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 BOLLEA'S MOTION IN LIMINE NO. 3 TO EXCLUDE EVIDENCE OR ARGUMENT RELATED TO SETTLEMENT

Plaintiff Terry Bollea, professionally known as "Hulk Hogan" ("Mr. Bollea"), hereby moves this Court in limine under Fla. Stat. §§ 90.104 and 90.403, and Fla. Stat. § 46.015 and § 768.041, for an Order prohibiting Defendants from introducing any evidence or argument, during any portion of the trial, referencing any settlement of Mr. Bollea's claims with any dismissed parties.

In support of his motion, Mr. Bollea states the following:

1. Mr. Bollea has reached a settlement agreement with former defendant Bubba Clem, who has been dismissed, and may settle with Heather Clem before trial.

2. Gawker may try to introduce evidence or argument that Bubba Clem and Heather Clem were parties to this action and/or that Mr. Bollea settled his claims against them.

3. Florida law clearly prohibits this type of evidence or argument: "The fact that a written release or covenant not to sue exists or the fact that any person has been dismissed because of such release or covenant not to sue shall not be made known to the jury." Fla. Stat. § 46.015(3); Fla. Stat. § 768.041(c) (applying the same prohibition to tort claims). Courts have characterized the law in this area in absolute terms: "The unambiguous language of the statute admits no exceptions, and violation of the prohibition is reversible error." *Holmes v. Area Glass, Inc.*, 117 So.3d 492, 494 (Fla. 1st DCA 2013) (citing *Saleeby v. Rocky Elson Constr., Inc.*, 3 So.3d 1078, 1080 (Fla. 2009)). "Even a reference to settlement by counsel during voir dire or arguments necessitates a new trial. In other words, disclosure of the fact of settlement or dismissal is prohibited regardless of whether it is presented to the jury through evidence or through some other means." *Id.* at 494-95 (citations omitted).

4. Mr. Bollea's settlements with former parties are not admissible and should not be mentioned in any way during the trial.

5. Further, any probative value of these settlements is substantially outweighed by the prejudice of putting these matters before the jury. Fla. Stat. § 90.403. In fact, it has been held that even the inclusion of a dismissed defendant on a jury verdict form was reversible error because it could influence the verdict. *Holmes v. Area Glass, Inc.*, 117 So.3d at 495 ("The trial court essentially invited the jury to infer that Area Glass had been dismissed or had settled the case, information that 'shall not be made known to the jury.'").

For the foregoing reasons, Mr. Bollea requests that the Court enter an Order prohibiting Defendants from introducing any evidence or argument at trial referencing the settlement of Mr. Bollea's claims and the dismissal of any former defendants from this lawsuit.

Respectfully submitted,

/s/ Kenneth G. Turkel
Kenneth G. Turkel, Esq.
Florida Bar No. 867233
Shane B. Vogt
Florida Bar No. 0257620
BAJO | CUVA | COHEN | TURKEL
100 North Tampa Street, Suite 1900
Tampa, Florida 33602
Tel: (813) 443-2199
Fax: (813) 443-2193
Email: kturkel@bajocuva.com
Email: svogt@bajocuva.com

-and-

Charles J. Harder, Esq.
PHV No. 102333
Douglas E. Mirell, Esq.
PHV No. 109885
Jennifer J. McGrath, Esq.
PHV No. 114890
Sarah E. Luppen, Esq.
PHV No. 113729
HARDER MIRELL & ABRAMS LLP
1925 Century Park East, Suite 800
Los Angeles, CA 90067
Tel: (424) 203-1600
Fax: (424) 203-1601
Email: charder@hmafirm.com
Email: dmirell@hmafirm.com
Email: jmcgrath@hmafirm.com
Email: sluppen@hmafirm.com

Counsel for Plaintiff

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 12th day of June, 2015 to the following:

Barry A. Cohen, Esquire
Michael W. Gaines, Esquire
The Cohen Law Group
201 E. Kennedy Blvd., Suite 1950
Tampa, Florida 33602
bcohen@tampalawfirm.com
mgaines@tampalawfirm.com
jhalle@tampalawfirm.com
mwalsh@tampalawfirm.com
Counsel for Heather Clem

David R. Houston, Esquire
Law Office of David R. Houston
432 Court Street
Reno, NV 89501
dhouston@houstonatlaw.com
krosser@houstonatlaw.com

Michael Berry, Esquire
Levine Sullivan Koch & Schultz, LLP
1760 Market Street, Suite 1001
Philadelphia, PA 19103
mberry@lskslaw.com
Pro Hac Vice Counsel for Gawker Defendants

Kirk S. Davis, Esquire
Shawn M. Goodwin, Esquire
Akerman LLP
401 E. Jackson Street, Suite 1700
Tampa, Florida 33602
kirk.davis@akerman.com
shawn.goodwin@akerman.com
Co-Counsel for Gawker Defendants

Gregg D. Thomas, Esquire
Rachel E. Fugate, Esquire
Thomas & LoCicero PL
601 S. Boulevard
Tampa, Florida 33606
gthomas@tlolawfirm.com
rfugate@tlolawfirm.com
kbrown@tlolawfirm.com
abeene@tlolawfirm.com
Counsel for Gawker Defendants

Seth D. Berlin, Esquire
Paul J. Safier, Esquire
Alia L. Smith, Esquire
Michael D. Sullivan, Esquire
Levine Sullivan Koch & Schulz, LLP
1899 L. Street, NW, Suite 200
Washington, DC 20036
sberlin@lskslaw.com
psafier@lskslaw.com
asmith@lskslaw.com
msullivan@lskslaw.com
Pro Hac Vice Counsel for Gawker Defendants

/s/ Kenneth G. Turkel
Attorney