

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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**DEFENDANT GAWKER MEDIA, LLC'S OBJECTIONS  
TO CORPORATE DESIGNEE DEPOSITION TOPICS  
AND MOTION FOR PROTECTIVE ORDER**

Pursuant to Florida Rule of Civil Procedure 1.280(c) and the instructions issued by Special Discovery Magistrate James Case during the February 13, 2015 telephonic hearing in this action, Defendant Gawker Media, LLC ("Gawker") submits the following objections to the corporate designee deposition topics, and respectfully moves for a protective order with respect to those objections. A copy of plaintiff's Notice of Taking [Second] Videotaped Deposition of Corporate Representative of Gawker Media, LLC, which is the subject of these objections and this motion, is attached hereto as Exhibit A.

**PRELIMINARY STATEMENT**

By these objections and this motion, Gawker respectfully requests that its objections to individual topics included in the notice for a second deposition of Gawker's corporate designee be adjudicated in advance of any additional deposition so that the witness can properly prepare based on topics allowed after the Court rules on these issues. For the avoidance of doubt, in submitting these individual objections and this motion, Gawker does not intend to waive its

overall objection to having to produce a corporate deponent for a second time, given that plaintiff already had an opportunity to depose Gawker. Gawker also preserves and does not intend to waive objections, including without limitation objections based on privilege, to specific, individual questions that may be posed at any further deposition.

For the Court's convenience, Gawker has organized its objections as follows: (1) topics that have already been ruled out of bounds in discovery by Judge Campbell; and (2) additional objections to individual topics. Gawker's objections to certain topics does not necessarily mean that it has any information that would be responsive to questions about that topic.

## **I. TOPICS ALREADY RULED OUT-OF-BOUNDS**

### **A. Topics Seeking Information About Corporate Shareholders.**

Gawker objects to the following topics on the grounds that their subject matter was already ruled out-of-bounds by the Court in its Order on Plaintiff's Motion to Compel dated February 26, 2014 (attached hereto as Exhibit B) at ¶ 4 (sustaining Gawker's objections to plaintiff's request for documents "that relate to the identity of the owners of Gawker or any affiliated company"):

- ∑ No. 3: The extent to which GAWKER, KINJA and/or GMGI respect corporate formalities in relationships with their shareholders, parents, affiliates, and direct and indirect subsidiaries.
- ∑ No. 8: The identities of the shareholders of GAWKER, KINJA, and GMGI, their location, and the percentage of outstanding shares owned during all times from January 1, 2011 to present.
- ∑ No. 20: The identities, job titles, duties, compensation, and location of each of KINJA's and/or GMGI's current and former members, directors, executives and employees from January 1, 2011 to the present.
- ∑ Gawker also objects to that portion of Topic No. 4 that concerns the "ownership" of Kinja and GMGI. (Topic Nos. 4 and 5: The ownership, relationships,

organizational charts, lines of business, corporate purposes, management, places of incorporation and principal places of business of KINJA and GMGI, and each business activity that they have engaged in, from January 1, 2012 to present, and the reasons why they were set up as separate companies from Gawker.)

**B. Payments of Usual and Customary Obligations and Specific Transactions with Kinja.**

Gawker objects to the following topics on the grounds that their subject matter was already ruled out-of-bounds by the Court in its February 26, 2014 Order on Plaintiff's Motion to Compel at ¶ 2 ("employees or vendors" who are paid "usual and customary obligations" need not be identified; Gawker need identify only those who "received money or other compensation flowing from the publication of the article")<sup>1</sup> and/or in its order dated December 17, 2014 (attached hereto as Exhibit C) (limiting discovery concerning the financial relationship between Gawker and Kinja to the production of documents "sufficient to show" transactions between the two companies):

- ∑ No. 9: The identities of all PERSONS or ENTITIES that have received compensation from two or more of the following PERSONS or ENTITIES at any time from January 1, 2011 to present: GAWKER, KINJA and/or GMGI; the circumstances RELATING TO the payment/receipt of such compensation; and the services provided in exchange for the compensation.
- ∑ No. 12: GAWKER'S, KINJA'S and GMGI's financial accounts for January 1, 2012 to present, including the name of each financial institution and its location, the account number, the current account balance, and the balances as of September 30, 2012, December 31, 2012, March 31, 2013, and June 30, 2013, respectively.

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<sup>1</sup> This ruling concerned the following Interrogatory: "Identify each entity and/or individual which directly or indirectly receives money or other compensation that is generated by or originated by Gawker.com or any content thereon."

- Σ No. 14: All financial transactions, transfers, payments, and/or movement of money, assets or liabilities between KINJA, DENTON, GMGI and/or GAWKER, from January 1, 2011, to present.
- Σ No. 15: The negotiations RELATING TO any and all agreements, arrangements and/or transactions between KINJA, DENTON, GMGI and/or GAWKER, from January 1, 2011 to present.
- Σ No. 16: All assets and/or activities of KINJA that provided any benefit to GAWKER and/or GMGI at any time from January 1, 2011 to present.
- Σ No. 17: All assets and/or activities of GAWKER that provided any benefit to KINJA and/or GMGI at any time from January 1, 2011 to present.
- Σ No. 18: All assets and/or activities of GMGI that provided any benefit to KINJA and/or GAWKER at any time from January 1, 2011 to present.
- Σ No. 19: Details RELATING TO all tax payments made by GAWKER, KINJA, and/or GMGI from January 1, 2011 to present.
- Σ No. 29: Details RELATING TO all agreements, arrangements and/or transactions that directly or indirectly license or transfer any intellectual property, compensation or other benefits between KINJA and GAKWER, including any amendments to any such agreement, arrangement and/or transaction from January 1, 2011 to present. [The December 17, 2014 Order limited this to transactions, which have been disclosed; at a minimum this topic should be similarly limited.]
- Σ No. 33: The identities of every PERSON (including both individuals and ENTITIES) with whom KINJA has done business, from January 1, 2011, to present, who is located in the United States.
- Σ Gawker also objects to those portions of Topic Nos. 5 and 6 that concern Kinja's and GMGI's "vendors." (Topic Nos. 5 and 6: The location of each of KINJA'S/GMGI's office(s) or place(s) of business, each of its employees, and each of its vendors from January 1, 2011 to present.)

**C. Additional Financial Discovery.**

Gawker objects to the following topics on the grounds that their subject matter was already ruled out-of-bounds by the Court in its February 26, 2014 Order on Plaintiff's Motion to Compel at ¶¶ 9 and 13 (specifically, the Court declined to order additional financial discovery beyond the substantial financial records already produced):

- Σ Gawker objects to the portion of Topic No. 28 which seeks testimony concerning the "data underlying all such income and financial statements," including because it would be impossible to meaningfully prepare a witness to testify about data underlying multiple years' worth of financial statements (Topic No. 28: Details RELATING TO all income and financial statements produced by GAWKER in the above-captioned lawsuit, and the data underlying all such income and financial statements).

**II. ADDITIONAL OBJECTIONS**

**1. Definitions:** Gawker objects to the definitions set forth in the Notice to the extent that they (a) purport to impose an obligation on Gawker to testify beyond information it has in its possession or custody, (b) expansively define terms in a way that would render testimony confusing or ambiguous, and/or (c) would otherwise exceed the proper scope of discovery in this action as follows:

- a. "GAWKER":** Gawker objects to the definition of "GAWKER" to the extent that it is defined to include persons and/or entities other than Gawker Media, LLC, the deponent, including without limitation Gawker's "members, shareholders, managers, executives, officers, board members, employees, agents, representatives, attorneys and all other PERSONS acting on any of their respective behalves." Pursuant to Florida Rule of Civil Procedure 1.310(b)(6) and the December 17, 2014 Order, Gawker's corporate designee will testify on behalf

of Gawker, based on information in its possession or custody, and not these other individuals or entities.

- b. Other Individuals and Entities:** Although the witness's testimony will be so limited, for the avoidance of doubt, Gawker similarly objects to the overly expansive definitions of "DENTON," "GMGI," "HEATHER CLEM," "KINJA," and "PLAINTIFF" and, in responding to questions intends to refer solely to the named entities and individuals, and not the other parties enumerated in their definitions.
- c. "GAWKER WEBSITES":** Gawker objects to the definition of "GAWKER WEBSITES" to the extent that it purports to impose an obligation to testify about the operations of Gawker's seven other websites (i.e., other than GAWKER.com). Discovery with respect to those other websites has been limited to traffic and revenue information, and Gawker objects to questions on other topics with respect to them.

**2. Time Periods:** At the December 17, 2014 hearing and in the Court's December 17, 2014 Order, discovery was limited for most topics from 2011 to 2014, and with respect to certain topics from 2011 to 2013. Gawker objects to the extent that the Deposition Topics exceed these time limitations. Just by way of example, certain topics could be read to seek testimony about events that pre-date January 1, 2011 in an unlimited fashion (*see, e.g.*, Topic 2, seeking information about the identities of all previous owners or holders of intellectual property and the circumstances regarding such transfers) or have no time limitations (*see, e.g.*, Topic 3, seeking information concerning corporate formalities without **any** limitation on the time period whatsoever).

**3. Scope:** Judge Campbell's May 14, 2014 order (attached hereto as Exhibit D) denied discovery related to GMGI once it was dismissed from the case. Plaintiff was afforded 30 days to serve an amended complaint as to GMGI and did not do so, and plaintiff did not appeal or otherwise challenge that order. Discovery as to GMGI is beyond the scope of proper discovery. Similarly, Judge Campbell's December 17, 2014 Order limited discovery with respect to Kinja to certain limited topics and to information and documents within Gawker's possession and custody. That same limitation should apply here.

**4. Topic No. 2:** Details RELATING TO all intellectual property owned or held by KINJA, GAWKER and/or GMGI from January 1, 2011 to the present, including the identities of all previous owners or holders of the intellectual property and the reasons and circumstances surrounding its transfer(s).

Gawker objects to this topic to the extent it seeks details relating to "all intellectual property" owned by Gawker, as well as Kinja and GMGI. Just by way of example, Gawker owns copyrights in each of the roughly 100,000 posts it publishes each year as well as rights it acquires by licenses to thousands of photos and work prepared by freelancers. It would be unduly burdensome and virtually impossible for a corporate designee to be able to testify concerning such intellectual property.

**5. Topic No. 12:** GAWKER'S, KINJA'S and GMGI's financial accounts for January 1, 2012 to present, including the name of each financial institution and its location, the account number, the current account balance, and the balances as of September 30, 2012, December 31, 2012, March 31, 2013, and June 30, 2013, respectively.

In addition to violating the Court's previously imposed limitations on financial discovery (see above), Gawker objects to this topic on the grounds that it improperly seeks various bank account information. *See, e.g., Aspex Eyewear, Inc. v. Ross*, 778 So.

2d 481, 481-82 (Fla. 4th DCA 2001) (“Ordinarily the financial records of a party are not discoverable unless the documents themselves or the status which they evidence is somehow at issue in the case.”); *Wyndham Vacation Resorts, Inc. v. Ocean Walk Resort Condo. Ass’n, Inc.*, 86 So. 3d 592, 594 (Fla. 5th DCA 2012) (request for bank account numbers was “invasive, overly broad, and goes well beyond the information needed to accomplish the goals sought by its production”); *Capco Properties, LLC. v. Monterey Gardens of Pinecrest Condo.*, 982 So. 2d 1211, 1214 (Fla. 3d DCA 2008) (requested discovery, including bank statements, is protected “financial information that is ordinarily discoverable only in aid of execution”).

6. **Topic No. 19:** Details RELATING TO all tax payments made by GAWKER, KINJA, and/or GMGI from January 1, 2011 to present.

In addition to violating the Court’s previously imposed limitations on financial discovery (see above), Gawker objects to this topic on the grounds that it improperly seeks confidential taxpayer information. In that regard, plaintiff objected to producing his taxpayer information, including the name and address of his accountants, and Judge Campbell previously ruled that such information is not discoverable. *See* (February 26, 2014 Order re Motions of Plaintiff for Protective Order, attached hereto as Exhibit E) at ¶ 4.

7. **Topic No. 22:** Details RELATING TO all instances of GAWKER and/or GMGI members, directors, executives and/or employees providing any assistance, service, benefit and/or web content to or for KINJA and/or [www.cink.hu](http://www.cink.hu), including any editorial, technical, business development, marketing, advertising, financial, legal or other support from January 1, 2011 to present.

In addition to violating the Court’s previously imposed limitations on financial discovery (see above), Gawker objects to this topic to the extent that it seeks information



about [cink.hu](http://cink.hu), an unrelated website owned by a different company in Hungary, and published in Hungarian, and having nothing to do with the post at issue.

8. **Topic No. 30:** Details RELATING TO all agreements, arrangements and/or transactions that directly or indirectly license or transfer any intellectual property, compensation or other benefits between KINJA and PERSON or ENTITY other than GAWKER, including any amendments to any such agreement, arrangement and/or transaction from January 1, 2011 to present.

Gawker objects to this Topic on the grounds that transactions between Kinja and third parties other than Gawker have no bearing on claims related to the post at issue in this action, and the topic exceeds the scope of discovery related to transactions involving Kinja, which were limited to documents sufficient to show transactions between Kinja and *Gawker*.

9. **Topic Nos. 33 and 34:** The identities of every PERSON (including both individuals and ENTITIES) with whom KINJA has done business, from January 1, 2011, to present, who is located in the United States, and KINJA's contacts with the State of Florida and the United States from January 1, 2011 to present.

In addition to violating the Court's previously imposed limitations on discovery about transactions involving Kinja (see above), this topic, to the extent it seeks information about Kinja's contacts with the United States, is also utterly irrelevant to any issue in the case. The sole jurisdictional question, which is currently before the District Court of Appeal, is whether Kinja has contacts with Florida, not whether it has contacts with the entire United States. *See Fla. Stat. § 48.193; see also B.C.S. S.r.l. v. Wise*, 989 So. 2d 702, 703 (Fla. 5th DCA 2008) (no personal jurisdiction where foreign company may have some contacts with the United States, but did not "have sufficient minimum contacts with Florida").

Dated: February 23, 2015

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 23rd day of February 2015, 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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