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July 15, 2015

**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**  
**Review of Media Produced by FBI/United States Attorney's Office**

Dear Judge Campbell:

As you know, I serve as counsel for Gawker Media, LLC (“Gawker”), Nick Denton and A.J. Daulerio. I write concerning production of re-processed DVDs by the FBI.

As you will recall, in response to Gawker’s FOIA request, the FBI produced three DVDs to Your Honor on June 29, 2015, which you then reviewed. At your direction, counsel for the parties reviewed the three DVDs on June 30, 2015. On July 1, 2015, we advised Your Honor that one of the DVDs was substantially incomplete and a second had an irregularity for a significant portion of the audio. We then raised that same issue with Judge Bucklew, who is presiding over Gawker’s FOIA action, at a hearing on July 2, 2015.

In an order issued that day, Judge Bucklew directed counsel for the FBI to review the video footage and to advise by July 10, 2015 whether a “second, more accurate and complete production is required.” *See* July 2, 2015 Order (Exhibit A). In response to that order, the FBI filed a notice on July 10, 2015 (*see* Exhibit B), advising that it intended to produce “reprocessed video footage” to Your Honor. Specifically, the FBI’s notice advises that “one of the FBI’s DVDs was corrupt and contained video footage that was little over one minute” and that “another video appeared have audio that, in part, was not synchronized with the video footage.” We have been advised that two DVDs correcting these issues are now available to be transmitted to Your Honor.

We will plan to follow the same procedure we previously followed, namely, that an attorney from each side’s Florida counsel will travel together to the United States Attorney’s

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Hon. Pamela A.M. Campbell  
July 15, 2015  
Page 2

Office, will pick up from AUSA Stegeby the two DVDs in a sealed envelope, and will together bring them to Your Honor. Please note that it is my understanding that the FBI is not re-producing the third DVD as to which there was no issue. Accordingly, we would ask that Your Honor retain all three initial DVDs, and that you keep them separate from the two new DVDs now being produced.

Should you have any questions concerning the foregoing, please do not hesitate to contact me. As always, thank you for your time and attention to this matter.

Sincerely,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By: 

\_\_\_\_\_  
Seth D. Berlin

cc: All counsel or record (via electronic mail)

## EXHIBIT A

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

GAWKER MEDIA, LLC, and  
GREGG D. THOMAS,

Plaintiffs,

CASE NO.: 8:15-cv-1202-T-24EAJ

vs.

THE FEDERAL BUREAU OF  
INVESTIGATION and THE EXECUTIVE  
OFFICE OF UNITED STATES ATTORNEYS,

Defendants,

vs.

TERRY GENE BOLLEA professionally known as  
HULK HOGAN,

Intervenor Defendant.

\_\_\_\_\_ /

**ORDER**

By way of background, on May 19, 2015, Gawker Media, LLC and Gregg D. Thomas filed a Complaint for Declaratory and Injunctive Relief brought under the Freedom of Information Act (“FOIA”), 5 U.S.C. §§ 552, *et seq.*, seeking the release of agency records from the Federal Bureau of Investigation (“FBI”) and the Executive Office of the United States Attorneys (“EOUSA”). (Dkt. 1). Plaintiffs seek records from the FBI and EOUSA relating to an FBI investigation, conducted in 2012, into the source and distribution of video footage depicting Terry Gene Bollea engaged in a sexual affair with Heather Clem. Dkt. 1 at 1. Plaintiffs have filed a motion for summary judgment and Defendants have filed a response. The Court held a hearing on June 24, 2015 after which the Court ordered the FBI and EOUSA to turn over non-exempt documents by

June 26, 2015<sup>1</sup>, to submit categorical indexes of the documents for which they claimed a FOIA exemption and declarations in support of the indexes, and to produce two videos<sup>2</sup>. Dkt. 31. The Court also ordered the FBI and EOUSA to produce two audio recordings. Dkt. 36.

On July 2, 2015, the Court held a second hearing regarding the FOIA exemptions claimed by the FBI and the EOUSA in the categorical indexes and declarations filed by both the FBI (Dkts. 37, 38) and the EOUSA (Dkt. 37). At the hearing, Plaintiffs notified the Court that the three videos produced to Plaintiffs by the FBI appear to be incomplete. Counsel for the FBI has agreed to review the three videos and to work with the FBI in ensuring that production was accurate and complete. **By July 10, 2015**, the videos shall be reviewed by counsel for the FBI and a determination made as to whether a second, more accurate and complete production is required.

The Court ordered the FBI and EOUSA to turn over the withheld documents to the Court for an *in camera* review. The Court will review the withheld documents and make a determination as to whether the documents are in fact subject to a FOIA exemption. If any of the withheld documents are not subject to an exemption, the Court will order that the FBI and/or EOUSA produce those documents to Plaintiffs.

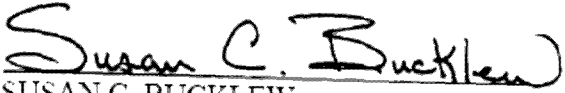
The Court also orders Plaintiffs, the FBI, and the EOUSA to submit to the Court **by July 10, 2015** a Notice containing agreed to dates for subsequent filings in the case, *i.e.*, Plaintiffs' objections regarding the claimed FOIA exemptions. The Notice shall also indicate whether the parties request a hearing on those filings.

**DONE AND ORDERED** at Tampa, Florida, this 2nd day of July, 2015.

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<sup>1</sup> The Court granted Defendants' request for an extension of time to turn over non-exempt documents and ordered that they be produced by July 1, 2015 at 12:00 p.m. Dkt. 36.

<sup>2</sup> The Court subsequently ordered Defendants to turn over three videos.

  
SUSAN C. BUCKLEW  
United States District Judge

**Copies furnished to:**  
Counsel of Record

## EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

GAWKER MEDIA, LLC and  
GREGG D. THOMAS,

Plaintiffs,

v.

Case No. 8:15-cv-01202-SCB-EAJ

THE FEDERAL BUREAU OF  
INVESTIGATION and THE  
EXECUTIVE OFFICE OF  
UNITED STATES ATTORNEYS,

Defendants.  
\_\_\_\_\_ /

**DEFENDANT'S NOTICE OF PRODUCTION  
OF ADDITIONAL VIDEO FOOTAGE**

Defendants, the Federal Bureau of Investigation ("FBI") and the Executive Office of United States Attorneys ("EOUSA"), hereby respectfully file this notice pursuant to the Court's July 2, 2015 Order [Doc. No. 46].

The FBI provides notice that it will produce re-processed video footage to the Honorable Pamela A.M. Campbell of the Sixth Judicial Circuit Court in Pinellas County. As noted in Court, one of the FBI's DVDs was corrupt and contained video footage that was a little over one minute. In addition, another video appeared to have audio that, in part, was not synchronized with the video footage. The FBI is re-processing these videos, which will be produced to the state court in the same manner as the initial production, as ordered by the Court on July 2, 2015 [Doc. No.



46].

The EOUSA also hereby gives notice that it has complied with the Court's July 2, 2015 Order by producing to the Court unredacted versions of the pages that are withheld in full for the Court's *in camera* review.

Respectfully submitted,

**A. LEE BENTLEY, III**  
United States Attorney

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**E. KENNETH STEGEBY** Esquire  
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*Attorney for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 19, 2015, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

Alia L. Smith  
Gregg Darrow Thomas  
Patrick Kabat  
Rachel E. Fugate  
Seth D. Berlin  
*Plaintiffs' Counsel*

s/E. Kenneth Stegeby  
E. Kenneth Stegeby  
Assistant U.S. Attorney