

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"), Nick Denton, and A.J. Daulerio (collectively, the "Publisher Defendants"), by and through their undersigned counsel, hereby move to determine the confidentiality of Plaintiff's Trial Exhibit Nos. 15 and 16 attached to their Motion *in Limine* to Exclude Letters Purporting to be Offers to Commercially Exploit the Sex Tape at Issue ("Motion *in Limine*"). As grounds for this motion, the Publisher Defendants state as follows:

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. This Court's Confidentiality Order provides that both the parties and non-party witnesses may designate testimony and/or documents as "confidential" if their substance falls into certain enumerated categories.

3. Plaintiff Terry Gene Bollea (“Hogan”) designated Trial Exhibit Nos. 15 and 16 as “Confidential” pursuant to that order. These Exhibits are purportedly letters directed to Plaintiff from two separate adult entertainment companies that were interested in partnering with him to commercially exploit the sex tape at issue in this litigation.

4. Concurrent with this Motion, the Publisher Defendants are filing their Motion *in Limine*, which relies in part on Plaintiff’s Trial Exhibit Nos. 15 and 16.

5. Counsel for the Publisher Defendants certifies that this motion is made in good faith and is supported by a sound factual and legal basis. The Publisher Defendants do not concede that Hogan has properly designated Plaintiff’s Trial Exhibit Nos. 15 and 16 as “Confidential,” especially considering both letters were published in substantially similar form on the website TMZ.com.¹ Nonetheless, the Publisher Defendants are filing this motion in order to comply with Rule 2.420 and this Court’s Confidentiality Order.

WHEREFORE, the Publisher Defendants respectfully request that this Court determine the confidentiality Plaintiff’s Trial Exhibit Nos. 15 and 16 attached to their Motion *in Limine*.

Dated: June 12, 2015

Respectfully submitted,

THOMAS & LOCICERO PL

By: /s/ Gregg D. Thomas

Gregg D. Thomas

Florida Bar No.: 223913

Rachel E. Fugate

Florida Bar No.: 0144029

601 South Boulevard

P.O. Box 2602 (33601)

Tampa, FL 33606

Telephone: (813) 984-3060

Facsimile: (813) 984-3070

¹ See, e.g., http://tmz.vo.llnwd.net/o28/newsdesk/tmz_documents/0308_hulk_hogan_vivid_letter.pdf (Vivid offer letter); http://tmz.vo.llnwd.net/o28/newsdesk/tmz_documents/1006_hulk_hogan_doc.pdf (Sex.com offer letter).

gthomas@tlolawfirm.com
rfugate@tlolawfirm.com

Seth D. Berlin
Pro Hac Vice Number: 103440
Michael D. Sullivan
Pro Hac Vice Number: 53347
Michael Berry
Pro Hac Vice Number: 108191
Alia L. Smith
Pro Hac Vice Number: 104249
Paul J. Safier
Pro Hac Vice Number: 103437
LEVINE SULLIVAN KOCH & SCHULZ, LLP
1899 L Street, NW, Suite 200
Washington, DC 20036
Telephone: (202) 508-1122
Facsimile: (202) 861-9888
sberlin@lskslaw.com
msullivan@lskslaw.com
mberry@lskslaw.com
asmith@lskslaw.com
psafier@lskslaw.com

*Counsel for Defendants Gawker Media, LLC,
Nick Denton, and A.J. Daulerio*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of June 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:

Kenneth G. Turkel, Esq.
kturkel@BajoCuva.com
Shane B. Vogt, , Esq.
shane.vogt@BajoCuva.com
Bajo Cuva Cohen & Turkel, P.A.
100 N. Tampa Street, Suite 1900
Tampa, FL 33602
Tel: (813) 443-2199
Fax: (813) 443-2193

David Houston, Esq.
Law Office of David Houston
dhouston@houstonatlaw.com
432 Court Street
Reno, NV 89501
Tel: (775) 786-4188

Charles J. Harder, Esq.
charder@HMAfirm.com
Douglas E. Mirell, Esq.
dmirell@HMAfirm.com
Sarah E. Luppen, Esq.
sluppen@HMAfirm.com
Harder Mirell & Abrams LLP
1925 Century Park East, Suite 800
Los Angeles, CA 90067
Tel: (424) 203-1600
Fax: (424) 203-1601

Attorneys for Plaintiff

Barry A. Cohen, Esq.
bcohen@tampalawfirm.com
Michael W. Gaines, Esq.
mgaines@tampalawfirm.com
Barry A. Cohen Law Group
201 East Kennedy Boulevard, Suite 1000
Tampa, FL 33602
Tel: (813) 225-1655
Fax: (813) 225-1921

Attorneys for Defendant Heather Clem

/s/ Gregg D. Thomas
Attorney