

EXHIBIT 4

ELECTRONICALLY FILED 2/24/2014 9:28:14 AM: KEN BURKE, CLERK OF THE CIRCUIT COURT, PINELLAS COUNTY

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----	x	
GAWKER MEDIA, LLC,	:	
Petitioner,	:	
-against-	:	Index No. _____
EJ MEDIA GROUP, LLC and ELIZABETH ROSENTHAL TRAUB,	:	AFFIRMATION OF
Respondents.	:	JULIE B. EHRLICH, ESQ.
-----	x	

JULIE B. EHRLICH, an attorney duly admitted to practice before the courts of the State of New York, affirms under penalty of perjury pursuant to CPLR § 2106 as follows:

1. I am an associate with the firm Levine Sullivan Koch & Schulz, counsel for Petitioner Gawker Media, LLC (“Gawker”) in the above-captioned special proceeding.
2. I submit this affirmation in support of Gawker’s Order to Show Cause and Petition, which Petition Gawker has filed together with the annexed Memorandum of Law in Support.
3. The Petition is brought pursuant to CPLR § 3119(e) to enforce two New York subpoenas *duces tecum* issued in connection with out-of-state litigation in which Gawker is a defendant. *See Bollea v. Clem*, No. 12012447-CI-011 (Fla. 6th Jud. Cir.). Together with Florida counsel, I serve as counsel to Gawker in the underlying Florida litigation, where I have been admitted *pro hac vice*.
4. The subpoenas at issue in this special proceeding were served in New York County on January 6, 2014 – well in advance of depositions in the underlying action, which are scheduled to take place the week of March 3, 2014. True and correct copies of the subpoenas are attached hereto as **Exhibits 1 and 2**.

5. The subpoenas requested documents in four categories related to Respondents' provision of public relations services to the professional wrestler known as Hulk Hogan in and around the time he filed the underlying litigation, asserting claims against Gawker (and several other Gawker entities), among others. The circumstances of the underlying lawsuit are summarized in Gawker's Petition.

6. On February 4, 2014, Respondents provided their responses to the subpoenas. Respondents did not object to the form or substance of the subpoenas.

7. Together with their responses, Respondents served a privilege log on Gawker. A true and correct copy of Respondents' privilege log is attached hereto as **Exhibit 3**.

8. The privilege log, which lacks even basic descriptive information concerning the substance of the communications, reflects 21 purportedly privileged emails, nine of which date to mid-October 2012. The log also fails to reflect any information about Respondents' heavy redactions in the small number of documents they did produce.

9. Each of the October 2012 emails listed in the log reflects communications between Traub and Charles Harder of the California law firm, Harder Mirell & Abrams LLP. Harder is Hogan's litigation counsel in the underlying litigation. Some of the rows in the log also list David Houston, a Nevada lawyer who is Hogan's personal attorney (and also counsel in the Florida litigation), as an email recipient. One email also includes a person named Tyler Barnett as a recipient. The log does not indicate Barnett's role.

10. Even though Harder has made no showing that he represented Respondents in October 2012, Respondents withheld each of these October 2012 emails on the basis of attorney-client privilege. With respect to four of the nine emails, each of which was sent from Harder to Traub, Respondents also asserted the work-product privilege.

11. Gawker's Petition seeks an order directing Respondents to produce the nine October 2012 emails because neither the attorney-client nor the work-product privileges properly applies to them.

12. The Petition also seeks additional responsive, non-privileged documents that Respondents have not yet produced. Respondents have produced *no* documents concerning Hogan's October 2012 appearances in a number of media outlets in which he discussed the Gawker Story at the center of the Florida litigation, and the controversy over the sex tape about which it reports. These include, for example, appearances on *The Howard Stern Show*, the *Today* show, *TMZ Live*, *Piers Morgan Live*, and in an interview in *USA Today*. As Hogan's publicists at that time, Respondents must certainly have been involved in coordinating these press appearances, and accordingly must have documents relating thereto.

13. Respondents also produced no documents regarding the occasions on which Hogan discussed the Video at issue here as part of a media tour in October prior to the filing of his lawsuits; no documents regarding Traub and EJ Media's engagement to provide public relations support to Hogan (including in connection with the Gawker Story and Video); and no documents in the nature of drafts, instructions, or other information she received from, or provided to, Hogan or those working on his behalf. It is inconceivable that Respondents have no such documents.

14. Gawker attempted to resolve the dispute with Respondents without resort to this Court. In particular, on February 4, 2014, Gawker's counsel (my colleague Seth Berlin, a member in good standing of this court) wrote to Respondents' counsel, Mr. Harder, explaining the ways in which their responses are deficient and asking that they promptly fully comply with

their obligations under the subpoenas. A true and correct copy of that correspondence is attached hereto as **Exhibit 4**. Respondents did not reply.

15. As set forth more fully in the Petition and accompanying Memorandum of Law, Gawker is entitled to the documents Respondents have withheld, and requires them so that it may fully question the three key witnesses to the underlying litigation who will sit for depositions the week of March 3, 2014.

16. Accordingly, Gawker respectfully requests that this Court direct Respondents to appear forthwith (and in no case later than February 18, 2014) to show cause why the Petition should not be granted.

Dated: February 13, 2014
New York, NY

/s/ Julie B. Ehrlich
Julie B. Ehrlich

Exhibit 1

Seth D. Berlin (sberlin@lkslaw.com)
Julie B. Ehrlich (jehlich@lkslaw.com)
LEVINE SULLIVAN KOCH & SCHULZ, LLP
321 W. 44th Street, Suite 1000
New York, NY 10036
Tel: (212) 850-6100; Fax: (212) 850-6299
Attorneys for Gawker Media, LLC

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----	x
	:
TERRY GENE BOLLEA, professionally	:
know as HULK HOGAN,	:
	:
Plaintiff,	:
	:
--against--	:
	:
HEATHER CLEM; GAWKER MEDIA,	:
LLC; et al.,	:
	:
Defendants.	:
	x

THE PEOPLE OF THE STATE OF NEW YORK

To: EJ Media Group, LLC
349 Fifth Avenue
New York, NY 10016

GREETINGS:


YOU ARE HEREBY COMMANDED, pursuant to this subpoena, to produce copies of all documents requested in Schedule A to the attached Florida subpoena duces tecum that are in your possession, custody or control, on or before January 27, 2014, at 10 a.m., by delivering copies of the same to the undersigned counsel for Gawker Media, LLC, at Levine Sullivan Koch

& Schulz, LLP, at 321 W. 44th Street, Suite 1000, New York, NY, 10036, for use in the above captioned action.

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reasons of your failure to comply.

Dated: New York, New York
January 6, 2014

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By  _____
Seth D. Berlin

Julie B. Ehrlich
321 West 44th Street, Suite 1000
New York, NY 10036
(212) 850-6100
(212) 850-6299 (Fax)

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.

SUBPOENA DUCES TECUM WITHOUT DEPOSITION

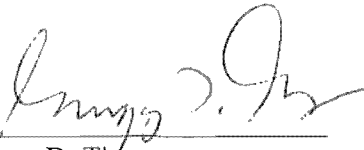
THE STATE OF FLORIDA:

TO: EJ Media Group LLC, 349 Fifth Avenue, New York, NY 10016

YOU ARE COMMANDED by Defendant Gawker Media, LLC, to produce the documents described in Schedule A to Seth D. Berlin, Esquire at the office of Levine Sullivan Koch & Schulz, LLP, 321 West 44th Street, Suite 1000, New York, New York, at 10:00 a.m. twenty (20) after this Subpoena duces tecum is served upon you. You may comply with this subpoena by mailing legible copies of the items to be produced for delivery to Gregg D. Thomas, Thomas & LoCicero PL, 601 South Boulevard, Tampa, FL 33606. 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 on 1/3/2014.



Gregg D. Thomas
For the Court

Gregg D. Thomas
Florida Bar No. 223913
Attorney for Gawker Media, LLC
Thomas & LoCicero, PL
601 South Boulevard
Tampa, FL 33606
(813) 984-3060 Telephone
(813) 984-3070 Facsimile
gthomas@tlolawfirm.com

SCHEDULE A

INSTRUCTIONS AND DEFINITIONS

1. “You” and “your” mean EJ Media Group LLC, and any employees, agents, attorneys, or other persons or entities acting for or on behalf of or in concert EJ Media Group LLC. 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. “Gawker” means the operator of the website gawker.com.

4. “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.

5. “Bubba Clem” means Bubba the Love Sponge Clem.

6. “Heather Clem” means the ex-wife of Bubba Clem (also known as Heather Cole).

7. “Sexual Relations” means sexual intercourse, anal intercourse, fellatio, or cunnilingus.

8. “Sex Tape” means any video, audio and/or audio/video footage featuring persons engaged in Sexual Relations.

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

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

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

12. 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.

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

14. 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.

15. 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.

16. 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.

17. 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.

18. 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 documents referring or relating to a Sex Tape in which Plaintiff and Heather Clem appear.

Request No. 2: Any and all documents referring or relating to actual or threatened legal claims (whether civil, criminal or administrative in nature) asserted by Plaintiff against Bubba Clem, Heather Clem and/or Gawker (or any of Gawker's officers, directors, employees, agents or affiliates).

Request No. 3: Any and all documents referring or relating to the Gawker Story.

Request No. 4: Any and all documents referring or relating to actual or potential media appearances by Plaintiff in October 2012.

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

----- X
TERRY GENE BOLLEA, professionally
known as HULK HOGAN,

Case No. 12012447-CI-011

Plaintiff,

AFFIDAVIT OF SERVICE

-against-

HEATHER CLEM; GAWKER MEDIA LLC; et al.,

Defendants.

----- X
STATE OF NEW YORK)
S.S.
COUNTY OF NEW YORK)

ROBERT MILLS, being duly sworn, deposes and says that he is over eighteen years of age, is employed by the attorney service, DLS, INC., and is not party to this action.

That on the 6th day of January, 2014, at approximately the time of 1:15pm, deponent served a true copy of the **LETTER AND SUBPOENA DUCES TECUM pursuant to CPLR 31119** upon **EJ MEDIA GROUP, LLC** at 349 Fifth Avenue, New York, NY by personally delivering and leaving the same with **JORDAN HARRIS**, who informed deponent that he holds the position at the Front Desk with that company and is authorized by appointment to receive service at that address. At the time of service, a witness fee in the amount of \$18.00 was tendered.

JORDAN HARRIS is a black male, approximately 30 years of age, stands approximately 5 feet 7 inches tall, weighs approximately 160 pounds with black hair and brown eyes.



ROBERT MILLS, 1004298

Sworn to before me this
8th day of January, 2014

JONATHAN RIPPS
NOTARY PUBLIC - STATE OF NEW YORK
NO. 01R16109718
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES MAY 17, 2016

Exhibit 2

Seth D. Berlin (sberlin@lskslaw.com)
Julie B. Ehrlich (jehlich@lskslaw.com)
LEVINE SULLIVAN KOCH & SCHULZ, LLP
321 W. 44th Street, Suite 1000
New York, NY 10036
Tel: (212) 850-6100; Fax: (212) 850-6299
Attorneys for Gawker Media, LLC

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----	x	
TERRY GENE BOLLEA, professionally know as HULK HOGAN,	:	SUBPOENA DUCES TECUM
	:	(pursuant to the Uniform Interstate
Plaintiff,	:	Deposition and Discovery Act and CPLR
	:	§ 31119)
--against--	:	Originating State: Florida
	:	Originating County: Pinellas
HEATHER CLEM; GAWKER MEDIA, LLC; et al.,	:	Originating Court: Circuit Court of the Sixth
	:	Judicial Circuit In and For Pinellas County,
Defendants.	:	Florida
	:	Originating Case No.: 12012447-CI-011
-----	x	

THE PEOPLE OF THE STATE OF NEW YORK

To: Elizabeth Rosenthal Traub
EJ Media Group, LLC
349 Fifth Avenue
New York, NY 10016

GREETINGS:

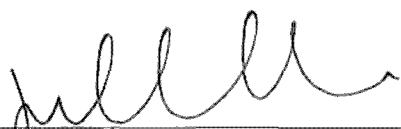
YOU ARE HEREBY COMMANDED, pursuant to this subpoena, to produce copies of all documents requested in Schedule A to the attached Florida subpoena duces tecum that are in your possession, custody or control, on or before January 27, 2014, at 10 a.m., by delivering copies of the same to the undersigned counsel for Gawker Media, LLC, at Levine Sullivan Koch

& Schulz, LLP, at 321 W. 44th Street, Suite 1000, New York, NY, 10036, for use in the above captioned action.

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reasons of your failure to comply.

Dated: New York, New York
January 6, 2014

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By 
Seth D. Berlin
Julie B. Ehrlich
321 West 44th Street, Suite 1000
New York, NY 10036
(212) 850-6100
(212) 850-6299 (Fax)

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.

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LLC aka GAWKER MEDIA; et al.,

Defendants.

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DATED on 1/3/2014.



Gregg D. Thomas
For the Court

Gregg D. Thomas
Florida Bar No. 223913
Attorney for Gawker Media, LLC
Thomas & LoCicero, PL
601 South Boulevard
Tampa, FL 33606
(813) 984-3060 Telephone
(813) 984-3070 Facsimile
gthomas@tlolawfirm.com

SCHEDULE A

INSTRUCTIONS AND DEFINITIONS

1. “You” and “your” mean Elizabeth Rosenthal Traub, and any employees, agents, attorneys, or other persons or entities acting for or on behalf of or in concert with you. 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.
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8. “Sex Tape” means any video, audio and/or audio/video footage featuring persons engaged in Sexual Relations.
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11. The term “person” means all individuals and entities.
12. 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.

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- (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.

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17. 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.

18. 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.

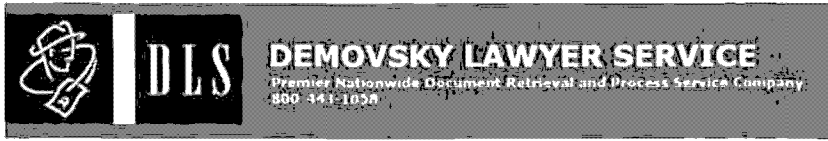
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Request No. 2: Any and all documents referring or relating to actual or threatened legal claims (whether civil, criminal or administrative in nature) asserted by Plaintiff against Bubba Clem, Heather Clem and/or Gawker (or any of Gawker's officers, directors, employees, agents or affiliates).

Request No. 3: Any and all documents referring or relating to the Gawker Story.

Request No. 4: Any and all documents referring or relating to actual or potential media appearances by Plaintiff in October 2012.



**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

-----X
TERRY GENE BOLLEA, professionally
known as HULK HOGAN,

Case No. 12012447-CI-011

Plaintiff,

AFFIDAVIT OF SERVICE

-against-

HEATHER CLEM; GAWKER MEDIA LLC; et al.,

Defendants.

-----X
STATE OF NEW YORK)
S.S.
COUNTY OF NEW YORK)

ROBERT MILLS, being duly sworn, deposes and says that he is over eighteen years of age, is employed by the attorney service, DLS, INC., and is not party to this action.


That on the 6th day of January, 2014, at approximately the time of 1:15pm, deponent served a true copy of the **LETTER AND SUBPOENA DUCES TECUM pursuant to CPLR 31119** upon **ELIZABETH ROSENTHAL TRAUB** at 349 Fifth Avenue, New York, NY by personally delivering and leaving the same with **JORDAN HARRIS**, Front Desk, a person of suitable age and discretion at that address, the actual place of business. At the time of service, a witness fee in the amount of \$18.00 was tendered.

JORDAN HARRIS is a black male, approximately 30 years of age, stands approximately 5 feet 7 inches tall, weighs approximately 160 pounds with black hair and brown eyes.

That on the 7th day of January, 2014, deponent served another copy of the foregoing upon **ELIZABETH ROSENTHAL TRAUB** by first class mail, by enclosing a true copy thereof in a securely sealed and postpaid wrapper with the words "PERSONAL AND CONFIDENTIAL" written on the same envelope and not

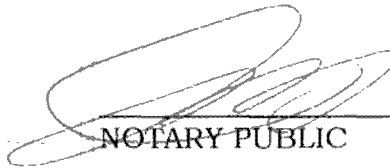
indicating on the outside that it is from an attorney or concerns an action against the person to be served, and depositing the same into an official depository maintained by the Government of the United States, City and State of New York, addressed as follows:

ELIZABETH ROSENTHAL TRAUB
EJ MEDIA GROUP, LLC
349 Fifth Avenue
New York, NY 10016



ROBERT MILLS, 1004298

Sworn to before me this
8th day of January, 2014



NOTARY PUBLIC

JONATHAN RIPPS
NOTARY PUBLIC - STATE OF NEW YORK
NO. 01RI6109718
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES MAY 17, 2016

Exhibit 3

PRIVILEGE LOG

10/15/12 8:40 a.m.	E-mail from Traub to Harder, Houston, and Tyler Barnett	Attorney-Client Privilege
10/15/12 7:35 a.m.	E-mail from Traub to Harder and Houston	Attorney-Client Privilege
1/6/14 10:38 a.m.	E-mail from Traub to Harder	Attorney-Client Privilege
1/22/14 7:51 a.m.	E-mail from Traub to Harder	Attorney-Client Privilege
1/8/14 12:37 p.m.	E-mail from Traub to Harder	Attorney-Client Privilege
1/22/14 8:15 a.m.	E-mail from Traub to Harder	Attorney-Client Privilege
1/22/14 8:18 a.m.	E-mail from Traub to Harder	Attorney-Client Privilege
1/8/14 12:37 p.m.	E-mail from Traub to Harder	Attorney-Client Privilege
1/14/14 2:09 p.m.	E-mail from Traub to Harder	Attorney-Client Privilege
1/8/14 3:33 p.m.	E-mail from Traub to Harder	Attorney-Client Privilege
1/20/14 7:30 a.m.	E-mail from Traub to Harder	Attorney-Client Privilege
1/14/14 2:36 p.m.	E-mail from Traub to Harder	Attorney-Client Privilege
1/8/14 12:36 p.m.	E-mail from Traub to Harder	Attorney-Client Privilege
1/8/14 12:34 p.m.	E-mail from Traub to Harder	Attorney-Client Privilege
10/15/12 4:47 p.m.	E-mail from Harder to Traub	Attorney-Client Privilege & Attorney Work Product
10/14/12 9:21 p.m.	E-mail from Harder to Traub and Houston	Attorney-Client Privilege & Attorney Work Product
10/13/12 6:12 p.m.	E-mail from Harder to Traub	Attorney-Client Privilege & Attorney Work Product
10/15/12 10:10 a.m.	E-mail from Harder to Traub	Attorney-Client Privilege & Attorney Work Product
10/15/12 9:07 a.m.	E-mail from Traub to Harder and Houston	Attorney-Client Privilege
10/15/12 11:59 a.m.	E-mail from Traub to Harder and Houston	Attorney-Client Privilege
10/15/12 8:05 a.m.	E-mail from Traub to Harder and Houston	Attorney-Client Privilege

Exhibit 4

February 5, 2014

VIA ELECTRONIC MAIL

Charles J. Harder, Esq.
Harder Mirell & Abrams LLP
1925 Century Park East, Suite 800
Los Angeles, CA 90067

**Re: *Bollea v. Clem, Gawker Media, LLC, et al.*, No. 12012447-CI-011;
Subpoenas to Elizabeth Rosenthal Traub and E.J. Media**

Dear Charles:

We write to address the responses by Elizabeth Rosenthal Traub and E.J. Media Group, LLC to Gawker Media, LLC's subpoenas.

First, despite a two week extension, the respondents' production appears to be substantially incomplete. While respondents did produce some email exchanges with reporters and others at the time the initial lawsuits were filed on October 15, 2012, they produced little else. For example, they produced nothing regarding plaintiff's media appearances in April 2012, when he discussed the possible existence of a sex tape. They produced nothing regarding the occasions on which plaintiff discussed the sex tape at issue here as part of a media tour in October 2012 – including, just by way of example, on *The Howard Stern Show*, the *Today* show, *TMZ Live*, *Piers Morgan Live*, and in an interview in *USA Today*. They have produced nothing regarding their initial engagement to provide public relations support in connection with the lawsuits or otherwise. And, they also have produced nothing in the nature of drafts, instructions, or other information they received from, or provided to, plaintiff or those working on his behalf.

Second, certain of the documents they did produce appear to be missing some information or have been redacted without any indication of that fact. For example, the top half of the documents numbered TRAUB 0034, 0037, 0080, and 0086 are blank, but the privilege log does not explain what information may have been redacted or otherwise removed before production. Gawker is entitled to the production of complete documents in the absence of an assertion of privilege or other explanation for redaction.

Finally, Ms. Traub's privilege log indicates that many documents have been withheld on grounds of privilege. While Gawker understands that you began to represent Ms. Traub in 2014 in connection with Gawker's subpoena (and thus her communications with you during this recent


Charles J. Harder, Esq.
February 13, 2014
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period may be privileged), documents reflecting communications with you or David Houston as counsel for Terry Gene Bollea from 2012 are not privileged. *See, e.g., Egizayaryan v. Zalmayev*, 290 F.R.D. 421, 431-32 (S.D.N.Y. 2013) (rejecting application of privilege “to . . . communications with public relations representatives”); *McNamee v. Clemens*, 2013 WL 6572899, at *5 (S.D.N.Y. Sept. 18, 2013) (collecting relevant cases and denying party’s attempt to invoke attorney-client privilege to protect communications with publicist); *Burke v. Lakin Law Firm*, 2008 WL 117838, at *3 (S.D. Ill. Jan. 7, 2008) (holding that “public relations materials are not privileged work product”). Accordingly, neither Ms. Traub nor her agency have a basis for asserting these privileges over the emails from October 2012. Please produce them immediately.

Should you wish to do so, we are available to discuss these matters. Otherwise, we will have no choice but to take the necessary steps to enforce Ms. Traub’s and her agency’s obligations under the subpoena. Thank you.

Sincerely,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By: 
Seth D. Berlin
Alia L. Smith

cc: Other counsel of record