

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.

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**MOTION TO DETERMINE CONFIDENTIALITY OF DEFENDANTS'  
OPPOSITION TO PLAINTIFF'S MOTION *IN LIMINE* NO. 24: TO EXCLUDE  
ARGUMENT OR EVIDENCE OF ILLEGALLY RECORDED AUDIO OF TERRY  
BOLLEA AND ANY EVIDENCE DERIVED THEREFROM**

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 hereby move to determine the confidentiality of their Opposition to Plaintiff's Motion *in Limine* No. 24: To Exclude Argument or Evidence of Illegally Recorded Audio of Terry Bollea and Any Evidence Derived Therefrom (the "Opposition"), and the Exhibits attached thereto.

As grounds for this motion, Defendants 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 designated “Attorneys’ Eyes Only” and treated as confidential under the Confidentiality Order.

4. On September 28, 2015, the Court further expanded the scope of the Agreed Protective Order, affirming a prior Report and Recommendation of the Special Discovery Magistrate that permitted Bollea to 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, Defendants are filing their Opposition and the Exhibits attached thereto. In their Opposition, Defendants oppose Bollea’s attempt to exclude, *inter alia*, all of the materials Defendants obtained from the FBI, including materials bearing on such issues as whether Bollea’s alleged injury was truly caused by Defendants’ conduct, as well as bearing on the credibility of Plaintiff and key witnesses, whose statements made in their sworn depositions differ materially from statements in the FBI records.

6. The Opposition and accompanying exhibits refer to and include documents that have been designated as “Confidential” or “Attorneys’ Eyes Only” by Bollea in accordance with these prior rulings.

7. Counsel for Defendants certifies that this motion is made in good faith and is supported by a sound factual and legal basis. Although Defendants do not agree that these materials warrant “Confidential” or “Attorneys’ Eyes Only” treatment, this motion is being filed to comply with Rule 2.420 and the Protective Order entered in this case.

WHEREFORE, Defendants respectfully request that this Court determine the confidentiality of their Opposition 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.

February 12, 2016

Respectfully submitted,

THOMAS & LOCICERO PL

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 12th day of February, 2016, I caused a true and correct copy of the foregoing to be served via the Florida Courts' E-Filing Portal on the following counsel of record:

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