

EXHIBIT 5

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December 12, 2013

VIA ELECTRONIC MAIL

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1801 Avenue of the Stars
Suite 1120
Los Angeles, CA 90067

**Re: *Bollea v. Clem, Gawker Media, LLC, et al.*,
No. 12012447-CI-011**

Dear Charles:

In response to your letter dated December 2, 2013, please be advised that Gawker is awaiting the entry of a written order concerning the November 25, 2013 hearing, including because there appears to be a disagreement over the scope of several of the rulings, and plaintiff's failure to request a court reporter for its motion to compel means there is no transcript. In that regard, we responded to Ken Turkel's proposed order on December 4, 2013, and have not heard anything further from you or Ken since.

Once that order is entered, Gawker intends to appeal the portion of the Court's ruling concerning "cease and desist" communications about unrelated intellectual property claims in unrelated cases. Gawker also plans to seek a stay while that appeal is pending. As such, Gawker respectfully declines to produce those documents, or documents in connection with Request No. 27 (about which plaintiff did not move) or Request No. 113 (which is not even due yet).

While we are on the subject of obligations in light of the Court's discovery rulings, the transcript from the earlier hearing held on October 29 confirms that plaintiff is obligated to provide supplemental discovery responses to Gawker's interrogatories and document requests including, for example, those seeking information and documents about sexual encounters between plaintiff and Heather Clem. *See, e.g.*, Interrog. No. 9 (requesting specified information concerning "all times you had sexual relations with Heather Clem"); Interrog. No. 10 (requesting specified information for "all times you discussed having sexual relations with Heather Clem with . . . [Bubba] Clem"); Interrog. Nos. 15-17 (requesting specified information concerning the number of times in the Clems' home and bedroom); RFP Nos. 8-9 (documents related to *all*

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sexual encounters between plaintiff and Heather Clem); RFP No. 11 (documents related to *all* communications with Bubba Clem about *all* sexual encounters between plaintiff and Heather Clem); Interrog. Nos. 4-5 & RFP Nos. 8-9 (requesting specific information and documents concerning recordings of plaintiff having sexual relations, which must be answered in connection with any recordings of plaintiff and Heather Clem). Even though that ruling was reflected in the proposed order plaintiff submitted unilaterally in violation of the Court's rules, *see* Rule 8(a) & (c) of Judge Campbell's Civil Practice Preferences, plaintiff has not supplemented his responses to provide that information in the intervening six weeks. We ask that you do so immediately, and reserve all rights in connection with plaintiff's ongoing failure to provide this information.

Sincerely,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By: 

Seth D. Berlin
Alia L. Smith

cc: Other Counsel of Record