

CONFIDENTIAL

EXHIBIT A

to the

PUBLISHER DEFENDANTS' MOTION FOR CONTINUANCE

FILED UNDER SEAL



November 10, 2014

VIA EMAIL, FAX & FED EX

David M. Hardy, Chief
Record/Information Dissemination Section
Records Management Division
Federal Bureau of Investigation
Department of Justice
170 Marcel Drive
Winchester, VA 22602-4843
Phone: (540) 868-4500
Fax: (540) 868-4997
foiparequest@ic.fbi.gov

Re: Gawker Media LLC's Freedom of Information Act Request

Dear Mr. Hardy:

This law firm is lead counsel for Terry Bollea, professionally known as "Hulk Hogan," in the Florida state court action styled *Terry Gene Bollea v. Heather Clem, Gawker Media LLC, et al.*, Circuit Court of the Sixth Judicial Council in and for Pinellas County, Florida, Case Number 12012447CI-011 (the "Civil Lawsuit"). We write concerning Gawker Media LLC's Freedom of Information Act request with accompanying waivers from Mr. Bollea and his counsel, which we understand were sent to your office by Gawker Media's counsel, Gregg Thomas, Esq., on or about November 7, 2014 (the "FOIA Request").

We write this letter to make your office aware of the following matters:

First, in the Civil Lawsuit, the court determined that the materials within the possession of the FBI are potentially relevant to certain issues and on that basis ordered Mr. Bollea and his counsel to sign the FOIA waivers. Mr. Bollea and his counsel complied with the order to sign the waivers. Notwithstanding, Mr. Bollea does not agree that the government's records are relevant to the Civil Lawsuit. Mr. Bollea's relevance objections were based on the following factors, among others:

- A. In or about mid-2007, Mr. Bollea was filmed in a private bedroom without his knowledge or permission. Gawker Media, which operates the celebrity gossip site at Gawker.com,

received from an “anonymous” source a 30-minute video of that encounter. Gawker Media edited the footage into a “highlight reel” (the terminology used by Gawker Media’s editor-in-chief), which showed Mr. Bollea fully naked and having explicit sexual relations with his partner. The edited footage was not blurred, blocked, pixilated or otherwise obscured, and Gawker Media posted it at Gawker.com, where it was viewed by the public. Mr. Bollea’s counsel immediately demanded that Gawker Media remove the illegally created and published video, yet Gawker Media refused, and the Civil Lawsuit was filed shortly thereafter.

- B. The materials sought by the FOIA Request pertain to an FBI investigation and sting operation from approximately December 2012, whereby an unknown extortionist and his or her accomplices attempted to extort a payment from Mr. Bollea relating to a sex tape that was illegally created, and which the extortionist had illegally acquired. The Civil Lawsuit does not include any allegations that any of the defendants were in any way involved with the extortion attempt or any aspect of the FBI investigation and sting operation. Thus, the matters in the Civil Lawsuit, and in the FBI investigation and sting operation, are different.

Second, we are aware that the privacy rights of several third parties are potentially implicated by Gawker Media’s FOIA Request and, to our knowledge, many of those third parties have not waived their privacy rights or otherwise consented to the production of the requested records. Therefore, the government should consider withholding or redacting documents and information that potentially implicate the privacy rights of third parties who have not signed a waiver.

It also is worth mention that Mr. Bollea participated in the FBI’s investigation and sting operation for the purpose of apprehending and prosecuting the extortionist. By contrast, the FOIA Request, filed by a celebrity gossip website that already has posted an illicit sex tape of Mr. Bollea, now seeks more information and content about him, including potentially additional sex tape footage.

The government therefore should take great care in determining which content must be released by law, and which content can or should be withheld or redacted, including for example, documents protected by the law enforcement privilege. In a September 3, 2013 letter, the U.S. Attorney’s Office for the Middle District of Florida stated to Mr. Bollea’s counsel that it intended to retain possession of DVDs obtained in the underlying FBI investigation, pending the outcome of the Civil Lawsuit.

In sending this letter, Mr. Bollea and his counsel have no intention of interfering with Gawker Media’s rights, the rights or obligations of the government, or the proceedings in the Civil Lawsuit, and nothing herein should be construed as a withdrawal or modification of the waivers signed by Mr. Bollea and his counsel, all of which remain in effect.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Charles J. Harder", with a long horizontal flourish extending to the right.

CHARLES J. HARDER Of
HARDER MIRELL & ABRAMS LLP

cc: Gawker Media's counsel (via email)



November 10, 2014

VIA EMAIL, FAX & FED EX

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Re: Gawker Media LLC's Freedom of Information Act Request

Dear Ms. Gerson:

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**CHARLES J. HARDER Of
HARDER MIRELL & ABRAMS LLP**

cc: Gawker Media's counsel (via email)