

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.

**PLAINTIFF TERRY GENE BOLLEA'S RESPONSE TO GAWKER MEDIA'S
EXCEPTIONS TO REFEREE'S RECOMMENDATION THAT MR. BOLLEA BE
PERMITTED TO SERVE 30 ADDITIONAL INTERROGATORIES**

Gawker Media, LLC ("Gawker") presents no compelling reason why the Special Discovery Magistrate, who is familiar with the discovery needs of the parties, erred in allowing Mr. Bollea to serve up to 30 additional interrogatories on Gawker. For the reasons presented herein, the Court should enter the Special Discovery Magistrate's September 1, 2014 Recommendation.

**A. Mr. Bollea's Request for Additional Interrogatories to Propound to Gawker
Was Procedurally Correct**

Gawker's argument that it did not have proper notice is without merit. Gawker had an opportunity to object to Mr. Bollea's request, which was circulated to all counsel and Judge Case on August 27, 2014 in advance of a scheduled conference call with Judge Case on August 29,

2014. Mr. Bollea's request for additional interrogatories was relevant to the topic of the call, which concerned scheduling **discovery** and other deadlines, and thus was an appropriate time to bring up the request.

The Special Discovery Magistrate is not required to conduct proceedings with the same level of formality as a court. For instance, the Special Discovery Magistrate has conducted several telephonic hearings in this case (whereas court hearings would be conducted live and in the courtroom), and also has ruled on a number of matters after receiving correspondence from the parties. The Court's purpose in appointing a Special Discovery Magistrate for this case was to streamline the resolution of the parties' discovery disputes. *See* Ex. 1 (excerpts of 10/29/13 Hearing Tr. at 58:17–21: Court explaining her belief that appointment of a special magistrate would be an "efficient tool"). Streamlining the discovery procedures is exactly what occurred with respect to Mr. Bollea's request for an additional 30 interrogatories. There is nothing improper about the efficient resolution of a minor dispute in a case where discovery has been ongoing almost two years.

In any event, to the extent that Fla. R. Civ. P. 1.340 is construed to require notice and an opportunity to be heard by the Court, Gawker is receiving full due process, because the Special Discovery Magistrate's recommendation is just that, notice and an opportunity to be heard. No court order will be entered until after full notice and briefing in this Court.

B. Mr. Bollea Has Demonstrated Good Cause for Requesting Additional Interrogatories to Propound to Gawker

Gawker's argument that Mr. Bollea has not shown the requisite "good cause" for propounding additional interrogatories is similarly without merit. The Special Discovery Magistrate is familiar with the discovery issues in this case and, thus, his judgment that Mr.

Bollea should be permitted to serve additional interrogatories should not be disturbed. In fact, Gawker does not deny the fundamental point of Mr. Bollea's request—that all the Gawker-affiliated defendants are represented by the same counsel, controlled by Gawker—and that Gawker has used that circumstance to serve many more than 30 interrogatories on Mr. Bollea, all drafted by Gawker's counsel. Gawker's only response to this point is to say that its discovery is compliant with the Rules of Civil Procedure, read literally. However, the Special Discovery Magistrate was entitled to recommend that this Court permit Mr. Bollea to serve a roughly equivalent number of interrogatories on Gawker, as Gawker's counsel has served on Mr. Bollea. There is nothing in the Rules of Civil Procedure to prohibit a court or discovery magistrate to order additional interrogatories for this purpose. The additional interrogatories will allow Mr. Bollea to efficiently take discovery on key issues in the case, as well as follow-up or clarifying discovery regarding what has been provided to date.

The Special Discovery Magistrate is familiar with the issues in this case and the discovery needs of the parties. In his judgment, it was fair and proper for Mr. Bollea to be permitted to serve 30 additional interrogatories, and this will allow for maximum efficiency in the discovery process. Persuasive federal case law holds that the showing required for a motion for additional interrogatories is modest—the additional interrogatories need only be “consistent with the purposes behind discovery.” *Denmeade v. King*, 2001 WL 1823579 at *1 (W.D.N.Y. Dec. 6, 2001); *accord Vukadinovich v. Griffith Public Schools*, 2008 WL 5141388 at *4 (N.D. Ind. Dec. 5, 2008) (motion for additional interrogatories should be granted so long as they are “not excessive, oppressive, or overly burdensome”). Gawker has offered no ground to disturb the Special Discovery Magistrate's considered judgment that Mr. Bollea has satisfied this modest showing.

For the foregoing reasons, the Court should overrule Gawker's exceptions and enter an order on the Special Discovery Magistrate's recommendation.

Respectfully submitted,

/s/ Kenneth G. Turkel

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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 29th day of September, 2014 to the following:

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