

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, *et al.*,

Defendants.

**MOTION TO DETERMINE CONFIDENTIALITY OF NOTICE OF FILING
CONFIDENTIAL EXHIBITS AND ATTACHED EXHIBITS**

Pursuant to Rule 2.420 of the Florida Rules of Judicial Administration and this Court's Agreed Protective Order Governing Confidentiality, dated July 25, 2013 (the "Protective Order"), Defendants Gawker Media, LLC ("Gawker"), Nick Denton, and A.J. Daulerio (collectively, the "Gawker Defendants") move to determine the confidentiality of their Notice of Filing Confidential Exhibits (the "Notice") and the Exhibits attached thereto, which are being filed in support of their Motion for an Order Declaring that Plaintiff Has Improperly Designated Certain Discovery Materials as "Attorneys' Eyes Only" (the "Motion").

As grounds for this motion, Gawker and its counsel state as follows:

1. Florida Rule of Judicial Administration 2.420(c)(9)(A)(iv) provides that certain court records are confidential if the Court determines that confidentiality is required in order to "obtain evidence to determine legal issues in a case."
2. This Court's Protective Order provides that both the parties and non-party witnesses may designate testimony and/or documents as "Confidential" if their substance falls into certain enumerated categories.

3. On April 23, 2014, this Court ordered Plaintiff Terry Gene Bollea to produce discovery related to an FBI investigation into the dissemination of sex tapes depicting plaintiff and Heather Clem (the “FBI discovery”). The Court instructed that this discovery could be labeled “Attorneys’ Eyes Only” and treated as confidential under the Confidentiality Order.

4. On October 20, 2014, the Special Discovery Magistrate issued a Stipulated Report and Recommendation permitting plaintiff to provisionally designate as “Attorneys’ Eyes Only” materials produced by the federal government in connection with a Freedom of Information Act lawsuit brought by Gawker.

5. Concurrent with this Motion, the Gawker Defendants are filing the Notice, and the Exhibits attached thereto, which include both (a) transcripts of hearings at which the FBI discovery was addressed, and (b) summaries of documents produced in the federal FOIA Litigation that have been designated “Attorneys’ Eyes Only” by plaintiff.

6. Counsel for the Gawker Defendants certifies that this motion is made in good faith and is supported by a sound factual and legal basis. Although the Gawker Defendants do not agree that these materials have been properly designated as “Confidential” or “Attorneys’ Eyes Only,” and, in fact, are challenging those designations in the Motion, the Gawker Defendants are filing this motion to comply with Rule 2.420 and the Protective Order entered in this case.

WHEREFORE, the Gawker Defendants respectfully request that this Court determine the confidentiality of the Notice of Filing Confidential Exhibits and the Exhibits attached thereto, including treating as confidential only those materials that are properly treated as such under Rule 2.420 and this Court’s Protective Order.

Dated: August 20, 2015

Respectfully submitted,

THOMAS & LOCICERO PL

By: /s/ Rachel E. Fugate

Gregg D. Thomas

Florida Bar No.: 223913

Rachel E. Fugate

Florida Bar No.: 0144029

601 South Boulevard

P.O. Box 2602 (33601)

Tampa, FL 33606

Telephone: (813) 984-3060

Facsimile: (813) 984-3070

gthomas@tlolawfirm.com

rfugate@tlolawfirm.com

Seth D. Berlin

Pro Hac Vice Number: 103440

Michael D. Sullivan

Pro Hac Vice Number: 53347

Michael Berry

Pro Hac Vice Number: 108191

Alia L. Smith

Pro Hac Vice Number: 104249

Paul J. Safier

Pro Hac Vice Number: 103437

LEVINE SULLIVAN KOCH & SCHULZ, LLP

1899 L Street, NW, Suite 200

Washington, DC 20036

Telephone: (202) 508-1122

Facsimile: (202) 861-9888

sberlin@lskslaw.com

msullivan@lskslaw.com

mberry@lskslaw.com

asmith@lskslaw.com

psafier@lskslaw.com

Counsel for Defendants Gawker Media, LLC,

Nick Denton and A.J. Daulerio

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of August 2015, I caused a true and correct copy of the foregoing to be served via the Florida Courts' E-Filing Portal upon the following counsel of record:

Kenneth G. Turkel, Esq.
kturkel@BajoCuva.com
Shane B. Vogt, , Esq.
shane.vogt@BajoCuva.com
Bajo Cuva Cohen & Turkel, P.A.
100 N. Tampa Street, Suite 1900
Tampa, FL 33602
Tel: (813) 443-2199
Fax: (813) 443-2193

David Houston, Esq.
Law Office of David Houston
dhouston@houstonatlaw.com
432 Court Street
Reno, NV 89501
Tel: (775) 786-4188

Charles J. Harder, Esq.
charder@HMAfirm.com
Douglas E. Mirell, Esq.
dmirell@HMAfirm.com
Harder Mirell & Abrams LLP
1925 Century Park East, Suite 800
Los Angeles, CA 90067
Tel: (424) 203-1600
Fax: (424) 203-1601

Attorneys for Plaintiff

/s/ Rachel E. Fugate
Attorney