

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

TERRY GENE 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.

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**CONFIDENTIAL AFFIDAVIT OF CHARLES J. HARDER**  
**(FILED UNDER SEAL)**

CHARLES J. HARDER, Esq. being duly sworn, deposes and says:

1. I am a resident of Los Angeles, California, over the age of 18 years. I am an attorney duly licensed to practice before all courts of the State of California, among other courts. I am a partner in the law firm of Harder Mirell & Abrams LLP, counsel (admitted *pro hac vice*) for Plaintiff, Terry Bollea. The statements made herein are based on my personal knowledge.

2. On or about March 4–5, 2014, Gawker Media, LLC (“Gawker”) took the deposition of Bubba Clem. At that deposition, Gawker’s counsel asked Mr. Clem whether Plaintiff had ever used offensive racial terms. I objected and, after argument from all counsel, Special Discovery Magistrate James Case sustained the objection. Attached hereto as Exhibit 1 are pages 431 through 436 of the Bubba Clem deposition transcript, containing the argument and Judge Case’s ruling.

3. Based on Judge Case's ruling, my office redacted the same terms appearing in the following: (1) two pages of a 149-page document production responsive to Gawker's request for communications with law enforcement related to the sex video; (2) two pages of a 138-page supplemental document production made in response to meet and confer correspondence received from Gawker on the same subject as (1); and (3) two pages of a 371-page document production from non-parties the Don Buchwald Agency and Tony Burton, an agent at that agency.

4. The redacted pages claim to attribute to Plaintiff the uttering of the aforementioned terms in an alleged sex video that is **not at issue** in this action, because Gawker apparently does not have and never has had possession of such alleged video, nor does Plaintiff have, nor has ever had, possession of such alleged video. The terms were redacted for the same reasons that we objected to the questioning at the time of Mr. Clem's deposition: the alleged utterance of the terms are not relevant to the case, nor reasonably calculated to lead to admissible evidence. Also, the statements are hearsay upon hearsay (allegedly quoting someone else who was allegedly quoting Plaintiff), and also the terms are highly prejudicial and have no probative value whatsoever, and thus would not be admissible at a trial even if there was some relevance to them (which there is not).

5. I informed Gawker's counsel of the basis for the redactions in a confidential meet-and-confer letter sent May 7, 2014. A true and correct copy of that letter is attached hereto as **Exhibit 2**.

6. To be clear, there is no competent, authenticated evidence of Plaintiff ever having used offensive language of this type. The documents at issue contain hearsay reportage of what

supposedly is said on an alleged **different** video (*i.e.*, **not** the one received by Gawker, published, and produced in discovery in this case).

7. Further, any purported use of offensive language has nothing to do with the facts of this case—which concern whether the publication of the sex video invaded Plaintiff’s privacy and whether Gawker had a First Amendment right to publish it. Even if Gawker could articulate some theory of relevance, the prejudicial effect of any such remarks would vastly outweigh any probative value in this litigation, and thus would not lead to the discovery of admissible evidence.

8. Plaintiff also has the understandable concern that publication of allegations of usage of offensive terms could have an impact to his reputation and career. The most recent examples of Paula Deen and Donald Sterling are two examples.

9. Accordingly, Plaintiff respectfully requests that the Special Discovery Magistrate rule that the offensive language at issue may be properly redacted by Plaintiff from all documents produced in this case.

I declare under penalty of perjury that the foregoing statements are true and correct.

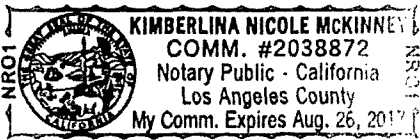
Executed this 27th day of May, 2014.

  
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CHARLES J. HARDER

State of California  
County of Los Angeles

Subscribed and sworn to (or affirmed) before me, Kimberlina M<sup>c</sup>Kinney  
this 27<sup>th</sup> day of May, 2014, by Charles J. Harder who proved to me on the  
basis of satisfactory evidence to be the person who personally appeared before me.

He/she is personally known to me  or he/she has produced \_\_\_\_\_  
(type of I.D.) as identification.



Kimberlina M<sup>c</sup>Kinney  
(Signature)  
Kimberlina M<sup>c</sup>Kinney  
(Type or Print Name)  
Notary Public  
My Commission Expires: Aug 26, 2017  
Commission No.: 2038872