friend’s blessing.
3. In 2009, Hogan published his autobiography, titled *My Life Outside the Ring*, in which, among other things, he:
 - a) repeatedly and publicly discussed his conduct during his marriage to Linda Bollea (aka Linda Hogan), and, in particular, his marital fidelity and his sex life, including without limitation by
 - i. criticizing her for suspecting him of repeatedly being unfaithful during their marriage and stating, in that regard, “It never made any sense to me. I’m just not the cheating kind”;
 - ii. nevertheless providing a detailed description of an affair he had with Christiane Plante in roughly 2007, admitting that he and Ms. Plante had sexual relations multiple times over several months; and

- iii. conceding that his sexual affair with Ms. Plante “became national news” when it was made public.

- b) stated about his 2007 affair, “I had never done anything like this in twenty-two years of marriage” even though:
 - i. Hogan was, as he describes in his book, sued in 1994 for “sexual assault” in Minnesota by a woman named Kate Kennedy, a lawsuit he settled (*see also* paragraph 4 of this Response below);
 - ii. the Video shows him having sexual relations with Heather Clem in 2006;
 - iii. Hogan subsequently stated in an audio interview that he had no idea who the woman in the Video was because he had sex with a lot of women during that period, adding, “During that time, I don’t even remember people’s names, much less girls.” *See Hulk Hogan: I Have No Idea Who My Sex Tape Partner Is*, <http://www.t TMZ.com/2012/03/07/hulk-hogan-sex-tape-partner-tmz-live/>.

- c) repeatedly discussed his efforts to cultivate and maintain his public persona as “a real hero,” despite its variance from his actual conduct, including by
 - i. hiding his recreational drug use from the public,
 - ii. publicly lying about his use of steroids to develop the physique he publicly claimed was attributable solely to hard work, vitamins and prayer, and

iii. misrepresenting the state of his marriage and family life on his reality television show.

4. In 2011, Hogan's former wife, Linda Bollea (aka Linda Hogan), published an autobiography, titled *Wrestling the Hulk*, in which a significant theme is Plaintiff's marital infidelity during their marriage. In that book, she states, among other things, that:

- a) Hulk Hogan, had not been "honest in our marriage";
- b) Hulk Hogan admitted to her that he had extra-marital relations with Kate Kennedy, the woman who sued him for "sexual battery" (see paragraph 3 of this Response above), but nevertheless told Linda Hogan that he "needed his wife to stand strongly by his side" because "[h]e had a lot riding on his good name and image";
- c) During the last season of *Hogan Knows Best* (see paragraph 2 of this Response above), Linda Hogan was certain that her husband, Hulk Hogan, was living a "double life" and carrying on an affair;
- d) Hulk Hogan had an affair with Christian Plante (see paragraph 3 of this Response above), which Linda Hogan found out through her daughter, Brooke.
- e) Linda Hogan believes Hulk Hogan's relationship with his current wife, Jennifer McDaniel Bollea, began while "he was still married to [Linda], and [she] was still trying to keep our marriage together."

5. In March 2012, well prior to publication of the Gawker Story and the Excerpts, the Video was being “shopped,” and Hogan publicly claimed at the time that he had been set up in that video. *See, e.g.:*

- a) *Hulk Hogan Sex Tape Being Shopped*, <http://www.t TMZ.com/2012/03/07/hulk-hogan-sex-tape/>;
- b) *Hulk Hogan’s Attorney Issues Sex Tape Warning*, <http://content.usatoday.com/communities/gameon/post/2012/03/hulk-hogans-attorney-issues-sex-tape-warning/1>;
- c) *Hulk Hogan: I’m the Victim in a Sex Tape Setup*, <http://www.t TMZ.com/2012/03/07/hulk-hogan-i-had-no-idea-sex-was-being-filmed/>;
- d) *Hulk Hogan Sex Tape: Shop It At Your Own Risk*, <http://www.eonline.com/news/299470/hulk-hogan-sex-tape-shop-it-at-your-own-risk>;
- e) *Hulk Hogan Sex Tape Being Shopped Around: Report*, http://www.nypost.com/p/pagesix/hulk_hogan_sex_tape_report_DD91luxbTs9Ux0o6zEQqJ2O;
- f) *Report: A Hulk Hogan Sex Tape Is Out There*, <http://www.vh1.com/celebrity/2012-03-07/report-a-hulk-hogan-sex-tape-is-in-existence/>.

6. In April 2012, well prior to publication of the Gawker Story and the Excerpts, photographs from the Video were posted on other Internet websites, some of which suggested that the woman in the Video was Ms. Clem, the then-wife of Hogan’s best friend (at least at the time), Bubba the Love Sponge Clem, himself a nationally known radio personality. *See, e.g.:*

- a) *WWE: Hulk Hogan Sex Tape Images Leaked Online*, <http://www.inflexwetrust.com/2012/04/23/photos-nsfw-wwe-hulk-hogan-sex-tape-images-leaked-online/>;
- b) *Exclusive: Hulk Hogan Sex Tape*, TheDirty.com (April 26, 2012); *Exclusive: Hulk Hogan Sex Tape*, TheDirty.com (April 19, 2012).

7. Hogan publicly responded to these postings. *See, e.g.:*

- a) *Take My Naked Ass Off the Internet*, <http://www.t TMZ.com/2012/04/26/hulk-hogan-sex-tape-pictures/>;
 - b) *Hulk Hogan's Attorney Issues Sex Tape Warning*, <http://content.usatoday.com/communities/gameon/post/2012/03/hulk-hogans-attorney-issues-sex-tape-warning/1>;
 - c) *Hulk Hogan: I'm the Victim in a Sex Tape Setup*, <http://www.t TMZ.com/2012/03/07/hulk-hogan-i-had-no-idea-sex-was-being-filmed/>;
 - d) *Hulk Hogan Sex Tape: Shop It At Your Own Risk*, <http://www.eonline.com/news/299470/hulk-hogan-sex-tape-shop-it-at-your-own-risk>.
8. In that same time frame, and well prior to publication of the Gawker Story and the Excerpts, Hogan provided an audio interview and admitted that he had no idea who the woman in the Video was because he had sex with a lot of women during that period, adding, "During that time, I don't even remember people's names, much less girls." See *Hulk Hogan: I Have No Idea Who My Sex Tape Partner Is*, <http://www.t TMZ.com/2012/03/07/hulk-hogan-sex-tape-partner-tMZ-live/>.
 9. The text on the Gawker Story provides commentary on the public's fascination with celebrities' sex lives and attempts to capture both the disappointment and satisfaction of knowing that "celebrity sex" is often ordinary.
 10. The general phenomenon of celebrity sex tapes, their possible use to promote the careers of those depicted in them and their demonstration that celebrities do not always act consistently with the public image they try to cultivate, is a topic that is the subject of frequent public commentary.
 11. The events discussed in the Gawker Story were subject to considerable public and media discussion following its publication, including by Hogan himself. Hogan

discussed the Video and the underlying extra-marital sexual encounter on such widely viewed, or listened to, forums as the Today Show

(<http://www.youtube.com/watch?v=4tqEN46UuHI>) and the Howard Stern Show

(<http://www.youtube.com/watch?v=IwPQRPHTMPA>). *See also, e.g., Hulk Hogan:*

Yes, I Banged Bubba's Wife, <http://www.t TMZ.com/2012/10/09/hulk-hogan-bubba-the-love-sponge-radio-howard-stern/>.

12. The public commentary that followed the publication of the Gawker Story included statements by Bubba the Love Sponge Clem that Hogan himself had played a part in the release of the Video. *See also* Gawker's Response to Plaintiff's Interrogatory No. 8 at ¶¶ 2-4.
13. After Hogan sued Gawker Media in an earlier case in federal court, the federal judge held that "Plaintiff's public persona, including the publicity he and his family derived from a television reality show detailing their personal life, his own book describing an affair he had during his marriage, prior reports by other parties of the existence and content of the Video, and Plaintiff's own discussion of issues relating to his marriage, sex life, and the Video all demonstrate that the Video is a subject of general interest and concern to the community." *See Bollea v. Gawker Media, LLC, et al.*, No. 8:12-cv-02348-T-27TBM, 2012 WL 5509624 (M.D. Fla. Nov. 14, 2012), *appeal dismissed*, No. 12-15959 (11th Cir. Jan. 3, 2013).
14. In a second, published opinion, the federal judge again reiterated that: "Plaintiff's public persona, including the publicity he and his family derived from a television reality show detailing their personal life, his own book describing an affair he had

during his marriage, prior reports by other parties of the existence and content of the Video, and Plaintiff's own discussion of issues relating to his marriage, sex life, and the Video all demonstrate that the Video is a subject of general interest and concern to the community." See *Bollea v. Gawker Media, LLC*, 913 F. Supp. 2d 1325, 2012 WL 7005357, at *2 n.3 (M.D. Fla. 2012) ("*Bollea I*").

15. The federal judge further addressed his conclusion that the Gawker Story and the Excerpts were a matter of public concern, ruling that "Gawker . . . posted an edited excerpt of the Video together with nearly three pages of commentary and editorial describing and discussing the Video in a manner designed to comment on the public's fascination with celebrity sex in general, and more specifically [Hogan's] status as a 'Real Life American Hero to many,' as well as the controversy surrounding the allegedly surreptitious taping of sexual relations between Plaintiff and the then wife of his best friend – a fact that was previously reported by other sources and was already the subject of substantial discussion by numerous media outlets." *Bollea II*, 2012 WL 7005357, at *2.

16. The federal judge also recognized that the purpose of the Gawker Story and the Excerpts were to comment on Hogan, his public persona, and the public's fascination with celebrities (including their sex lives), rather than simply to publish the whole 30 minute Video in an unedited form without any reporting or commentary; thus, the judge found that Gawker "did not simply post the entire Video – or substantial portions thereof, but rather posted a carefully edited excerpt consisting of less than two minutes of the thirty minute video of which less than ten seconds depicted explicit sexual activity." *Bollea II*, 2012 WL 7005357, at *4 n.6.

Pursuant to Florida Rule 1.340(c), Gawker also refers Plaintiff to its Response to Plaintiff's Document Request No. 56 and the documents to be produced in connection therewith.

INTERROGATORY NO. 8: State all facts that support your contention (if it is your contention) that the Plaintiff knew that he was being recorded at the time of the recording of the Video, including the identity of all Persons with knowledge of such facts, all details regarding all knowledge of such person, and the identity of all documents relating to such facts.

RESPONSE: Gawker objects to this Interrogatory as overly broad and unduly burdensome in that it seeks the identification of "all facts" (on multiple topics) related to a matter within Plaintiff's knowledge, and premature in that discovery in this case has just begun. Subject to and without waiving the foregoing objections, and reserving its right to supplement its Response at a later date, Gawker responds to this Interrogatory as follows:

1. It was widely known that the Clems had cameras in every room in their house.

Indeed, in an interview on the Howard Stern radio program, Bubba the Love Sponge Clem stated that Hogan knew that Mr. Clem and his wife, Heather Clem, had video surveillance cameras constantly recording throughout their home since Hogan had previously lived with them during a three month period. During the interview, Mr. Stern agreed that all of the Clems' friends knew that everything that happened in that house was recorded. *See* <http://www.youtube.com/watch?v=IwPQRPHTMPA> at 4:35-5:14 and 19:00-19:10; *see also* *Hulk Who? Bubba the Love Sponge's Wife Made Sex Tapes With Other Celebrities, Claims Source*, <http://radaronline.com/exclusives/2012/10/hulk-hogan-sex-tape-partner-bubba-love-sponge-wife-other-celebrities/> (noting that the Clems were "known for taping Heather's sexcapades"). Because it was widely known that the Clems had constant

video recording in operation, and because Hogan would no doubt have known that after living there for three months, he reasonably would have known he was being recorded.

2. Bubba the Love Sponge Clem told his radio audience that his ex-best friend Hogan was in on the sex tape's release from the beginning, that Hogan "was in on the stunt," and that he is "the ultimate, lying showman," adding "You can't play the victim like that." *See, e.g.:*

- a) *Bubba the Love Sponge Slams Hulk Hogan's Sex-Tape Lawsuit, Blasts Wrestler as "Ultimate, Lying Showman"*

<http://www.eonline.com/news/354384/bubba-the-love-sponge-slams-hulk-hogan-s-sex-tape-lawsuit-blasts-wrestler-as-ultimate-lying-showman;>

- b) *Bubba the Love Sponge: Hulk Hogan May Have Leaked Sex Tape,*

[http://www.tnz.com/2012/10/16/bubba-the-love-sponge-hulk-hogan-may-have-leaked-sex-tape/.](http://www.tnz.com/2012/10/16/bubba-the-love-sponge-hulk-hogan-may-have-leaked-sex-tape/)

This further suggests that Hogan knew that he was being recorded at the time the Video was created.

3. Radar Online quoted a source stating that "Hulk's 'surprise' at the tape being leaked is a ruse and that he's known about it for years and even had the ability to stop the sale last year," adding, "Hulk acting all shocked at the release of the tape is crap." *See* <http://www.radaronline.com/exclusives/2012/10/hulk-hogan-sex-tape-leaked-disgruntled-former-bubba-love-sponge-employee>. This further suggests that Hogan knew that he was being recorded at the time the Video was created.

4. The Tampa Bay Times reported that Bubba the Love Sponge Clem called Hogan a “hypocritical fraud” and “accused Hogan of trying to save his public image and endorsements by trying to appear like the biggest victim.” See Eric Deggans, *Bubba the Love Sponge Calls Hulk Hogan a “Hypocritical Fraud” Over Sex Tape Lawsuit*, The Tampa Bay Times, Oct. 16, 2012. This further suggests that Hogan knew that he was being recorded at the time the Video was created.

Pursuant to Florida Rule 1.340(c), Gawker also refers Plaintiff to its Response to Plaintiff’s Document Request No. 59 and the documents to be produced in connection therewith.

The contact information for the persons identified in Gawker’s Response to this Interrogatory is provided in Gawker’s Response to Plaintiff’s Interrogatory No. 2.

INTERROGATORY NO. 9: State all facts that support your contention (if it is your contention) that the Plaintiff ever consented to the public dissemination of the Video, or any portion of it, or any content relating thereto, including the identity of all persons with knowledge of such facts, all details regarding all knowledge of each such person, and the identity of all documents relating to such facts.

RESPONSE: Gawker objects to this Interrogatory as overly broad and unduly burdensome in that it seeks the identification of “all facts” (on multiple topics) related to a matter within Plaintiff’s knowledge, and premature as discovery in this case has just begun. Subject to and without waiving the foregoing objections, and reserving its right to supplement its Response to this Interrogatory at a later date, Gawker responds to this Interrogatory by incorporating by reference Gawker’s Response to Plaintiff’s Interrogatory No. 8.

INTERROGATORY NO. 10: For each response to the Requests for Admission propounded concurrently by Plaintiff that is other an unqualified admission, state all facts,

identify all documents, and identify all persons with knowledge of facts that support your response.

RESPONSE: Gawker objects to this Interrogatory on the grounds it contains 66 subparts, three for each of the twenty-two (22) Requests for Admission. Adding these subparts to the other interrogatories and sub-parts above places Plaintiff well over the limit of interrogatories he may propound. *See* Fla. Rule 1.340(a) (“interrogatories shall not exceed 30, including all subparts”). Gawker has nevertheless responded, but now considers Plaintiff to have met (and exceeded) those limits. Subject to and without waiving the foregoing objection, Gawker responds to this Interrogatory as follows:

RFA 1	Other than objecting to the description of the Excerpts in the Request for Admission, this Request was admitted.
RFA 2	Other than objecting to the description of the Excerpts in the Request for Admission, this Request was admitted.
RFA 3	Other than objecting to the description of the Excerpts in the Request for Admission, this Request was admitted.
RFA 4	Gawker incorporates by reference its Response to Plaintiff’s Interrogatory No. 8.
RFA 5	Other than objecting to the description of the Excerpts in the Request for Admission, this Request was admitted.
RFA 6	Gawker incorporates by reference its Response to Plaintiff’s Interrogatory No. 8.
RFA 7	Other than objecting to the description of the Excerpts in the Request for Admission, this Request was admitted.
RFA 8	Other than objecting to the description of the Excerpts in the Request for Admission, this Request was admitted.

RFA 9	Other than objecting to the description of the Excerpts in the Request for Admission, this Request was admitted.
RFA 10	Other than objecting to the description of the Excerpts in the Request for Admission, this Request was admitted.
RFA 11	Other than objecting to the description of the Excerpts in the Request for Admission, this Request was admitted.
RFA 12	Other than objecting to the description of the Excerpts in the Request for Admission, this Request was admitted.
RFA 13	Gawker incorporates by reference its Response to Plaintiff's Interrogatory No. 7.
RFA 14	Gawker incorporates by reference its Response to Plaintiff's Interrogatory No. 7. Gawker has never been of the view that publication of a brief video (including just nine seconds of actual sex) about Hulk Hogan – a public figure with a television reality show, who wrote a book detailing his infidelity, and who spoke frequently about sex and relationship issues – would cause him legally cognizable emotional distress.
RFA 15	Gawker admitted that the Webpage had the second-most page views of any post on gawker.com in 2012 according to data from Google Analytics and from Gawker's internal statistics, based on their respective definitions of "page views."
RFA 16	Gawker denied this Request based on the data produced in response to Plaintiff's Document Request No. 13.
RFA 17	Gawker incorporates by reference its Response to Plaintiff's Interrogatory No. 4.
RFA 18	Gawker incorporates by reference its Response to Plaintiff's Interrogatory No. 4.
RFA 19	This Request was denied for the reasons stated in Gawker's response to it.

RFA 20	This Request was denied for the reasons stated in Gawker's response to it.
RFA 21	This Request was denied for the reasons stated in Gawker's response to it.
RFA 22	Gawker incorporates by reference its Response to Plaintiff's Interrogatory No. 6.

Dated: July 25, 2013

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

rfugate@tlolawfirm.com

and

Seth D. Berlin

Pro Hac Vice Number: 103440

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

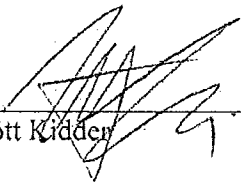
sberlin@lskslaw.com

psafier@lskslaw.com

Counsel for Defendant Gawker Media, LLC

VERIFICATION

I, Scott Kidder, am the Vice President of Operations at Gawker Media, LLC ("Gawker"). I am authorized to submit this verification on Gawker's behalf in connection with Defendant Gawker Media, LLC's Responses to Plaintiff's First Set of Interrogatories. I have read the foregoing responses and objections and verify that the facts set forth therein are true and correct to the best of my the knowledge, information, and belief.



Scott Kidder

STATE OF NEW YORK

COUNTY OF NEW YORK

The foregoing Verification of Scott Kidder was SWORN TO AND SUBSCRIBED before me this 25th day of July 2013.

Notary Public, State of New York

(Print, type, or stamp Commissioned name of Notary Public)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of July 2013, I caused a true and correct copy of the foregoing to be served by email upon the following counsel of record:

Kenneth G. Turkel, Esq.
kturkel@BajoCuva.com
Christina K. Ramirez, Esq.
cramirez@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

David Houston, Esq.
Law Office of David Houston
dhouston@houstonatlaw.com
432 Court Street
Reno, NV 89501
Tel: (775) 786-4188

Charles J. Harder, Esq.
charder@HMAfirm.com
Harder Mirell & Abrams LLP
1801 Avenue of the Stars, Suite 1120
Los Angeles, CA 90067
Tel: (424) 203-1600
Fax: (424) 203-1601

Attorneys for Plaintiff

Barry A. Cohen, Esq.
bcohen@tampalawfirm.com
Michael W. Gaines
mgaines@tampalawfirm.com
Barry A. Cohen Law Group
201 East Kennedy Boulevard, Suite 1000
Tampa, FL 33602
Tel: (813) 225-1655
Fax: (813) 225-1921

Attorneys for Defendant Heather Clem

/s/ Gregg D. Thomas
Attorney