

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, *et al.*,

Defendants.

MOTION TO DETERMINE CONFIDENTIALITY OF COURT RECORDS

Pursuant to Rule 2.420 of the Florida Rules of Judicial Administration and this Court's Agreed Protective Order Governing Confidentiality, dated July 25, 2013 (the "Confidentiality Order"), Defendants Gawker Media, LLC ("Gawker") and A.J. Daulerio ("Daulerio"), by and through their undersigned counsel, hereby move to determine the confidentiality of Defendants' Opposition to Plaintiff's Confidential Motion for Protective Order Re: Certain Content in Documents Produced in Discovery (the "Opposition"). As grounds for this motion, Defendants state:

1. Florida Rule of Judicial Administration 2.420(c)(9)(A)(iv) provides that certain court records are confidential if the Court determines that confidentiality is required in order to "obtain evidence to determine legal issues in a case."

2. On April 23, 2014, this Court ordered Plaintiff Terry Gene Bollea ("Bollea") to produce discovery related to an FBI investigation into the dissemination of sex tapes depicting Bollea and Heather Clem (the "FBI discovery"). The Court instructed that this discovery could be labeled "Attorneys' Eyes Only" and treated as confidential under the Confidentiality Order. As such, this Court has preliminarily determined that confidentiality of the FBI discovery is

required to obtain evidence to determine legal issues in this case, consistent with Rule 2.4240(c)(9)(A)(iv). In addition, plaintiff has designated certain other discovery as “CONFIDENTIAL” under the Confidentiality Order.

3. On May 27, 2014, Plaintiff Terry Gene Bollea (“Bollea”) filed under seal a Motion for Protective Order Re: Certain Content in Documents Produced in Discovery, and filed an accompanying Notice of Confidential Information Within Court Filing.¹

4. Concurrent with this Motion, in observance of Plaintiff’s request to keep the contents of the Motion for Protective Order confidential, Defendants are filing their Opposition confidentially as well.

5. The Opposition attaches and references confidential content from Plaintiff’s Motion for Protective Order, the FBI discovery materials, and certain other materials Plaintiff has designated as “CONFIDENTIAL.” Consequently, the Opposition and the exhibits to the Opposition are being treated as confidential.

6. Counsel for Defendants certifies that this motion is made in good faith and is supported by a sound factual and legal basis. Without conceding that Plaintiff has properly designated his Motion for Protective Order as confidential, and/or the other materials described and attached to the Opposition as either “CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” Defendants are filing this motion in compliance with Rule 2.420 and this Court’s Confidentiality Order.

¹ As its basis for sealing, Plaintiff stated the Motion for Protective Order contained confidential information as described in Rule 2.420(c)(9) and/or the Agreed Protective Order Governing Confidentiality (the “Confidentiality Order”). However, it is Defendants’ understanding that under 2.420(d)(3), for the filing of confidential information under 2.420(c)(9), a request to determine the confidentiality of trial court records must be made in the form of a written motion captioned “Motion to Determine Confidentiality of Court Records,” rather than just filing a Notice of Confidential Information Within Court Filing.

7. Pursuant to Rule 2.420(e)(2), Defendants request an expedited hearing to determine whether the Opposition is confidential.

WHEREFORE, Defendants respectfully request that this Court determine the confidentiality of the Opposition.

Dated: June 9, 2014

Respectfully submitted,

THOMAS & LOCICERO PL

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of June 2014, I caused a true and correct copy of the foregoing to be served via the Florida Courts' E-Filing Portal upon the following counsel of record:

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