

October 5, 2012

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From: Kristy Rosser
Sent: Friday, October 05, 2012 11:19 AM
To: nick@gawker.com
Subject: 10.5.12 Hogan Tape Matter

10/5/2012 11:16 AM

Dear Mr. Denton:

I am enclosing herewith as an attachment a cease and desist letter sent to you and your company. As is apparent and quite common knowledge, the sex tape you are showing as it concerns Hulk Hogan was recorded without his knowledge and consent.

As such, the individual filming disseminating and/or publishing may be responsible under Florida criminal statutes. Your republication of the same with complete knowledge as to the fact it was done without his consent and/or knowledge may well subject you to liability.

I am sure your counsel can provide you appropriate legal advice so I will not presume to do the same. I am asking you to remove the sex tape from your website.

If you do not do so, you leave us no option but to proceed legally. We will exhaust every legal avenue possible including potential criminal charges if you do not.

I did not want you to think I was attempting to bully you or make demands that were not warranted. I am asking you to remove the same. I am simply advising what our next steps will be if you do not.

It is not meant to threaten, but rather as an advisement as to what we must do in order to protect the image of Hulk Hogan and Hulk Hogan's privacy rights.

I am sure you must understand as a human being exactly how offensive the same would be. Despite the fact this would have been presented to you anonymously, it is difficult to believe you were not aware this was done without his consent and/or knowledge.

If you did not know, then I ask you at this time not to participate in the perpetration of what might arguably be a criminal act. You of course are free to do whatever you choose, but we would deem the same a significant sign of good faith if you choose to remove it voluntarily and would not proceed against you or your company.

I have no intention of attempting to harm you or your business but rather only protect my client. I hope you understand the necessity of this communication and my purpose

Sincerely,
David R. Houston
/kc

Kc Rosser, Business Manager to
David R. Houston, Esq.
432 Court Street
Reno, NV 89501
775-786-4188
775-786-5091 FAX

The information contained in this transmission may contain privileged and confidential information. It is intended only for the use of the person(s) named above. If you are not the intended recipient, you are hereby notified that any review, dissemination, distribution or duplication of this communication is strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.

Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

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Via Federal Express

Gawker Media
Nick Denton
Publishing & Editorial
210 Elizabeth Street, Fourth Floor
New York, NY 10012

Re: Terry Bollea v. Gawker Media et al.

SETTLEMENT COMMUNICATION UNDER F.R.E. 408

Dear Mr. Denton:

We are litigation counsel for Terry Bollea, professionally known as Hulk Hogan, in the protection of his right of privacy and his right of publicity, as well as his other trade identity and intellectual property rights.

As you know, Hulk Hogan has worked as a public performer, an actor, a television personality, and a professional wrestler for over 30 years. During this time, our client has made countless public performances in film, television, and radio, he has appeared in commercial advertisements, he has endorsed products and services, and he has gained the attention of hundreds of millions of viewers and fans throughout the world. Obviously, Hulk Hogan's trade identity is an extremely valuable asset which our client actively protects. Likewise, Hulk Hogan vigorously protects his privacy interest in the most intimate details of his life.

It has come to our attention an anonymous third party recently approached you about a secretly filmed and unauthorized video depicting sexual relations between Hulk Hogan and an anonymous woman. The acts of secretly filming, releasing, and "shopping" the most intimate, private details of Hulk Hogan's life are morally and legally appalling. From a legal standpoint, the unauthorized use of Hulk Hogan's name, likeness, and other symbols of his celebrity identity by you to your advantage, commercial or otherwise, would result in grave injury to Hulk Hogan, including substantial monetary damages and harm to his future licensing and endorsement opportunities, thereby violating his right to publicity. In addition, the unauthorized display, distribution, and other uses of the video would constitute any one of the four distinct torts included under the rubric of the right to privacy, (1) including public disclosure of Hulk Hogan's

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private facts, (2) intrusion upon Hulk Hogan's solitude or into his private affairs, (3) false light publicity, and (4) appropriation of Hulk Hogan's name and likeness. *See, e.g., Michaels v. Internet Entm't Group, Inc.*, 5 F. Supp. 2d 823 (C.D. Cal. 1998); *Eastwood v. Superior Court (Nat'l Enquirer)*, 198 Cal. Rptr. 342 (Cal. App. 1983). *See also White v. Samsung Electronics America, Inc.*, 971 F.2d 1395 (9th Cir. 1992).

Furthermore, any attempt to hide behind the veil of the "newsworthiness privilege" will fail and cannot possibly save anyone making unauthorized use of the video from liability. At a minimum, the newsworthiness exception to the right of privacy must fail, as it did in *Michaels v. Internet Entm't Group, Inc.*, 5 F. Supp. 2d 823, 841 (C.D. Cal. 1998), because "[i]t is difficult if not impossible to articulate a social value that will be advanced by dissemination of the [video]." Moreover, "a video recording of two individuals engaged in [sexual] relations represents the deepest possible intrusion into such [private] affairs." *Id.*

We can assure you that Hulk Hogan intends to pursue all civil and criminal remedies available against anyone connected with "shopping" around, distributing, or otherwise using the video. To this end, we will commence consultations with federal and state law enforcement about the criminal aspects of this matter.

Hulk Hogan would like to end this matter immediately by learning the identity of all persons involved with "shopping" the video to you and any other party. If you immediately disclose the requested information and refrain from becoming involved with any use of the video, Hulk Hogan will consider this matter closed and will not seek legal remedies against you for the issues raised in this letter.

We look forward to receiving your response by immediately.

Sincerely,



David R. Houston

DRH:kc

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