

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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**PLAINTIFF TERRY GENE BOLLEA'S OPPOSITION TO  
DEFENDANTS' MOTION FOR SANCTIONS**

**I. INTRODUCTION**

Plaintiff Terry Gene Bollea has fully complied with the discovery orders entered in this matter. Defendants Gawker Media, LLC (“Gawker”) and A. J. Daulerio apparently take serious issue with the fact that it took Mr. Bollea an extra week to fully comply with the Court’s most recent discovery order, and on that basis they bring this motion for the most severe sanctions available. Simply put, the motion lacks merit and is a waste of everyone’s time and resources. Not surprisingly, Defendants do not cite a single case to support their position and, instead, fill their motion with half-truths, misleading statements, and outright falsehoods. While Defendants’ motion accuses Mr. Bollea of abusing the discovery process, the fact is that Defendants’ motion is, itself, the discovery abuse, and the latest installment of Gawker’s long line of litigation abuses calculated to win the case based on procedural maneuverings rather than on the merits, and also to make this lawsuit as expensive as possible for Mr. Bollea.

As to the points in the Motion:

1. Mr. Bollea has **complied** with the discovery at issue, having produced all documents and information within his possession and having made diligent attempts to obtain documents and information in the control of non-parties.

2. Defendants laid the trap for bringing this motion by circumventing the Court's accepted process of first submitting a proposed order to opposing counsel for review and comment before submitting it to the Court. In doing so, Defendants' counsel succeeded in obtaining an Order without Mr. Bollea's counsel's input, that gave Mr. Bollea only **ten days** to comply with a complex order—not enough time for Mr. Bollea to comply.

3. Defendants have suffered no prejudice whatsoever by the production of the information and documents a mere **one week** after the Court's ordered compliance date. Defendants do not even attempt to make a showing that they have suffered any prejudice at all. Indeed, there still is no trial date, and a March 2, **2015**, trial apparently is the Court's earliest available date for this case.

4. Defendants failed to make a serious effort to meet and confer before bringing the instant motion, and instead rushed into Court to file it **after** Mr. Bollea's counsel stated clearly that it was in the process of **fully complying** with the Court's order.

5. Defendants represent to the Court that the discovery at issue dates back to May of last year. That is not true—it was propounded five months ago. Also, the discovery was the subject of significant disputes between the parties, which needed to be resolved before production.

6. The sanctions sought by Defendants are preposterous in light of Mr. Bollea's full compliance shortly after the issuance of the Court's order. Even if some technical violation of a discovery order is found, there is no basis for a sanction, and certainly no basis for depriving Mr. Bollea of his due process right to have his claims adjudicated **on the merits**.

7. Defendants' procedural gamesmanship in forcing Mr. Bollea to incur attorney's fees to defend a meritless motion for sanctions, and forcing the Special Discovery Magistrate to expend time and effort adjudicating a motion seeking "enforcement" of an order that Mr. Bollea has already complied with—especially when a simple phone call and a little patience would have allowed the parties to avoid this needless motion proceeding—should be met with an award of monetary sanctions **to Mr. Bollea**, namely, that Defendants be ordered to pay the fees of the Special Discovery Magistrate for the motion, and reimburse Mr. Bollea for his attorney's fees incurred, opposing it.

Defendants raced to the courthouse in this instance, just as Gawker has done in prior instances, because Defendants wanted to assassinate the character of Mr. Bollea, and overwhelm him and his counsel with more and more motion practice, both to drive up Mr. Bollea's costs and also in hopes that the Special Discovery Magistrate would grant Defendants the relief that Judge Campbell recently denied: dismissal. Therein lies Defendants' real purpose: a shot in the dark; a "hail Mary pass" to try to end the case on procedural grounds so that Mr. Bollea is denied his right to a jury of his peers to seek redress against Defendants for their wrongful invasion of his privacy. However, taking an extra week to comply with an order (that did not receive Mr. Bollea's counsel's input regarding timing for compliance) cannot justify seeking the most severe sanctions available. The outrageous nature of the motion merits an award of monetary sanctions

to **Mr. Bollea** for the expense of opposing it. Defendants' motion should be denied, and their extreme and ultra-aggressive litigation practices placed in check.

## **II. STATEMENT OF FACTS**

Defendants contend that there are two categories of documents and information for which Mr. Bollea supposedly has not satisfied his discovery obligations: (1) information regarding his sexual relationship with Heather Clem pursuant to the Court's February 26, 2014 order; and (2) Mr. Bollea's communications and public statements concerning the sex video and Gawker's publication of the video pursuant to the Court's April 23, 2014 order. As to the former, Defendants' motion is so vague and non-specific that it is almost impossible to meaningfully oppose. Contrary to Defendants' vague assertions, however, Mr. Bollea spent two days at his deposition answering detailed questions on this and all possible related topics, and he has produced all of the non-privileged documents relating to same. As to the latter, Defendants' motion leaves out key factual details concerning the status of Mr. Bollea's compliance with the Court's April 23, 2014 order. As is explained more fully below, both categories have been produced and neither warrants imposition of any sanctions whatsoever against Mr. Bollea.

### **Mr. Bollea has fully complied with the Court's February 26, 2014 discovery order.**

On June 17, 2013, (not May 2013), Gawker served its first round of discovery. *Harder Aff.* ¶2. This discovery was vastly overbroad and sought information regarding everyone Mr. Bollea had sex with over an 11-year period, every business dealing or contract Mr. Bollea ever entered into, and Mr. Bollea's complete medical history. *Id.* Mr. Bollea responded by moving for a protective order, which the Court **granted**. *Id.* at ¶¶3–5. Pursuant to the Court's Protective Order, there is to be **no** discovery of Mr. Bollea's business dealings (unless Mr. Bollea "open[s]

the door to it”), **no** discovery of Mr. Bollea’s medical history, and **no** discovery of Mr. Bollea’s sex life other than his relationship with Heather Clem between 2002 and the present. *Id.*, **Ex. A.**

The Court’s protective order of February 26, 2014 simultaneously resolved Gawker’s motion to compel further discovery by requiring a further response only to Interrogatory No. 12, which Mr. Bollea had already provided to Gawker on November 8, 2013, and also served a second supplemental response on December 3, 2013. *Id.* at ¶¶5–6.

The Court’s February 26, 2014 Order does not require Mr. Bollea to provide any supplemental response to any other discovery.<sup>1</sup> *Id.* at ¶5. Consistent with Judge Campbell’s order permitting Gawker to take discovery of Mr. Bollea’s sexual relationship with Heather Clem, on February 21, 2014, Mr. Bollea served supplemental responses to Gawker’s Interrogatory Nos. 9 and 10, in which he stated what he remembered regarding the occasions he had sexual relations with Heather Clem. *Id.* at ¶6. The only documents arguably reflecting communications on this topic were text messages between Mr. Bollea and Bubba Clem, which Mr. Bollea produced in August 2013. *Id.* at ¶7.

On March 6–7, 2014, Gawker took Mr. Bollea’s deposition. *Id.* at ¶9. Gawker was permitted to fully probe all of Mr. Bollea’s recollections regarding the sex video, and received a full description of all of Mr. Bollea’s communications with the Clems regarding his sexual relationship with Heather Clem, as well as full information regarding all sexual relations that occurred between Mr. Bollea and Heather Clem. *Id.*

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<sup>1</sup> Importantly, the Court’s February 2014 Order does not identify which requests and interrogatories require a separate response; thus, it is too indefinite to support a sanctions motion. Mr. Bollea interprets the order as requiring him to act in good faith in identifying discovery requests that require a supplemental response, and Mr. Bollea has fully complied with that obligation.

**Mr. Bollea has fully complied with the Court's April 23, 2014 discovery order.** On December 19, 2013 (not May 2013, as Gawker implies), Gawker served the discovery that is actually the subject of this motion. *Id.* at ¶10. In that discovery, Gawker sought, among other things, (1) documents relating to Mr. Bollea's media appearances relating to the sex video (Demand 51), (2) documents relating to Mr. Bollea's communications with law enforcement relating to the sex video (Demand 52), and (3) Mr. Bollea's phone records showing all of his calls for the entire year of 2012 (Demand 54). A. J. Daulerio (represented by Gawker's counsel) served two interrogatories asking for all of Mr. Bollea's communications with law enforcement and Mr. Bollea's telephone numbers and telephone service accounts.<sup>2</sup> *Id.*

Mr. Bollea objected to this discovery, the parties met and conferred, and Gawker filed a motion to compel production of the documents. *Id.* at ¶11. Mr. Bollea opposed the motion, the Special Discovery Magistrate recommended that an order be entered compelling production, and Mr. Bollea took exceptions to the Special Discovery Magistrate's report. *Id.* On April 23, 2014, Judge Campbell heard the exceptions and overruled them. *Id.* at ¶12. At the April 23 hearing, Gawker **circumvented** Judge Campbell's standard practice of allowing one side to draft a proposed order and the other party to review and comment on the document before it is submitted, and instead presented a proposed order for her to sign at the hearing. *Id.* Mr. Bollea's counsel was not handed a copy; Judge Campbell signed what Gawker's counsel handed her; and Mr. Bollea suddenly had only ten days to comply with the order—an impossible task given that the majority of the documents and information were in the possession of non-parties and/or needed to be gathered from multiple individuals. *Id.* at ¶13.

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<sup>2</sup> Gawker used A. J. Daulerio's status as a "separate" defendant to exceed the limits on the number of interrogatories. Now, **Gawker** asks for a discovery sanction in **its** favor based on the alleged failure to respond to interrogatories served by A. J. Daulerio. Gawker has cited no authority whatsoever that supports this tactic.

Gawker's conduct shows that it was less interested in obtaining the discovery at issue, and far more interested in trumping up phony grounds to bring a frivolous motion for dismissal. Nonetheless, Mr. Bollea has **complied** with Judge Campbell's April 23, 2014 order, and thus there is no basis for sanctions.

First, Mr. Bollea produced **all** documents in his possession, custody and control relating to his October 2012 media tour for promotion of a TNA Wrestling event. *Id.* at ¶14. The media tour was scheduled long before Gawker published the sex video on October 4, 2012, and as he testified at his deposition, Mr. Bollea was "not going to hide" from the issue, and could not avoid the inevitable questions about the sex video after Gawker published it. Mr. Bollea and his counsel, in response to Gawker's requests, searched diligently for documents responsive to the requests. *Id.*; Bollea Aff. ¶2. None were located in Mr. Bollea's files. Harder Aff. ¶14; Bollea Aff. ¶2. Regardless, Mr. Bollea's counsel was able to locate from TNA Wrestling, the New York media itinerary from October 2012, which his counsel provided to Gawker on March 5, 2014, as a *courtesy*, and to put to bed Gawker's false charges that Mr. Bollea supposedly went on the media tour, or expanded it, in order to supposedly take advantage of the publicity for the Gawker-posted sex video. Harder Aff. ¶14. The documents produced show that each appearance of the media tour was set **before** Gawker posted the illegal sex video, which violated Mr. Bollea's privacy. Mr. Bollea also responded to extensive questioning on this topic at his deposition. *Id.*

Second, on May 8, 2014, Mr. Bollea produced **all** documents in his possession, custody and control relating to his phone records. *Id.* at ¶17. Mr. Bollea also contacted his telephone carriers to obtain further records to produce to Gawker. *Id.* Those records will not be in his

possession, custody or control until they are **received**. As such, at this time, Mr. Bollea has fully complied with the order.

Third, on April 30, 2014, Mr. Bollea produced communications with law enforcement in his possession, custody and control. *Id.* at ¶18. On May 8, 2014, Mr. Bollea made a further production of responsive documents in response to Gawker's meet-and-confer correspondence regarding certain attachments to emails. *Id.* As of May 8, 2014, Mr. Bollea had produced **all** documents reflecting his communications with law enforcement that were in his possession, custody and control. *Id.*

Mr. Bollea redacted one portion of the April 30 production. The Special Discovery Magistrate ruled during depositions that certain evidence was not discoverable on grounds of privacy and relevance. Gawker never took exception to this ruling. The same material that the Special Discovery Magistrate ruled was not discoverable at the deposition appears in certain pages of the documents sent by non-parties to David Houston, which material appears in law enforcement communications, as well as in documents provided by a non-party pursuant to a subpoena. Accordingly, and consistent with the Special Discovery Magistrate's ruling, Mr. Bollea redacted that material. Such material has nothing to do with this case or Mr. Bollea's sexual relationship with Ms. Clem. As such, Defendants can claim no prejudice resulting from the redactions. Concurrently herewith, Mr. Bollea files an affidavit of counsel under seal, which discusses the material at issue more fully. Mr. Bollea additionally files under seal a motion for protective order regarding this topic.

Fourth, on May 9, 2014, Mr. Bollea served supplemental responses to A. J. Daulerio's Interrogatories 9 and 10, which concerned Mr. Bollea's communications with law enforcement and his telephone numbers and service providers, respectively. Harder Aff. ¶19. Mr. Bollea



served a second supplemental response to Interrogatory 9 on May 16, 2014. *Id.* Mr. Bollea produced the related documents on April 30 and May 8, 2014. *Id.*

Despite Mr. Bollea's compliance with the April 23, 2014 order, Defendants filed this motion on May 8, 2014, without even calling Mr. Bollea's counsel to discuss the matter, and despite the fact that Mr. Bollea's counsel had advised Defendants in writing that they were in the process of fully complying with the April 23, 2014 order. *Id.* at ¶¶15–16.

**This is not the first time that Gawker has improperly and prematurely sought discovery sanctions against Mr. Bollea.** On February 12, 2014, Gawker filed an “expedited” motion for discovery sanctions, claiming that Mr. Bollea had failed to comply with the Court's discovery order on Gawker's first motion to compel. At the time of the filing, the Court had not even entered its written order on that motion. Gawker's motion made many of the same arguments it makes here, including accusing Mr. Bollea of withholding information concerning his relationship with Ms. Clem, and asking for severe discovery sanctions based on nothing more than baseless and unsupported accusations. The Special Discovery Magistrate denied Gawker's motion then, and should do so again now.

### **III. ARGUMENT**

#### **A. There Is No Violation of Any Court Order.**

Defendants fail to identify with any specificity how Mr. Bollea is in violation of any court order. Mr. Bollea **complied** with the February 26, 2014 order on Gawker's motion to compel by serving supplemental interrogatory responses, producing text messages with Bubba Clem, and answering questions on this topic at his deposition. Defendants insinuate, without evidence, that Mr. Bollea's responses to the discovery were false. They were not.

On April 30 and May 8, 2014, Mr. Bollea produced communications relating to the FBI's investigation into the dissemination of the sex video. Defendants' motion makes the vague and unsupported argument that these FBI documents somehow "confirm that plaintiff's responses to interrogatories and requests for production were incomplete in materially misleading ways" or that they somehow "call into serious question plaintiff's sworn deposition testimony concerning his sexual relationship with Ms. Clem." Mot. at ¶5. The FBI communications do nothing of the kind. Rather, the content of those communications is fully consistent with Mr. Bollea's recollection of his sexual encounters with Ms. Clem, as stated in his interrogatory responses and deposition testimony.

Defendants' failure to provide **any detail** as to how the documents allegedly refute any of Mr. Bollea's prior statements makes it impossible for Mr. Bollea to respond to Defendants' accusations in any meaningful way. Defendants should be prohibited from providing further detail in its Reply, because doing so would be yet another attempt to ambush Mr. Bollea after his opposition has been filed and when there is no opportunity to correct Defendants' typically numerous factual inaccuracies. Defendants state that they are not providing detail in their moving papers because the FBI documents have been designated "Confidential—Attorney's Eyes Only." If this is the case, then Defendants should not provide detail in their Reply, lest they engage in further ambush-style litigation tactics.

The bottom line is this: Mr. Bollea has fully complied with the Court's February 26, 2014 order, and the newly-produced documents do not show otherwise. Regardless, any discovery response that might be inconsistent with a document produced in discovery is **not** a ground for the sanctions Defendants seek. *See* Fla. R. Civ. Proc. 1.380(b)(2) (requiring that a

party must “fail[ ] to answer a question after being directed to do so by a court” before a sanction may be imposed).

Mr. Bollea also has **complied** with the April 23, 2014 order. Mr. Bollea has searched for and produced all of his communications regarding his media appearances. Mr. Bollea produced to Gawker documents his counsel was able to obtain from TNA Wrestling regarding Mr. Bollea’s October 2012 media appearances. Mr. Bollea has further produced all of the communications with law enforcement, as ordered. Mr. Bollea has served supplemental responses to A. J. Daulerio’s Interrogatories 9 and 10. Mr. Bollea has produced the phone records he has in his possession, and will produce records from his phone carriers once he obtains them. Until he is able to obtain them, those documents are not in his possession, custody or control.

In sum, the reason Defendants’ motion should be denied is simple: because Mr. Bollea has not violated the Court’s orders. Fla. R. Civ. Proc. 1.380(b)(2) (requiring that a party must “fail[ ] to answer a question after being directed to do so by a court” before a sanction may be imposed).

**B. To the Extent That Defendants Have Identified a Violation of a Court Order, Dismissal Would Deny Mr. Bollea His Rights of Due Process.**

Defendants’ request for the most severe discovery sanction (dismissal) is wholly improper under these circumstances. The Florida Fourth District Court of Appeal has held: “[T]he right of access to our courts is constitutionally protected and should be denied only under extreme circumstances. . . . To strike pleadings for failure to comply with a discovery order is the most severe of all sanctions and should be resorted to only in extreme circumstances. . . . Only a deliberate and contumacious disregard of the court’s authority, bad faith, willful disregard

or gross indifference to an order of the court, or conduct which evinces deliberate callousness will justify a dismissal of pleadings for a violation of discovery procedures. . . . An outright noncompliance with discovery orders may justify the dismissal of pleadings, mere foot dragging usually does not.” *U.S.B. Acquisition Co. v. U.S. Block Corp.*, 564 So.2d 221, 222 (Fla. 4th DCA 1990).

Defendants do not even come close to meeting this standard. The case law is clear that this sort of sanction is reserved for the most egregious conduct:

- In *U.S.B. Acquisition*, the Court of Appeal **reversed** the dismissal of a complaint where the plaintiff failed to produce all documents (and thus did not comply with its discovery obligations) but did produce a “substantial” portion of the documents requested. *Id.*
- In *Steele v. Chapnick*, 552 So.2d 209, 209–10 (Fla. 4th DCA 1989), the plaintiff served “less than complete” responses to discovery **and** failed to produce a “key” piece of evidence. Nonetheless, the Court **reversed** the trial court’s order dismissing the suit.
- In *Flanzbaum v. Stans Lounge*, 377 So.2d 750, 751 (Fla. 4th DCA 1979), the court reversed a dismissal order despite the plaintiff’s noncompliance with its discovery obligations.

Notably, **Defendants do not cite a single case in support of their sanctions motion.**

This is no surprise, given that Gawker has attempted this ambush tactic previously in this case, where it made new arguments in, and held back its legal authority until, its reply papers, so that Mr. Bollea had no meaningful opportunity to respond to the newly-cited authority.<sup>3</sup> If

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<sup>3</sup>For instance, Gawker cited no authorities in its Fifth Motion to Compel in support of its argument that telephone records were discoverable, and then cited case law for the first time in its reply papers. The authorities were highly distinguishable, but Mr. Bollea had no opportunity to discuss them because he had already filed his opposition and the reply was filed the morning of the hearing.

Defendants try this tactic again, such arguments should be rejected. Defendants had every opportunity to fully research the law, cite all case law supportive of their position, and include them in their **moving** papers. Defendants should not be allowed to turn their failure to cite any case law into a strategic advantage.

Defendants have not shown that Mr. Bollea has failed to substantially comply with discovery and have identified nothing willful or contumacious in Mr. Bollea's conduct. Hurling invectives at Mr. Bollea, as Defendants do with regularity, does not constitute evidence. A dismissal order would be clear, reversible error. As such, Defendants' request for dismissal is offensive, frivolous, and itself sanctionable, and should be met with appropriate judicial condemnation.

**C. There Is No Basis for an Evidentiary Sanction Given Defendants' Gamesmanship in Bringing this Motion and the Trivial and Non-Prejudicial Nature of the Alleged Violations.**

The discovery sanctions sought by Defendants are not warranted and, regardless, are not commensurate with the alleged violations. In Florida, "the severity of the sanction must be commensurate with the violation." *Ferrante v. Waters*, 383 So.2d 749, 750 (Fla. 4th DCA 1980). If there are any violations of the Court's April 23, 2014 order at all (which Mr. Bollea denies), the violations consist of (a) providing responsive documents and supplemental interrogatory responses one week after the Court's ten-day requirement to do so, which requirement was entered without consulting with Mr. Bollea's counsel; (b) Mr. Bollea's inability to obtain documents from **non-parties** during that ten-day period; and (c) Mr. Bollea's redaction of a few words from a document **consistent with** the Special Discovery Magistrate's earlier ruling at depositions.

Defendants have suffered no prejudice whatsoever from receiving documents on May 8, and interrogatory responses on May 9, instead of May 1. **There is no trial date in this action,** and according to the Court, the first available trial date is March 2, 2015. The only reason the instant motion was filed at all is because Defendants circumvented the Court's process for submitting proposed orders to opposing counsel for comment before submitting them to the Court, and then raced to Court with the motion—knowing that discovery responses and documents were on their way. It would be grossly disproportionate to exclude evidence at trial or find Mr. Bollea in contempt based on the fact that production took a few days longer than Defendants anticipated in their unilaterally prepared proposed order, and a dispute over redaction of a few words that are completely irrelevant to this action and consistent with the Special Discovery Magistrate's prior rulings.

**D. There Is No Basis for Monetary Sanctions Against Mr. Bollea.**

An award of monetary sanctions for failure to comply with discovery obligations requires a showing that the sanctioned party's conduct was unjustified **and** that the monetary sanction will reasonably compensate for expenses incurred as a result of the violation. Fla. R. Civ. Proc. 1.380(a)(4) (no sanctions may be awarded when opposition was "justified" or other circumstances make an award unjust); *H.K. Development, LLC v. Greer*, 32 So.3d 178, 183 (Fla. 1st DCA 2010) (reversing \$31,000 sanction for failing to appear for judgment debtor examination where amount bore no relationship to actual expenses incurred).

Here, if there are any violations at all, they consist of Defendants receiving documents a few days later than the production date that Defendants wrote in their proposed order, which the Court signed, where no trial date has yet been set. Additionally, the cost of Defendants' motion was not caused by Mr. Bollea's conduct. Defendants raced into Court with an unnecessary

motion, and now try to stick Mr. Bollea with the bill. No monetary sanctions against Mr. Bollea or his counsel are justified or permissible.

**E. There Is No Basis to Recall Mr. Bollea for a Second Deposition.**

After two full days of thorough and invasive questioning of Mr. Bollea, Defendants want yet another bite at the apple. The request should be rejected. First, Defendants' stated reasons for reopening Mr. Bollea's deposition amount to nothing more than unsupported rhetoric. *See* Mot. at ¶19 (accusing Mr. Bollea of making "misstatements and omissions" under oath, but providing no detail as to what the alleged misstatements and omissions include). Second, the FBI-related documents were not "belatedly" produced, as Defendants claim. *Id.* The documents were the subject of legitimate discovery disputes between the parties that, upon resolution by Judge Campbell, were produced on April 30 and May 8, 2014. Third, those documents do not contain any information relating to the actual issues in **this case**—namely, whether Defendants' conduct in posting the sex video without Mr. Bollea's approval was tortious, whether that conduct was constitutionally protected, and the extent of Mr. Bollea's damages resulting from Defendants' conduct. The FBI documents pertain to a completely unrelated matter. Defendants fail to meet their burden of showing that anything in the FBI documents are related to Mr. Bollea's claims in this action, or Defendants' legitimate defenses thereto. Accordingly, there is no basis for reopening Mr. Bollea's deposition to question him about those documents. For the same reasons, there also is no basis for reopening Mr. Clem's deposition, particularly when he was a non-party witness and Defendants had the option of postponing his deposition pending resolution of the FBI documents issue.

**F. Defendants Should be Sanctioned for Bringing a Meritless, Premature Motion.**

As set forth above, Defendants' motion was a set-up: Defendants circumvented the proposed order process to obtain an order quickly, with an unreasonably short production deadline, and then rushed to Court with the instant motion, even after Mr. Bollea's counsel informed Defendants that they were in the process of fully complying with the April 23, 2014 order.

Defendants' true motivation for the motion is exposed by the fact that Defendants provide **no factual or case authority to support their request**. Like Gawker's prior requests for sanctions, Defendants' motion is nothing more than an extreme overreaction, and part of their ongoing effort to make this litigation as expensive and burdensome as possible on Mr. Bollea, whose resources are a comparatively small fraction of Defendants'. Defendants' motion is unjustified, and Defendants should be sanctioned for bringing it. Fla. R. Civ. Proc. 1.380(a)(4) (providing that court "shall" require the moving party who brings an unjustified discovery motion to pay the costs and attorney's fees of the opposing party).<sup>4</sup>

**IV. CONCLUSION**

For the foregoing reasons, Defendants' motion should be denied in its entirety, and monetary sanctions should be imposed against Defendants equal to, at the least, Mr. Bollea's legal costs incurred in opposing it.

DATED: May 27, 2014

/s/ Charles J. Harder

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<sup>4</sup> If the Special Discovery Magistrate grants Mr. Bollea's request for sanctions, Mr. Bollea will provide an affidavit detailing his costs and attorney's fees incurred in opposing this motion at that time.



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by E-Mail via the e-portal system this 27th day of May, 2014 to the following:

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