

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. 21 TO
EXCLUDE TESTIMONY OF GAWKER WITNESSES ON
ISSUES ABOUT WHICH THEY LACK PERSONAL KNOWLEDGE**

Plaintiff Terry Bollea, professionally known as "Hulk Hogan" ("Mr. Bollea"), hereby moves this Court in limine under Fla. Stat. §§ 90.104 and 90.604 for an Order prohibiting Defendants from eliciting testimony from Gawker witnesses concerning facts of which they have no personal knowledge.

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

1. It is axiomatic that testimonial evidence must be based on the personal knowledge of the witness. Fla. Stat. § 90.604; *see Roseman v. Town Square Ass'n, Inc.*, 810 So.2d 516, 521 (Fla. 4th DCA 2001) (holding that condominium visitor claiming that she was injured because front door to complex was not properly maintained was not entitled to have locksmith testify that he suspected residents were adjusting the door themselves because locksmith did not actually see

anyone adjust the door and thus did not have personal knowledge that the door was actually adjusted, let alone by whom the door was adjusted; trial court properly excluded testimony).

2. In order to prevent any unfair surprise at trial, Mr. Bollea seeks an order prohibiting several of Gawker's witnesses from testifying about matters to which they testified at their depositions they had no personal knowledge:

- a. Andrew Gorenstein, Gawker's President of Advertising and Partnerships, testified that he has no personal knowledge relevant to Mr. Bollea's claims, Gawker's defenses in this case, or any revenue Gawker made related to the Sex Video. [Deposition taken March 3, 2015 – relevant sections appended as Exhibit A below]
- b. Michael Kuntz, Gawker's President of Ad Sales, started at Gawker in February 2014, and testified that he has no personal knowledge of Gawker's advertising during the relevant time of the Sex Video (October 2012 to April 2013), Gawker's policy on advertising with regard to "Not Safe For Work" content during the relevant time, how much money Gawker made during the relevant time, any revenue Gawker made related to the Sex Video, or even how Gawker tracked revenue related to the Sex Video. [Deposition taken March 3, 2015 – relevant sections appended as Exhibit B below]
- c. Erin Pettigrew, Gawker's Chief Strategy Officer, testified that she has no personal knowledge of Gawker's advertising during the relevant time of the Sex Video (October 2012 to April 2013), how content posted at Gawker is considered "Not Safe For Work," or even Mr. Bollea's claims and Gawker's defenses in this case. [Deposition taken March 4, 2015 – relevant sections

appended as Exhibit C below]

- d. Scott Kidder, Gawker Media, LLC's Chief Operating Officer, testified (as Gawker's corporate designee) that no one at Gawker, aside from its legal counsel, has personal knowledge of Gawker's damages theories in this case. [Deposition taken April 14, 2015 – relevant sections appended as Exhibit D below]

For the foregoing reasons, Mr. Bollea requests that the Court enter an Order prohibiting Defendants from eliciting testimony from Mr. Gorenstein, Mr. Kuntz, Ms. Pettigrew, and Mr. Kidder concerning any of the above-listed matters, about which these witnesses do not have sufficient personal knowledge.

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@hmfirma.com

Email: dmirell@hmfirma.com

Email: jmcgrath@hmfirma.com

Email: sluppen@hmfirma.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
abecene@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