

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.

\_\_\_\_\_ /

**NOTICE OF INTENT TO SERVE SUBPOENA FOR  
PRODUCTION OF DOCUMENTS WITHOUT DEPOSITION**

PLEASE TAKE NOTICE that pursuant to Rule 1.351 of the Florida Rules of Civil Procedure and Sections 2029.300 and 2029.350 of the California Code of Civil Procedure, Gawker Media, LLC intends, after 15 days, to present the attached Subpoena directed to Vivid Entertainment, LLC, a non-party to this action located in California, to an authority competent to issue a California subpoena with identical terms. That California subpoena shall then be promptly served on Vivid Entertainment, LLC.

Respectfully submitted,

THOMAS & LOCICERO PL

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 27th day of November, 2013, I caused a true and correct copy of the foregoing to be served electronically upon the following counsel of record at their respective email addresses via the Florida Courts E-Filing Portal:

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SUBPOENA DUCES TECUM WITHOUT DEPOSITION

THE STATE OF FLORIDA:

TO: Vivid Entertainment, LLC  
c/o of Registered Agent Steven Hirsch  
11470 Iverson Road  
Chatsworth, CA 91311

YOU ARE COMMANDED by Defendant Gawker Media, LLC, to produce the documents described in Schedule A to Steven D. Zansberg and Paul Safier, c/o Ace Attorney Service, Inc., 811 Wilshire Boulevard, Suite 900, Los Angeles, CA 90017, on Monday, January 6, 2014 at 10:00 a.m. If you fail to comply, you may be in contempt of court.

You are subpoenaed to appear by the following attorney, and unless excused from this subpoena by this attorney, you shall respond to this subpoena as directed. You have a right to object to the production under Florida Rule of Civil Procedure 1.351 and you will not be required to surrender the documents or things requested. No testimony will be taken.

DATED \_\_\_\_\_

/s Gregg D. Thomas  
Gregg D. Thomas  
For the Court

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## SCHEDULE A

### INSTRUCTIONS AND DEFINITIONS

1. “You” and “your” mean Vivid Entertainment, LLC (“Vivid”) and any subsidiaries, employees, agents, attorneys, or other persons or entities acting for or on behalf of or in concert with Vivid. When documents or things are requested, such request includes materials in the possession, custody or control of your agents, attorneys or other persons acting on their or your behalf.

2. “Plaintiff” means Plaintiff Terry Gene Bollea (professionally known as “Hulk Hogan”), as well as any agents, attorneys and consultants acting on his behalf.

3. “Vivid Offer Letter” means the letter sent by Steven Hirsch to Hulk Hogan (c/o David Houston), a redacted version of which was published on TMZ.com on March 8, 2012 at [http://tmz.vo.llnwd.net/o28/newsdesk/tmz\\_documents/0308\\_hulk\\_hogan\\_vivid\\_letter.pdf](http://tmz.vo.llnwd.net/o28/newsdesk/tmz_documents/0308_hulk_hogan_vivid_letter.pdf), and which is attached, in the form published on TMZ.com, as Exhibit 1 to Schedule A of this subpoena.

4. “Sex Tape” means any video, audio and/or audio/video footage featuring persons engaged in sexual intercourse, anal intercourse, fellatio, or cunnilingus.

5. “Heather Clem” means the woman featured along with Plaintiff in the Sex Tape from which excerpts were published on the website Gawker.com on October 4, 2012 at <http://gawker.com/5948770/even-for-a-minute-watching-hulk-hogan-have-sex-in-a-canopy-bed-is-not-safe-for-work-but-watch-it-anyway>. A photograph of Heather Clem is attached as Exhibit 2 to Schedule A of this subpoena.

6. The words “and” and “or” also have the meaning “and/or.”

7. The terms “all” and “any” shall be considered to include “each” and every.” Use of any of these terms incorporates them all.

8. The term “person” means all individuals and entities.

9. The term “Relevant Time Period” means January 1, 2011, through the present.

10. The term “document(s)” means all writings and recordings, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including but without limitation to, email and attachments, “instant” messages or “IM” messages, “wall” postings on Facebook, Myspace postings, Twitter postings or “tweets,” correspondence, memoranda, notes, diaries, minutes, statistics, letters, telegrams, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, telegrams, receipts, returns, summaries, pamphlets, books, interoffice and intraoffice communications, offers, notations of any sort of conversations, working papers, applications, permits, file wrappers, indices, telephone calls, meetings or printouts, teletypes, telefax, invoices, worksheets, and all drafts, alterations, modifications, changes and amendments of any of the foregoing), graphic or aural representations of any kind (including without limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic, mechanical, magnetic, optical or electric records or representations of any kind (including without limitation, computer files and programs, tapes, cassettes, discs, recordings), including metadata.

11. Throughout this request, the singular shall include the plural and the plural shall include the singular.

12. The following terms should be read as if they were synonymous, and each should be taken to include the meaning of all of the others: related to, related in any manner to,

concerning, referring to, alluding to, responding to, connected with, with respect to, commenting on, about, regarding, announcing, explaining, discussing, showing, describing, studying, reflecting, analyzing or constituting.

13. If you contend that it would be unreasonably burdensome to produce all the documents called for in response to any request, you should:

- (a) produce all documents that are available without unreasonable burden; and
- (b) describe with particularity the reasons why production of the remaining documents would be unreasonably burdensome.

14. In the event that any responsive document cannot be produced in its entirety, you are requested to produce the document to the fullest extent possible, specifying the reasons for your inability to produce the remainder and describing to the fullest extent possible the contents of the unproduced portion.

15. With respect to your responses to the following request for production, if any document or any portion of any document is withheld because of a claim of privilege, please state the basis for your claim of privilege with respect to such document or portion of any document and the specific ground(s) on which the claim of privilege rests, and including, with respect to documents: the date appearing on the document, or if no date appears, the date on which the document was prepared; the name of the person(s) to whom the document was addressed; the name of each person, other than addressee(s), to whom the document, or a copy thereof, was sent or with whom the document was discussed; the name of the person(s) who signed the document, or if not signed, the name of the person(s) who prepared it; the name of each person making any contribution to the authorship of the document; and the general nature or description of the document and the number of pages of which it consists.



16. In the event that any documents or things that would have been responsive to this request have been destroyed, discarded or lost, please identify each such document or thing, including: the nature of the document or thing; the author(s) and addressee(s) of any document; any indicated or blind copies of any document; the document's subject matter, number of pages and attachments or appendices; all persons to whom the document was distributed or persons who have seen the thing; the date of destruction, discard or loss; and, if destroyed or discarded, the reasons therefore and the identity of the person(s) authorizing or carrying out any such destruction or discard.

## DOCUMENTS TO BE PRODUCED

**Request No. 1:** Any and all communications to or from Plaintiff within the Relevant Time Period, including, but not limited to, communications to or from any agents or attorneys of Plaintiff.

**Request No. 2:** Any and all documents relating or referring to Plaintiff within the Relevant Time Period.

**Request No. 3:** Any and all documents relating or referring to the Vivid Offer Letter, including the Vivid Offer Letter itself and any and all versions of the Vivid Offer Letter.

**Request No. 4:** Copies of any Sex Tape or excerpts of any Sex Tape in which Plaintiff and Heather Clem appear, including, without limitation, the excerpts referred to in the Vivid Offer Letter as “teaser’ images” from “a purported Hulk Hogan sex tape,” along with access to originals of any such Sex Tapes or excerpts for purposes of inspection.

**Request No. 5:** Any and all documents referring to any Sex Tape in which Plaintiff and Heather Clem appear.

# EXHIBIT 1

Hulk Hogan  
c/o David Houston

Dear Hulk,

My name is Steven Hirsch and I run Vivid Entertainment, the world's leading adult film company.

Our company has become well-known for distributing celebrity sex tapes starring such personalities as Kim Kardashian, Kendra Wilkinson, Tommy Lee, Jimi Hendrix and many others.

I certainly admire what you've accomplished in your career and can appreciate all of the hard work that you've invested in reaching your iconic status.

I was therefore very interested when we learned about a purported Hulk Hogan sex tape. We were shown "teaser" images of what appears to be a legitimate sex tape and I believe there would be a huge demand for the footage.

We understand that you believe this tape was filmed without your permission. Whatever the case, we would still like to discuss the opportunity to work together as we feel this would be one of the best selling celebrity sex tapes of all time.

I would like to discuss with you the possibility of distributing this video in the same way we have done with other intimate videos featuring famous personalities.

Please call me directly (at [REDACTED] [REDACTED]) and ask for me personally to discuss this opportunity or, if you prefer, get back to me by email so we can set up a time to talk.

I look forward to hearing from you soon.

Sincerely,



Steven Hirsch  
Founder/Co-Chairman



Vivid Entertainment LLC



# EXHIBIT 2

