

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

GAWKER MEDIA, LLC, *et al.*,

Defendants.

**DEFENDANT NICK DENTON'S (1) OPPOSITION TO PLAINTIFF'S MOTION
FOR ISSUANCE OF LETTERS ROGATORY, (2) OBJECTIONS TO PLAINTIFF'S
NOTICE OF PRODUCTION, AND (3) MOTION FOR RECONSIDERATION**

On December 22, 2015, plaintiff filed a "Motion for Issuance of Letters Rogatory to Request Documents From Geoffrey Denton, Adrian Wilhelm Weinbrecht and Rebecca Denton Weinbrecht in United Kingdom" (the "Motion") and attached a Notice of Production and three proposed subpoenas to be issued, one to each of them (the "Proposed Subpoenas"). Pursuant to Florida Rules of Civil Procedure 1.300, 1.351, and 1.410, Defendant Nick Denton hereby opposes plaintiff's Motion, objects to plaintiff's Proposed Subpoenas, and moves for reconsideration of this Court's November 18, 2015 ruling concerning discovery from these non-parties, stating as follows:

1. The Motion and Proposed Subpoenas seek far-reaching discovery from Denton's father, sister and brother-in-law about a trust holding shares of Gawker Media Group, Inc. ("GMGI") for the benefit of their children/grandchildren (the "Weinbrecht Trust"), as well as other discovery about Gawker Media, Ltd., a U.K. entity. None of Mr. Denton's family members is a defendant here, had any role in the allegedly tortious conduct at issue, or would be in any way financially responsible for any judgment entered against Mr. Denton. And, with

respect to the entities, this Court granted former defendant GMGI's motion to dismiss for lack of personal jurisdiction, and plaintiff has never before sought any relief from – or even mentioned – Gawker Media, Ltd.

2. The Motion and Proposed Subpoenas **far** exceed the limited discovery this Court authorized plaintiff to pursue, even assuming it has the authority to do so under the applicable rules. At the hearing in this matter on November 18, 2015, this Court granted plaintiff leave to pursue a non-party subpoena for the document *establishing the Weinbrecht Trust*. See Nov. 18, 2015 Hrg. Tr. at 35:9-20 (court contemplating a subpoena for “the nonparty trust document”); Proposed Order, agreed upon by both parties and submitted December 11, 2015 (granting leave to request “the documents establishing the trust at issue”). But instead, plaintiff now seeks *three* Proposed Subpoenas, each one seeking *thirty-nine* separate categories of documents, a total of *117* requests. Those requests seek all manner of things wholly unrelated to establishing the trust, including several years' worth of the trust's income statements, its tax returns, its annual reports, stock summaries, stock certificates, stockholder reports, and various other forms and documents. The Proposed Subpoenas also seek multiple documents from these non-parties about Gawker Media Ltd., including *its* tax returns and *its* income statements. Plaintiff's proposed requests clearly go far beyond the very limited foreign discovery this Court permitted plaintiff to pursue, and should be rejected for this reason alone. The Court has “given them an inch,” and they seek to “take a mile.”

3. Not only do the requests far exceed what this Court authorized, but they are in any event wildly overbroad, not reasonably calculated to lead to the discovery of admissible evidence, and burdensome and harassing to foreign non-parties who have nothing to do with this litigation, but from whom plaintiff nevertheless seeks sensitive financial information. See, e.g.,

Tennant v. Charlton, 377 So. 2d 1169, 1170 (Fla. 1979) (holding that, even with respect to a party, “the trial court should always be sensitive to the protection . . . from harassment and from an overly burdensome inquiry” and ordering only limited financial worth discovery *from the party*); *Church of Scientology FLAG Service v. Williams*, 671 So. 2d 840, 842 (Fla. 5th DCA 1996) (reversing order requiring production of certain financial worth discovery from a party because the requests “far exceed[] what is appropriate”).

4. Here, Denton’s elderly father and his sister and brother-in-law (acting on behalf of their minor children) are being harassed, all for the ostensible purpose of establishing Denton’s financial worth. Plaintiff concedes, as he must, that shares of GMGI owned by other people are not assets of Denton’s. Instead, plaintiff claims that ownership of those *other* shares by family members somehow makes Denton’s shares worth more because, when their shares are taken together, Denton and his family *control* GMGI, and controlling shares are worth more – or at least so the theory goes.

5. However, plaintiff’s theory makes no sense in the context of a claim for punitive damages against Denton, as is at issue here. Even assuming that Denton *and* his family sold their shares together, and that the combined block of shares would be worth more because it would effectively transfer control of GMGI to the purchaser, that is not true in the context of a claim seeking recovery solely from Denton, based on the value of his shares alone, since he does not own a majority of the shares himself. Indeed, if Denton sold or transferred all of his shares (or were forced to do so as the result of a punitive damages award), any control premium would be non-existent: the Weinbrechts would not even arguably be acting in concert with the new owner, there would be no controlling block of shares, and Denton’s shares could not possibly be worth more as a result. Accordingly, because the discovery is sought in support of a theory that

on its face makes no sense in this context, Denton requests that the Court reconsider its prior limited ruling authorizing limited foreign discovery, and that it deny plaintiff's Motion in its entirety.

6. Even if the Court adheres to its prior ruling, plaintiff should, at the most, be authorized to serve *one* subpoena for the "document establishing the trust," which is all that was authorized. The extraordinary breadth of other documents sought from Denton's family members is simply harassing them for no good purpose. The Motion should be denied and the Proposed Subpoenas rejected for that reason as well. *See, e.g., Calvo v. Calvo*, 489 So. 2d 833, 834 (Fla. 3d DCA 1986) (quashing husband's subpoenas to wife's relatives and financial institutions related to financial matters because "the husband has failed to demonstrate what possible relevance these records might have in the proceedings below other than to harass the wife").

7. Pursuant to Rules 1.351(b) and (c) of the Florida Rules of Civil Procedure, no subpoenas shall issue, and no "documents or things" requested in the Proposed Subpoenas shall be produced, "pending the resolution" of Mr. Denton's objections.

Dated: January 4, 2016

Respectfully submitted,

THOMAS & LOCICERO PL

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of January 2016, 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:

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