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VIA ELECTRONIC MAIL AND HAND DELIVERY

The Honorable Pamela A.M. Campbell
Sixth Judicial Circuit
St. Petersburg Judicial Building
545 First Avenue N., Room 300
St. Petersburg, FL 33701

Re: *Terry Gene Bollea v. Clem, Gawker Media, LLC, et al.*
Case No.: 12012447-CI-011

Dear Judge Campbell:

I write on behalf of Gawker Media, LLC, Nick Denton and A.J. Daulerio (the “Publisher Defendants”), and in anticipation of the Case Management Conference set for June 19, 2015. As indicated in their concurrently filed Notice Regarding Trial Date and Pre-Trial Filings, the Publisher Defendants object to any continued application of the trial or pre-trial deadlines set forth in this Court’s February 18, 2015 order, which was quashed by order of the Second District Court of Appeal on May 7, 2015.

In the six weeks since that ruling, plaintiff has vacillated between two positions, first repeatedly representing that he would dismiss Kinja and asking to proceed to trial now, while at other times indicating that he would prefer to keep Kinja in the case. We objected to plaintiff’s “have his cake and eat it too” strategy, but nevertheless submitted various pre-trial filings. Last week, we memorialized our objections to continuing to do so, both to Your Honor, and to the Court of Appeal, in response to an emergency motion for clarification filed by plaintiff a week ago. There has been no ruling on that motion authorizing this Court to issue a new trial order and the Publisher Defendants can no longer be expected to be left twisting in the wind. Indeed, more than a month after the May 7 order was issued, we are all in exactly the same position – not knowing whether we are going to trial on July 6, 2015 without Kinja or will have a trial later after Kinja’s jurisdictional challenge is adjudicated. It is simply untenable to continue on that course.

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The Publisher Defendants have waited as long as they could. They have sought clarification from this Court, from plaintiff, and from the Court of Appeal as to how to proceed in light of the Court of Appeal's May 7, 2015 order. But, there is no telling for certain what the Court of Appeal's opinion, when finally issued, will say. For now, what is certain is this: (a) this Court's order setting the trial date and corresponding pre-trial deadlines has been quashed; (b) no replacement order can be issued by this Court until jurisdiction over the trial date has returned to this Court through the termination of the appeal; (c) no replacement order can be issued by this Court until Kinja is either dismissed or has answered (following its jurisdictional challenge); and, (d) when such a new order is ultimately issued, it cannot set the trial for July 6 because Florida Rule of Civil Procedure 1.440 requires there be a minimum of thirty days before trial after a case is "at issue" (and this case is not yet "at issue").

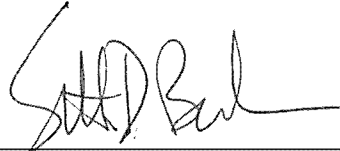
Because there cannot be a trial on July 6, the Publisher Defendants can no longer be expected to subject themselves to the unnecessary burden and expense of continuing to proceed as if there is going to be a trial on July 6. The Publisher Defendants will serve and file any pre-trial papers, including, without limitation, objections to plaintiff's proposed jury instructions, verdict form, or deposition designations; deposition counter-designations; and oppositions to plaintiff's motions in limine, in accordance with the deadlines set forth in any subsequent order setting a trial date and pretrial deadlines, and in the meantime reserve all their objections and rights.

The Publisher Defendants look forward to discussing this with Your Honor at the upcoming case management conference.

As always, thank you for your time and attention to this matter.

Sincerely,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By: 

Seth D. Berlin

SDB:pks

cc: All counsel or record (via electronic mail)