

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.

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**MOTION FOR COMMISSION
FOR OUT-OF-STATE SUBPOENA**

Defendant Gawker Media, LLC (“Gawker”), by and through its undersigned attorneys, moves this Honorable Court for a Commission for the issuance of a subpoena for documents with deposition to Prince Marketing Group, c/o James A. Davenport, 15 Prospect Lane, Colonia, New Jersey 07067, to produce the documents listed in the subpoena annexed to Gawker’s motion as Exhibit A, and to provide deposition testimony on the topics listed in that subpoena as well.

As grounds, Gawker states the following:

1) Prince Marketing Group is located in Livingston, New Jersey. Its registered agent for service, James A. Davenport, is located in Colonia, New Jersey.

2) Under Rule 4:11-4 of the New Jersey Rules of Court, a party to a proceeding in another state wishing to obtain testimony and/or documents from a New Jersey resident is required to obtain a commission from the state in which the action is taking place, and then, based on that commission, petition for the issuance of a New Jersey subpoena.

3) Obtaining a commission from this court is, therefore, necessary to enable Gawker to effectuate its subpoena.

4) This case challenges a report and commentary (the “Gawker Story”) published on Gawker.com by Gawker Media, LLC, concerning an extramarital affair and sexual encounter that Plaintiff, the celebrity publicly known as Hulk Hogan (“Plaintiff” or “Hogan”), conducted with the wife of his then-best friend (Bubba Clem, himself also a celebrity), with Bubba Clem’s blessing. It also challenges the publication, along with the Gawker Story, of brief excerpts (the “Excerpts”) of a longer video (the “Video”) depicting the encounter. Based on the Gawker Story and the Excerpts, Plaintiff asserts claims against Gawker for invasion of privacy, for violation of his publicity rights, for negligent and intentional infliction of emotional distress, and for violation of the publication prong of Florida’s wiretap statute.

5) Gawker believes Prince Marketing Group possesses information and/or records that are admissible or are likely to lead to the discovery of admissible evidence in this case, including without limitation information and/or records concerning Plaintiff’s public image, his expectation of privacy, the reasonableness of that expectation, the newsworthiness of the Gawker Story and Excerpts, Plaintiff’s claimed publicity rights, the value of those rights, and Plaintiff’s claims for damages arising out of an alleged violation of those rights.

6) On information and belief, Darren Prince, the principal for Prince Marketing Group, has, for a number of years, worked closely with Plaintiff to increase and monetize his celebrity, including through securing promotional appearances for him and licensing his name and likeness. On information and belief, this relationship has continued through the period both preceding and following the publication of the Gawker Story and Excerpts.

7) Without the opportunity to inspect any materials in the possession of Prince Marketing Group, or to obtain the testimony of its corporate representative, Gawker would be prejudiced in its defense.

WHEREFORE, Gawker respectfully requests that this Honorable Court issue a Commission requesting the issuance of a subpoena for documents with deposition to Prince Marketing Group, c/o James A. Davenport, compelling production of the documents and testimony on the topics listed in the subpoena annexed to Gawker's motion. A proposed Commission is attached hereto as Exhibit B.

Dated: July 8, 2014

Respectfully submitted,
THOMAS & LOCICERO PL

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of July 2014, I caused a true and correct copy of the foregoing to be served electronically upon the following counsel of record at their respective email addresses via the Florida Courts E-Filing Portal:

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