

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA

TERRY GENE MR. BOLLEA professionally
known as HULK HOGAN,

Plaintiff,

vs.

Case No. 12012447CI-011

HEATHER CLEM; GAWKER MEDIA, LLC
aka GAWKER MEDIA; GAWKER MEDIA
GROUP, INC. aka GAWKER MEDIA;
GAWKER ENTERTAINMENT, LLC;
GAWKER TECHNOLOGY, LLC; GAWKER
SALES, LLC; NICK DENTON; A.J.
DAULERIO; KATE BENNERT, and
BLOGWIRE HUNGARY SZELLEMI
ALKOTAST HASZNOSITO KFT aka
GAWKER MEDIA,

Defendants.

**PLAINTIFF TERRY GENE BOLLEA’S OPPOSITION TO
GAWKER MEDIA GROUP, INC’S MOTION FOR A PROTECTIVE ORDER**

I. INTRODUCTION

Defendant Gawker Media Group, Inc. (“GMGI”) offers no persuasive reason why it should not be required to answer basic discovery regarding jurisdictional issues such as the structure of the Gawker corporate family, its contacts with Florida, and the extent to which it has benefitted from the activities of its subsidiary Gawker Media, LLC, including any benefits it may have derived from the posting of the Hulk Hogan sex tape at issue in this case. GMGI has not shown a basis for dismissal of its claim, and jurisdictional discovery is proper. Finally, because Mr. Bollea does not intend to move to compel with respect to the GMGI discovery until **after** the Court’s hearing on GMGI’s pending motion to dismiss (scheduled for hearing on January 17, 2014), GMGI does not require a formal stay. Should the Court deny GMGI’s motion to dismiss,

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no protective order should issue, and GMGI should be required to answer the discovery.

II. GMGI IS NOT ENTITLED TO DISMISSAL PRIOR TO DISCOVERY.

Mr. Bollea has properly pleaded his claims against GMGI, and the Court cannot dismiss GMGI on the basis of personal jurisdiction until jurisdictional discovery has been conducted and completed. Mr. Bollea hereby incorporates by reference his arguments made in his Opposition to GMGI's Motion to Dismiss, scheduled for hearing on January 17, 2014.

III. MR. BOLLEA'S JURISDICTIONAL DISCOVERY IS PROPER AND THERE IS NO BASIS FOR A PROTECTIVE ORDER.

GMGI's arguments against jurisdictional discovery are without merit:

A. GMGI argues it is a Cayman corporation with no employees and cannot respond to the discovery. However, it is represented by the same counsel as Gawker Media, LLC, and its owner is defendant Nick Denton who presumably controls GMGI. (Surely someone controls it.) GMGI should not be permitted to function as a legal entity, yet evade its discovery obligations in this litigation. Indeed, it is not at all difficult for GMGI to respond to simple jurisdictional discovery which asks basic questions about its corporate structure and formalities, identities of its managers, directors and shareholders, its capitalization, its relationship with the other Gawker affiliated entities, and its contacts with Florida.

B. Mr. Bollea has pleaded that GMGI is responsible for the acts alleged in the First Amended Complaint, and GMGI has objected to personal jurisdiction in Florida. Both of these issues depend in part on whether the corporate veil should be pierced. As a result, GMGI's capitalization, respect of corporate formalities, and financial transactions with its owners and its subsidiaries and related entities are discoverable in this action. *See Crocker Construction Co. v. Hornsby*, 562 So.2d 842, 842 (Fla. 4th DCA 1990) (holding financial information generally

discoverable (other than trade secrets) where it was even **possible** that plaintiff could amend its complaint to state an alter ego claim); *All About Cruises, Inc. v. Cruise Options, Inc.*, 889 So.2d 905, 907 (Fla. 4th DCA 2004) (holding financial information of owner of defendant **discoverable** when plaintiff pleaded a veil piercing claim).

C. Neither the responses given by Gawker Media, LLC, nor the Court's rulings regarding certain discovery directed at that entity, militate toward denying jurisdictional discovery with respect to GMGI. GMGI is asserting, as it must as part of its jurisdictional objection, that it is completely separate from Gawker Media, LLC. Thus, Mr. Bollea is entitled to answers to its jurisdictional discovery **from GMGI**. GMGI cannot assert that it is completely separate from Gawker Media, LLC, on the one hand, but need not answer discovery because Gawker Media, LLC already responded to it, on the other hand. Further, the discovery served on Gawker Media, LLC was served **before** GMGI made its jurisdictional objections, which put the issue of whether GMGI is the alter ego of the other Gawker entities and whether the veil should be pierced directly at issue. Likewise, GMGI waited until **after** Mr. Bollea's counsel took the depositions of Gawker Media, LLC's witnesses before raising the jurisdictional issues, apparently in an effort to evade questions on that topic.

For the foregoing reasons, Mr. Bollea is entitled to take discovery of the jurisdictional issues raised by GMGI and to oppose GMGI's motion to dismiss for lack of personal jurisdiction. *Gleneagle Ship Management Co. v. Leondakos*, 581 So.2d 222, 223 (Fla. 2d DCA 1991) (holding that a plaintiff is entitled to take jurisdictional discovery of a defendant that has filed a motion to dismiss on grounds of lack of personal jurisdiction, in order to test the plaintiff's contentions that jurisdiction is lacking and oppose its motion to dismiss on those grounds).

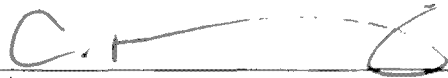
IV. THE STAY REQUEST IS MOOT BECAUSE MR. BOLLEA DOES NOT INTEND TO MOVE TO COMPEL UNTIL *AFTER* THE COURT RULES ON GMGI'S MOTION TO DISMISS.

GMGI has also asked this Court to stay the jurisdictional discovery until it rules on GMGI's motion to dismiss—scheduled for hearing on January 17, 2014. While Mr. Bollea believes that GMGI is in violation of its discovery obligations by failing to answer the pending discovery, as a practical matter Mr. Bollea does not intend to bring his motion to compel until after the Court rules on GMGI's motion to dismiss. Accordingly, GMGI's stay request is moot and no stay should be entered. Should the Court decline to dismiss Mr. Bollea's claims against GMGI, GMGI should be ordered to answer the pending discovery forthwith.

V. CONCLUSION

For the foregoing reasons, Gawker's motion should be denied.

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