

Exhibit A

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; GAWKER MEDIA, LLC
aka GAWKER MEDIA; GAWKER MEDIA
GROUP, INC. aka GAWKER MEDIA;
GAWKER ENTERTAINMENT, LLC;
GAWKER TECHNOLOGY, LLC; GAWKER
SALES, LLC; NICK DENTON; A.J.
DAULERIO; KATE BENNERT, and
BLOGWIRE HUNGARY SZELLEMI
ALKOTAST HASZNOSITO KFT aka
GAWKER MEDIA,

Defendants.

**PLAINTIFF TERRY BOLLEA'S MOTION TO COMPEL COMPLETE PRODUCTION
OF DOCUMENTS IN RESPONSE TO FINANCIAL WORTH DISCOVERY AND
RECONSIDERATION OF RULING REGARDING ADDITIONAL
FINANCIAL WORTH DEPOSITIONS; REQUEST FOR SANCTIONS**

Plaintiff, Terry Bollea, professionally known as Hulk Hogan ("Mr. Bollea"), pursuant to Fla. R. Civ. P. 1.380, moves to compel Defendants to comply with the Court's July 20, 2015 Order Regarding Plaintiff's Motion to Compel Further Financial Worth Discovery and Depositions, and for Sanctions for failure to comply with said order, and for reconsideration of the Court's June 29, 2015 ruling regarding additional financial worth depositions. The grounds upon which this motion is based and the reasons it should be granted are as follows:

I. INTRODUCTION

On or about April 8, 2015, Terry Bollea filed a motion to add a claim for punitive damages entitling him, upon success of the motion, to financial worth discovery of the

Defendants. Aware of this, on April 22, 2015, Gawker proposed a streamlined discovery process to which the Court agreed. Ex. 1.¹ On May 29, 2015, this Court granted Terry Bollea's motion to add a claim for punitive damages and denied the motion of Gawker Media, LLC ("Gawker") and the two individual defendants (collectively "Gawker Defendants") for summary judgment on that claim. Ex. 2. Accordingly, the Court also granted Mr. Bollea's request for discovery of Gawker Defendants' respective net worths. Ex. 3. After Gawker Defendants failed to produce relevant and responsive documents, Mr. Bollea moved to compel, and the motion was granted in part on July 20, 2015, with Gawker Defendants ordered to produce additional documents. Ex. 4; Ex. 5. Gawker Defendants, as they have so many times during this litigation, have again obstructed legitimate discovery and failed to produce responsive documents required under the Court's July 20, 2015 order. The omitted items include the following:

The Transfer Pricing Study. The Court ordered Gawker Defendants to produce the governing documents and intercompany agreements between Gawker, Kinja and Gawker Media Group, Inc. When the Gawker Defendants produced a licensing agreement, it revealed that the fee used to transfer all of Gawker's profits to Kinja is calculated pursuant to a transfer pricing study. Gawker Defendants refuse to produce this economic analysis / transfer pricing study that they performed to determine the license fee that Gawker pays to Kinja, the Hungarian sister company which purports to own the intellectual property utilized by Gawker to generate its millions of dollars in annual profits. Pursuant to its license, Gawker pays millions of dollars to Kinja every year, which substantially affects its net worth. Thus, Mr. Bollea is entitled to determine how the fee Gawker is paying Kinja is calculated and whether it actually corresponds to their actual value or is a sham to reduce Gawker's net worth.

¹ Unless otherwise noted, exhibits are to the concurrently filed Affidavit of Charles J. Harder.

The recent revelation that this transfer pricing study exists should result in sanctions. This study was requested over and over again in discovery, and Gawker Defendants deliberately concealed it. A 2014 discovery request specifically requested transfer pricing studies, and Gawker responded that **no non-privileged documents exist**. Gawker Defendants purposely mischaracterized the document on their privilege log, claiming it was lawyer-client privileged, by describing it generically as “economic analysis,” **not** a “transfer pricing study.” Ex. 6. Such gamesmanship should not be permitted and should be severely sanctioned.

In response to the net worth discovery, and after several letters back and forth, Gawker Defendants still maintain the transfer pricing study is protected by the lawyer-client privilege. Ex. 7. It is not. The document apparently was transmitted by or contains the name of a law firm (Mayer Brown). However, it is black-letter law that the lawyer-client privilege extends **only** to communications for the purpose of rendering **legal advice**, and that simply putting a lawyer’s name on an “economic analysis” of the valuation of intellectual property does **not** render the communication privileged. The transfer pricing study cannot be routed through a law firm so as to create a bogus claim of privilege; law firms do not value intellectual property assets, and even if Mayer Brown did value one for a client, the valuation itself would not be privileged because it is not legal advice. The Court should order production and sanction Gawker Defendants.

The Trust Documents. In the July 20, 2015 Order, the Court directed Nick Denton (“Denton”) and Gawker to produce his irrevocable family trust documents. Ex. 5. This trust purportedly owns a significant percentage of the stock of Gawker Media Group, Inc. (“GMGI”). The Court ordered production of these documents for a very simple reason—Denton owns a plurality of shares in GMGI which, when added to the shares of GMGI, constitutes a majority. Denton thus controls the company, and shares that control the company are more valuable

(known as the “control premium”).

Denton and Gawker refuse to produce the trust documents, claiming that they don’t possess them. Ex. 7. Florida law is clear that “custody, control or possession” includes “not only... possession, but... the legal right to obtain the documents requested upon demand.” *Saewitz v. Saewitz*, 79 So.3d 831, 834 (Fla. 3d DCA 2012). Gawker and Denton have the legal right to obtain a copy of the trust documents, but refuse to do so. Both Mr. Denton and Gawker can straightforwardly obtain them from their lawyers or from the trust (Denton’s family members).Denton has provided no evidence that he has even tried, let alone cannot obtain, the documents at his direction if he wished to. The idea that the CEO and plurality shareholder of a company cannot obtain information about his own family’s trust which owns other shares of the company is not worthy of belief, and constitutes the latest attempt by Gawker Defendants to hide the truth in this litigation. Gawker Defendants should be compelled to produce the documents.

Sanctions. Gawker Defendants have now forced Mr. Bollea to bring two motions to compel relating to net worth discovery which should have been turned over months ago, and are asserting transparently meritless objections. Gawker Defendants should be required to pay Judge Case’s fees for this motion and to pay Mr. Bollea’s attorney’s fees in the amount of \$11,485.

II. THE TRANSFER PRICING STUDY SHOULD BE PRODUCED.

It is undisputed that Kinja, KFT, a Hungarian sister corporation to Gawker Media, LLC and subsidiary of Gawker Media Group, Inc., licenses intellectual property rights to Gawker Media, LLC and is paid millions of dollars per year for those rights. If these rights are priced based on their actual value, similar to an arms-length transaction with any IP licensor, that would be one thing, but if they are overpriced, as Mr. Bollea strongly suspects, this scheme would permit Gawker Media, LLC to artificially reduce its net worth.

The Gawker-Kinja license agreement expressly states that the license fee is based on a transfer pricing study contained in a document bearing the name of the Mayer Brown law firm. Ex. A Conf. Aff. C. Harder. Mr. Bollea previously requested this study, and Gawker Media, LLC responded that **no non-privileged documents exist**. As part of a large privilege log that they produced, Gawker Defendants listed the document, but misleadingly described it as an “economic analysis” in order to conceal it and prevent its discovery. Ex. 6.

After several meet and confer letters, Gawker Defendants expressly stated that they were claiming that the transfer pricing study--the valuation of the intellectual property rights that Gawker Media, LLC licenses from Kinja, KFT and pays millions of dollars for--is protected by the lawyer-client privilege. Ex. 7.

Gawker Defendants’ position is completely contrary to Florida law. Florida law provides that a precondition to the assertion of the lawyer-client privilege is the **provision of legal advice**, a doctrine that is specifically conceived to **prevent** what Gawker Defendants are doing here: cloaking non-legal advice in the privilege by routing it through a law firm. “[W]here a lawyer is engaged to **advise a person as to business matters** as opposed to legal matters, or when he is employed to act simply as an agent to perform some non-legal activity for a client the authorities uniformly hold there is no privilege.” *Skorman v. Hovnanian*, 382 So.2d 1376, 1378 (Fla. 4th DCA 1980) (emphasis added).

A persuasive federal case holds that **this rule applies to law firms providing asset valuations**. *In re Asousa Partnership*, 2005 WL 3299823 (E.D. Pa. Nov. 17), involved a discovery request for e-mails concerning an appraisal of a company’s assets. The appraisal was routed through a law firm to create a privilege claim. The Court rejected the privilege claim: “Even assuming communications from Liegel fall within any attorney-client privilege between H

& W and Smithfield, the subject of these e-mails is an appraisal of Pennexx assets by Valuation Research. While Liegel states that H & W is the ‘party engaging [Valuation Research’s] services,’ other e-mails make it abundantly clear that this was a ‘ghost-hiring’ on Smithfield’s behalf to create the appearance of attorney-client privilege over the appraisal, as was H & W’s subsequent receipt and ‘laying of hands’ upon the report.... Liegel’s communication with H & W is not for the purpose of Smithfield securing legal advice/services, and the privilege does not attach.”

Asousa Partnership is directly on point here. Mayer Brown is a major law firm and is in the business of providing legal advice, not asset valuations. In addition, even if it did provide an asset valuation, it would not be protected by the lawyer-client privilege because it would not constitute legal advice. It is clear that having the transfer pricing analysis “originate” from Mayer Brown was a “ghost hiring” for no other purpose than to create a phony privilege claim.

Gawker Defendants should therefore be compelled to produce all transfer pricing studies.

III. THE TRUST DOCUMENTS SHOULD BE PRODUCED.

On July 20, 2015, the Court ordered Gawker Defendants to produce documents responsive to Mr. Bollea’s request for discovery of “Denton’s irrevocable family trust documents”. Ex. 5. The request on which the Court entered its order compelling production read as follows: “Mr. Bollea is entitled to documents sufficient to show the ownership interests and voting rights of the trust that owns certain shares of GMGI, as well as the consideration paid for such shares, the date of creation of the trust, and the date that the shares of GMGI were deposited into the trust. These documents are necessary to value Denton’s ownership interest in GMGI.” Ex. 4.

Importantly, the shares in the trust were **originally owned by Mr. Denton** and were

transferred by him into the trust, which ostensibly benefits his own close family members. Ex. B Conf. Aff. C. Harder (Denton Tr.) (“Q. And were you the grantor of those shares. A. They were originally my shares, yes.” (*id.* at 152:14-17); “Q. Who were the beneficiaries of the trust. A. My niece and two nephews.” (*id.* at 153:20-22); “Q. Who is the trustee. A. My sister.” (*id.* at 154:6-7)). While Denton denies having any control over the trust, he could not recall any instance of his sister voting the trust’s shares. (*Id.* at 155:23-156:8.)

Further, despite Denton’s denials of control, at least two media articles profiling him, written by reporters who interviewed him for the articles, have quoted or paraphrased him as saying that he has majority ownership and control of Gawker through his shares and the shares controlled by the family trust. Ex. 8 (Lloyd Grove, *The Gospel According to Nick Denton- What Next for the Gawker Founder*, The Daily Beast (Dec. 14, 2014): “Personally and through a family trust, Denton says he owns 68 percent of his privately-held, Cayman Islands-registered company.”); Ex. 9 (Allyson Shontell, *Gawker Media Generated \$45 Million in Net Revenue Last Year And It’s Raising a \$15 Million Round of Debt*, Business Insider (Jan. 28, 2015): “Through a family trust, Denton owns 68% of the company. He says insiders own 90% of Gawker Media.”). Mr. Denton claimed in his deposition that he was misquoted by these two separate reporters in these two separate publications. This claim is not worthy of belief—it is clear that Denton was telling reporters he had a controlling interest in the company because the family trust is just a mechanism by which he does, indeed, hold such control.

Gawker Defendants have flatly disobeyed this Court’s order, asserting that neither Denton nor Gawker Media, LLC has “control” over trust documents. This argument is based on an overly-narrow conception of “control.” Whether documents are within a party’s control “is broadly construed” and includes whether the party has the “right, authority, or practical ability to

obtain the materials sought on demand.” Saewitz, 79 So.3d at 834; *see also Costa v. Kerzner Intern. Resorts, Inc.*, 277 F.R.D. 468, 470–71 (S.D. Fla. 2011).

Gawker Defendants have provided no evidence whatsoever that Denton or Gawker lack the practical ability to obtain Denton’s family trust documents on demand. In fact, Mr. Denton **admitted** at his deposition that he could obtain information about the trust. (“Q.... Because I don’t have an understanding of when the trust was created or when the... family actually acquired ownership in the shares through the trust..., we don’t have that information. You have access to that information; is that correct? A. **I can get that information, yes.**”) (Ex. B Conf. Aff. C. Harder (Denton Tr. at 158:7-15), emphasis added).

There is no doubt that the family trust documents are of crucial relevance to the issue of Denton’s net worth. Denton owns a plurality of the shares in GMGI; if his shares are added to those purportedly owned by his family, he owns a majority. Thus, the trust documents will show whether Denton truly controls those shares and whether his GMGI shares are subject to a control premium and thus worth more.

IV. A MONETARY SANCTION SHOULD ALSO BE ASSESSED AGAINST GAWKER DEFENDANTS.

Gawker Defendants are simply obstructing discovery. First, they buried the transfer pricing study with a misleading designation in a lengthy privilege log. Now, they have made clear that they are claiming that a study valuing intellectual property assets was somehow “legal advice” because it was routed through a law office. Further, Gawker Defendants are claiming that Gawker and Denton cannot obtain trust documents that **they were already ordered to produce** and can clearly obtain if they wished to. Accordingly, Gawker Defendants are engaged in a transparent effort to prevent legitimate discovery, and as a result, Mr. Bollea has once again been forced to file a motion to obtain discovery that should have already been produced, in order

to defeat meritless make-work objections. This is the continuation of a three year long pattern and practice of obstruction of legitimate discovery by Gawker Defendants. Mr. Bollea therefore respectfully requests that Gawker Defendants be required to bear the fees of the Special Discovery Magistrate in this matter, and that Gawker Defendants pay a monetary sanction of \$11,485 to Mr. Bollea to reimburse Mr. Bollea for attorney's fees which would never have been incurred but for Gawker Defendants' obstruction.

V. ADDITIONAL NET WORTH DEPOSITIONS

On June 29, 2015, the Court denied Mr. Bollea's request to conduct follow-up financial worth depositions. At that time, the parties were a few days away from commencing the trial – which appeared to be the reason for the Court's denial of this request.

Now that the trial has been continued, this timing factor is no longer a concern. Mr. Bollea discovered a number of significant facts through the discovery ordered on July 20, 2015, and should be permitted brief additional examinations of Gawker Defendants to address these newly discovered facts, as well as obtain updated financial worth information from defendants. Gawker Defendants produced some of the most significant documents regarding net worth **after** their depositions. Mr. Bollea should be permitted an opportunity to follow-up on these developments.

VI. CONCLUSION

For the foregoing reasons, the Special Discovery Magistrate should recommend that Gawker Defendants be ordered to produce all transfer pricing studies relating to the rights fees paid to Kinja, KFT for intellectual property licenses, and documents sufficient to show the ownership interests and voting rights of Denton's family trust, as well as the consideration paid for shares in GMGI, the date of creation of the trust, and the date that the shares were deposited

into the trust. Gawker Defendants should further be sanctioned in the amount of \$11,485 and required to bear the costs of the Special Discovery Magistrate in hearing and determining this motion. Finally, Mr. Bollea should be permitted to conduct follow-up depositions of Gawker Media, LLC and Nick Denton, questioning them about any documents produced after the previous depositions, and any related matters.

Dated: October 9, 2015

Respectfully submitted,

/s/ Kenneth G. Turkel

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail via the e-portal system this 9th day of October, 2015 to the following:

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/s/ Kenneth G. Turkel

Kenneth G. Turkel

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IN AND FOR PINELLAS COUNTY, FLORIDA**

TERRY GENE BOLLEA professionally
known as HULK HOGAN,

Plaintiff,

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DAULERIO; KATE BENNERT, and
BLOGWIRE HUNGARY SZELLEMI
ALKOTAST HASZNOSITO KFT aka
GAWKER MEDIA,

Defendants.

_____ /

AFFIDAVIT OF CHARLES J. HARDER

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

CHARLES J. HARDER, Esq. being duly sworn, deposes and says:

1. I am a resident of Los Angeles, California over the age of 18 years. I am an attorney duly licensed to practice before all courts of the State of California, among other courts. I am a partner at the law firm Harder Mirell & Abrams LLP, counsel (admitted *pro hac vice*) for Plaintiff Terry Gene Bollea, professionally known as Hulk Hogan. The statements made herein are based on my personal knowledge.

2. Attached hereto as Exhibit 1 are true and correct excerpts from the transcript of the hearing on April 22, 2015.

3. Attached hereto as Exhibit 2 are true and correct excerpts from the transcript of the hearing on May 29, 2015.

4. Attached hereto as Exhibit 3 is the Court's June 19, 2015 Order.

5. Attached hereto as Exhibit 4 is Plaintiff Terry Bollea's June 22, 2015 Motion to Compel.

6. Attached hereto as Exhibit 5 is the Court's July 20, 2015 Order

7. Attached hereto as Exhibit 6 are true and correct excerpts from defendant Gawker Media LLC's Privilege Log, produced on March 28, 2014.

8. Attached hereto as Exhibit 7 are true and correct copies of correspondence between the parties.

9. Attached hereto as Exhibit 8 is a copy of *The Gospel According to Nick Denton – What Next for the Gawker Founder* (Lloyd Grove, The Daily Beast, Dec. 14, 2014).

10. Attached hereto as Exhibit 9 is a copy of *Gawker Media Generated \$45 Million in Net Revenue Last Year and It's Raising a \$15 Million Round of Debt* (Allyson Shontell, Business Insider, Jan. 28, 2015).

11. My partner Jennifer McGrath and my associate Dilan Esper worked on reviewing the Gawker document production, the meet and confer process, and this motion. Ms. McGrath worked for at least four hours. Her billing rate is \$525. Mr. Esper worked for at least seven hours. His billing rate is \$495. In addition, Shane Vogt, from Bajo Cuva Cohen Turkel, worked for one hour on this matter, and his regular billing rate is \$415. I have worked at least one (1) hour on this matter. My standard billing rate, and billing rate in this case, is \$550 per hour. In

addition, I expect Mr. Esper will work at least five (5) hours on reviewing the Opposition papers and preparing the Reply Brief; Mr. Vogt and I will each spend at least one (1) hour on the same; I will spend one (1) hour to prepare for the hearing on this matter; and Mr. Vogt and I will spent one (1) hour to attend and present oral argument at the hearing on this matter before the Special Discovery Magistrate. These rates are consistent with the rates charged for legal services of a comparable nature, performed by lawyers with similar experience, reputation, ability, skill and expertise. Accordingly, Mr. Bollea has incurred, and reasonably expects to incur, monetary sanctions in the amount of \$11,485, in connection with this matter, to reimburse Mr. Bollea for the fees incurred.

12. The amount of time expended on this matter was reasonably necessary to achieve the results obtained.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information and belief.

Executed this 9th day of October, 2015.


CHARLES J. HARDER

Sworn to and subscribed before me this ___ day of _____, 2015 by _____ who is personally known to me or _____ who has produced _____ (type of I.D.) as identification (check one).

*See attached
CA Jurat form
[Signature]*

(Signature)

(Type or Print Name)

Notary Public
My Commission Expires:
Commission No.:

CALIFORNIA JURAT WITH AFFIANT STATEMENT

GOVERNMENT CODE § 8202

- See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-6 to be completed only by document signer[s], *not* Notary)

[Large handwritten signature]

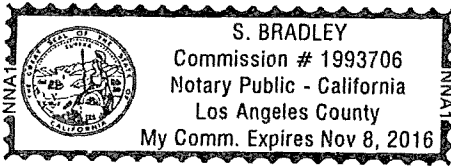
Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles

Subscribed and sworn to (or affirmed) before me
on this 9th day of October, 2015,
by Charles J. Harder
(1) Charles J. Harder
(and (2) _____),
Name(s) of Signer(s)



proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me.
[Signature]
Signature _____
Signature of Notary Public

Seal
Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Affidavit Document Date: 10/9/15
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Exhibit 1

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY

TERRY GENE BOLLEA, professionally
known as HULK HOGAN,

Plaintiff,

No. 12-012447-CI-011

vs.

HEATHER CLEM; GAWKER MEDIA, LLC,
aka GAWKER MEDIA, et al.,

Defendants.

-----/

HEARING BEFORE THE HONORABLE PAMELA CAMPBELL

DATE: April 22, 2015
TIME: 1:30 p.m. to 4:03 p.m.
PLACE: Pinellas Count Courthouse
545 First Avenue North
Courtroom C
St. Petersburg, Florida

REPORTED BY: Susan C. Riesdorph, RPR, CRR
Notary Public, State of
Florida

Pages 1 - 113

1 already been placed before Judge Case?

2 MR. TURKEL: Did we ever tee up the
3 jurisdictional stuff?

4 MR. HARDER: No, we did not, because they
5 went up to the court of appeal with the issue.

6 THE COURT: What about the financial issues,
7 financial net worth issues?

8 MR. TURKEL: I'll let Charles speak to that.
9 I think they've litigated some of those on
10 financial worth.

11 MR. HARDER: Well, we've done some discovery
12 of financial, but it wasn't in conjunction with
13 punitive damages.

14 If I could just ask Ken, because it's a
15 procedural issue.

16 THE COURT: Sure.

17 MR. BERLIN: I have a suggestion which may be
18 helpful.

19 MR. HARDER: Your Honor, we -- based upon
20 Your Honor's orders, we received financial
21 information up until December 31, 2013, but we
22 were cut off of 2014 and 2015. So we haven't
23 gotten that.

24 MR. BERLIN: That's not right.

25 MR. HARDER: You even redacted out all the

1 2014 information out of your documents based on
2 the last order.

3 MR. BERLIN: No. That's actually not right.
4 Young American Capital -- remember this debt?
5 Mr. Lester was on the phone. They redacted out
6 '14 because you had asked for 2011 through 2013.
7 We have produced financial data from 2014.

8 But let me -- can I make a suggestion which I
9 think might be helpful? We're now -- we're apart
10 approximately two weeks between the week of the
11 12th of May and the 29th of May, two weeks give or
12 take a couple of days. A reasonable concern is,
13 hey, if we do it later, we might not have time to
14 get all the financial discovery done. What I
15 would -- and to resolve objections about it.

16 What I would propose that we do is to do the
17 29th. But why don't we ask Mr. Harder and
18 Mr. Turkel and Mr. Houston to serve the financial
19 discovery that they would like, require us to tell
20 them if this is preempted, here's what we would --
21 you know, if we have any objections, here's what
22 our objections are. At the end of the hearing, if
23 there's a -- you know, we have 20 minutes, we can
24 take it up, do this, don't do this. And we can
25 even schedule -- I don't know what other

1 depositions they want. If they want to schedule
2 depositions for like early June, we can block out
3 the time so that if the discovery needs to go
4 forward, we can go forward and we have the stuff
5 ready to go so that there you have done several
6 things. One is you've streamlined the process of
7 getting the discovery done. Two is you've
8 streamlined the process of getting summary
9 judgment and the motion to amend heard together.
10 And you can do that. It would seem to me that
11 that would be a reasonable way to go.

12 THE COURT: So in some ways the motion to
13 extend discovery deadline and shorten the response
14 deadlines for limited purpose of financial worth
15 discovery, it sounds to me, Mr. Berlin, that
16 you're suggesting go ahead and serve it now and
17 then we can rule -- the Court can rule on any
18 objections or anything else if I grant the motion
19 to amend to add punitive --

20 MR. BERLIN: Right. We'll work out a
21 schedule. We want to serve objections before --
22 whatever objections we have for that discovery by
23 the time of that hearing, enough time so that they
24 can look at them and you can look at them. But it
25 seems to me that then you have a process teed up.

1 But the only thing I wanted to say was when --
2 when this was served before we filed our
3 objections -- if we hadn't filed objections, we
4 probably would have filed a motion because we
5 didn't have time in the last two weeks to deal
6 with this taking five depositions and filing a
7 summary judgment motion. So the fact that we
8 filed it as objections is because it violated the
9 rule as opposed to it being a discretionary thing
10 where we would have been asking for more time.
11 But we assumed that lawyers cooperating with each
12 other wouldn't have jammed each other on the
13 deadlines. So that's what we were doing.

14 But when we wrote -- we wrote a letter before
15 we filed that, and we said we would propose to do
16 this just this way. Right? We would propose --
17 this wasn't -- nobody is being surprised today
18 that this is our position. We actually wrote and
19 said, why don't we do it on the summary judgment
20 hearing because that's already set up. And they
21 said, no, we object. And that's why we filed the
22 objection. If they had agreed, we wouldn't have
23 filed objections. We would have just agreed --

24 MR. TURKEL: Judge, today is April 22nd,
25 correct?

1 MR. BERLIN: That's correct.

2 THE COURT: It is.

3 MR. TURKEL: Okay. I want us all to remember
4 the date, because if we do this the way they say,
5 when we ask Nick Denton individually for his
6 financial net worth -- and I've asked many
7 businessmen in their individual capacity when they
8 are defendants for their net worth, including
9 people like Donald Trump -- what is going to
10 happen is he's going to object to all of it. He's
11 not going to tell us how much money he has or
12 where it is. We're going to have to do a lot of
13 fighting to get it. And so I want to remember
14 this date because when we come back in front of
15 you after they object to every single one of those
16 requests, I'm going to say to everybody, hopefully
17 not smugly but with an air of civility and
18 professionalism, I knew this was going to happen.

19 THE COURT: You mean you don't think you can
20 get it done in 20 minutes?

21 MR. TURKEL: Judge, my point is, I like when
22 these things are proposed, and they sound very
23 good in concept. But I have never served
24 financial worth discovery in support of a punitive
25 damages claim on an individual owner of a business

1 where he did not hem and haw about every single
2 thing we were asking him. And so in concept if
3 they are going -- really going to play this and
4 we're going to play it the right way, when I ask
5 him for his bank accounts as of today that show
6 what his liquid net worth is and where his stocks
7 are, are they going to say they will be
8 produced at a time and place of your choosing to
9 the parties and counsel, or are they going to say
10 objection? That's my concern. The history of
11 this case is they're going to say objection.

12 MR. BERLIN: When we wrote the letter I just
13 described, when we wrote and said, let's do this
14 on the 29th of May and we will work with you to
15 expedite financial discovery if you win your
16 motion and it's required, before we did that --
17 because I have clients. One of the clients is
18 Gawker and I spend a lot of time dealing with the
19 company, because that's where most of the
20 discovery has been focused. But we contacted
21 Mr. Denton and we -- not the majority owner, but a
22 significant owner of the company -- or the parent
23 company, I guess I should say. And we contacted
24 him and said, we want you to understand that if we
25 propose this that this is what we're committing

1 to. Are you okay with that? And you understand
2 that if they win this motion, you're going to have
3 to give over information about your finances? And
4 he understands that. I will represent that to the
5 Court right now.

6 THE COURT: So let me ask this.

7 MR. BERLIN: Yes.

8 THE COURT: Have you all reserved any time on
9 Judge Case's calendar for like that week of
10 June 1st?

11 MR. BERLIN: Not yet. He has not been coming
12 to all of the depositions. So -- and personally
13 in my judgment, if he were -- if we were going to
14 have a deposition where they were going to come
15 and ask Mr. Denton or Mr. Delaurio about their net
16 worth, I'm not sure we would all need Judge Case
17 for that, but we can talk about that after the
18 hearing and, if so, reserve some time.

19 We did get an e-mail yesterday from Janice,
20 who is his wife and assistant, saying that he has
21 a number of days before he leaves to go out to
22 Montana. I don't remember the exact date.

23 MR. HARDER: 17th.

24 MR. BERLIN: I think it was something like
25 that. But we should have time -- if we need him,

1 we should have time to do it. And I think that's
2 exactly the kind of thing we ought to be
3 coordinating now.

4 THE COURT: Yes, because July 6th is on us.

5 MR. BERLIN: Right.

6 THE COURT: That's my hesitation of loading
7 up May 29th. I have a few days available and, if
8 we can, I'd like to use those days wisely. If we
9 can't, we can't. But I guess my concern is we're
10 loading up May 29th with too much and there's
11 going to be lots of complaints and everybody is
12 going to whine, I can't get this all done. And
13 I'm going to have to say, I'm sorry. I gave
14 you -- tried to give you some days earlier in May
15 to get all this done.

16 MR. BERLIN: I completely understand what I'm
17 proposing, Your Honor. We understand. I want to
18 make this abundantly clear. It's being
19 transcribed by Susan here. And we understand by
20 asking for the other two weeks what we're getting
21 for that is that we can collapse the inquiry on
22 summary judgment into one hearing and that what
23 we're giving on that is that -- because we have to
24 have some give -- is if there's financial
25 discovery, doing it, getting it ready, teed up,

1 and having it ready to go and doing it quickly.
2 That's -- we made that proposal when we first
3 wrote to them about this, and we understand.

4 MR. TURKEL: There is no if, Judge. When you
5 get a claim for punitives, you get net worth
6 discovery. The law is extremely clear on that.

7 THE COURT: Yes, but there's time frames.
8 You would have to give them reasonable time
9 frames. You want it to be in May. He's saying if
10 we give up giving it -- if we cannot come back
11 early in May to resolve that, we'll expedite and
12 shorten -- he's agreeing to your -- shortening
13 your response deadline for financial worth
14 discovery.

15 MR. BERLIN: If, Your Honor, was to
16 adjudicate that. That assumes that there's a
17 motion that's granted. If the motion is not
18 granted, they won't need the discovery. That's
19 all we're saying.

20 THE COURT: But you're sort of waiving it at
21 this point in time if they're going to go ahead
22 and start serving it before the 29th.

23 MR. TURKEL: We're going to serve it ASAP.
24 So that way, Judge, all the things that they're
25 concerned about and you're concerned about, will

1 we have time to resolve objections -- which it
2 sounds like we're not going to get, but I know
3 we're going to get -- and will we have time to
4 designate financials. We'll serve our financial
5 worth discovery and we'll trade that for their
6 request to have the motion to leave to amend heard
7 with everything else on May 29th because I guess
8 that's going to save time, as long as -- and I'm
9 going to make it very clear in the proposed order
10 what they're agreeing to. And what they're
11 agreeing to is allowing us to serve financial
12 worth discovery that would be relevant to a
13 punitive damages claim before the Court has
14 granted our leave to amend and to respond to it in
15 the truncated time frame they've represented to
16 the Court. That's fine. That solves my
17 procedural problem with putting the hearing off.

18 MR. BERLIN: Judge, just so we're clear, I
19 think we're in agreement, but I want to be clear
20 so there's no question later. What I'm proposing
21 is that they serve the discovery now and that we
22 have the objections served -- any objections that
23 we have we serve in advance so that they can
24 resolve them. And then if the motion is granted
25 so that they would be entitled to that discovery,

1 we then file the substantive responses and we
2 already have deposition dates to do that. All of
3 the objections and all of the stuff is ready to
4 go. All of the documents are ready to produce.
5 We have all that ready to go. You grant the
6 motion, they get it. If you don't grant it,
7 obviously they don't get it, but everything is
8 ready to go. That's what I'm proposing. That way
9 the first couple weeks in June, all of this is
10 done if it needs to be.

11 MR. TURKEL: That's not what I was asking
12 for. I was asking for financial worth discovery
13 proceeding because --

14 THE COURT: He says he'll gather it all, put
15 it all together. Any objections, if we can
16 resolve them on the 29th, we resolve them on the
17 29th, but he's going to have all that stuff ready
18 so that on June 1st or 2nd, he's going to -- if
19 it's granted, if the motion to amend is granted,
20 objections are ruled on, 1st or 2nd, here's your
21 information.

22 MR. TURKEL: I want him to bring them to the
23 hearing on the 29th. Is that asking for too much,
24 Judge?

25 MR. BERLIN: In all seriousness,

1 Your Honor --

2 THE COURT: Poor Ms. Fugate. She's going to
3 have to carry all this stuff.

4 MR. TURKEL: She and I are peas and carrots,
5 Judge. We're fine. We're five minutes away from
6 each other.

7 MR. BERLIN: Your Honor, the 29th is a
8 Friday. I think the first couple days of the next
9 week ought to be sufficient.

10 MR. TURKEL: How about by Tuesday of the next
11 week, can I put that in the order?

12 THE COURT: Sure. You can put that in the
13 order.

14 MR. TURKEL: Okay. Thank you. We're fine.

15 THE COURT: We're going to figure out the
16 objections, and then he's going to have all that
17 already put together. You'll have it the next
18 week. And between now and then, you're going to
19 also have whatever your discovery is, any of those
20 depositions or any of those things, you're going
21 to already have those dates reserved for the first
22 few weeks in June.

23 MR. BERLIN: If we need Judge Case, we'll
24 have them on his calendar.

25 MR. TURKEL: That does it.

1 MR. BERLIN: I think that makes a lot more
2 sense. I can live with this.

3 MR. HARDER: Your Honor, I guess my -- my
4 only question, Your Honor --

5 THE COURT: Just a second. Did you finish?

6 MR. BERLIN: We were just making sure we have
7 Mr. Denton's deposition availability, but there's
8 a few days where his father is having a birthday
9 in Hungary or --

10 THE COURT: Maybe you can have depositions
11 over there.

12 MR. TURKEL: It's a beautiful time in
13 Budapest, Judge.

14 MS. DIETRICK: I'm not sure what his
15 commitment is, but there are a few days in the
16 first few weeks of June that we can get this done.

17 MR. BERLIN: We think in the first couple
18 weeks, there are enough dates that we ought to be
19 able to schedule that without a problem.

20 THE COURT: Great.

21 MR. HARDER: My only question, Your Honor,
22 was that if all the objections are ruled on on the
23 29th, what do we need Judge Case for?

24 THE COURT: Just in case we don't have enough
25 time. Mr. Berlin is suggesting 20 minutes is

1 enough for all the objections. I don't know.

2 MR. HARDER: It takes us 20 minutes to set a
3 date.

4 MR. TURKEL: It takes us 20 minutes to
5 introduce ourselves in this case.

6 MR. BERLIN: I'm eternally optimistic,
7 Your Honor.

8 THE COURT: Let me just say this. I think
9 that part is resolved. Mr. Turkel is going to
10 work on what that order is going to say. He's
11 going to send it to me pretty promptly.

12 MR. TURKEL: Yes, Judge.

13 THE COURT: A couple things. On the motion
14 for summary judgment, please -- you're going to
15 send me a notebook, right, with all the
16 attachments and your case law? Also, on the
17 punitive damages, if you have case law that you
18 you're also relying on, if you can send me the
19 case law as well so that I can cite the case law.

20 MR. BERLIN: We'll send you our binders in
21 the next day or so. We just didn't get to it
22 between the filing on Monday and coming here
23 today.

24 THE COURT: I understand. I just have this
25 one binder. I was feeling a little lonely for

Exhibit 2

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA

TERRY GENE BOLLEA professionally
known as HULK HOGAN,

Case No. 12012447-CI-011

Plaintiff,

v.

HEATHER CLEM; GAWKER MEDIA, LLC;
et al.,

Defendants.

**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO AMEND TO ADD
CLAIM FOR PUNITIVE DAMAGES AND DENYING GAWKER DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT ON PUNITIVE DAMAGES**

THIS CAUSE came before the Court on May 29, 2015 upon Plaintiff Terry Gene Bollea's, professionally known as Hulk Hogan ("Mr. Bollea"), Motion for Leave to Amend to Add Claims for Punitive Damages dated April 3, 2015 (the "Plaintiff's Motion"); as well as Defendants Gawker Media, LLC's, Nick Denton's, and A.J. Daulerio's (collectively, "Gawker Defendants"), Motion for Summary Judgment on Punitive Damages, dated May 8, 2015 (the "Gawker Defendants' Motion").

The Court reviewed and considered Plaintiff's Motion and exhibits thereto; the Gawker Defendants' Combined Brief on Punitive Damages, dated May 8, 2015; the Gawker Defendants' Statement of Undisputed Materials Facts on Punitive Damages, dated May 8, 2015, the Affidavit of Alia L. Smith and exhibits thereto, dated May 8, 2015; Plaintiff's Combined Opposition to Motion for Summary Judgment on Proposed Claim for Punitive Damages and Reply in Support of Leave to Add Claim for Punitive Damages, dated May 22, 2015; the Affidavit of Kenneth G. Turkel and exhibits thereto, dated May 22, 2015; the Reply in Support of the Gawker

Defendants' Motion for Summary Judgment on Punitive Damages, dated May 27, 2015. The Court also considered the Court file, and heard argument of counsel, and is otherwise fully advised. Accordingly, the Court FINDS:

(1) Pursuant to section 768.72, Florida Statutes, Mr. Bollea seeks leave of Court to add claims for punitive damages against Gawker Defendants by interlineation to his First Amended Complaint.

(2) Mr. Bollea filed his Motion for Leave to Add a Claim for Punitive Damages on April 3, 2015. In support, on April 3, 2015, Mr. Bollea filed 42 exhibits, including deposition testimony, responses to requests for admissions, and other documentary evidence.

(3) On May 8, 2015, Gawker Defendants filed their Motion for Summary Judgment on Mr. Bollea's Proposed Claim for Punitive Damages, as well as a Combined Brief on Punitive Damages and a Statement of Undisputed Material Facts on Punitive Damages.

(4) Pursuant to Rule 1.190(f), Fla. R. Civ. P., the hearing on Mr. Bollea's Motion for Leave to Add Claim for Punitive Damages was held more than twenty (20) days after Mr. Bollea's Motion for Leave to Amend to Assert a claim for Punitive Damages and supporting evidence were filed and served.

(5) In order to add a claim for punitive damages, Mr. Bollea must make a "reasonable showing" through evidence in the record or proffered that would provide a "reasonable basis" for recovery of such damages. *See Fla. Stat.* §768.72(1).

(6) On April 3, 2015, Mr. Bollea filed evidence in the record, which this Court has carefully reviewed, which establishes a reasonable basis for the recovery of punitive damages against Gawker Defendants.

(7) Mr. Bollea made a reasonable showing by evidence in the record or proffered, to establish a reasonable basis upon which a reasonable jury could find clearly and convincingly that punitive damages are warranted in this case.

It is thereupon, ORDERED and ADJUDGED that:

(1) Mr. Bollea's Motion for Leave to Add a Claim for Punitive Damages is **GRANTED**.

(2) Mr. Bollea may re-file his First Amended Complaint containing a claim for punitive damages through interlineation in the Prayer for Relief.

(3) No further pleading by Defendants in response to plaintiff's Amended Complaint, as amended by interlineation, is required, and Gawker Defendants are deemed to have denied Mr. Bollea's claim for punitive damages.

(4) The Gawker Defendants' Motion for Summary Judgment on Punitive Damages is **DENIED**.

DONE AND ORDERED in Chambers at Pinellas County, Florida this ____ day of _____, 2015.

Hon. Pamela A.M. Campbell
Circuit Court Judge

Original Signed
JUN 19 2015
Pamela A.M. Campbell
Circuit Judge

Copies furnished to:
Counsel of Record

Exhibit 3

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY

TERRY GENE BOLLEA, professionally
known as HULK HOGAN,

Plaintiff,

vs.

Case No. 12-012447-CI-011

HEATHER CLEM; GAWKER MEDIA, LLC,
aka GAWKER MEDIA, et al.,

Defendants.

_____ /

HEARING BEFORE THE HONORABLE PAMELA A.M. CAMPBELL

DATE: May 29, 2015

TIME: 1:30 p.m. to 4:27 p.m.

PLACE: Pinellas County Courthouse
545 First Avenue North
Courtroom C
St. Petersburg, Florida

BEFORE: Valerie A. Hance, RPR
Notary Public, State of
Florida at Large

Pages 1 to 131

1 because I don't think there is something that's
2 that -- we're not that far apart on this.

3 But would that mean then you next want to take
4 up the discovery objections?

5 THE COURT: Yes.

6 MR. BERLIN: On the discovery -- Your Honor, as
7 you may remember when we were here last in April, in
8 an effort to streamline things, I came up with a
9 suggestion that we would deal with the -- we'd get
10 the financial work discovery requests and we would
11 send out our objections. In the wake of that court
12 conference, we were served with 334 discovery
13 requests.

14 I have to say, I asked both Mr. Davis and
15 Mr. Thomas about this, and they both said that this
16 is unheard of. It seemed rather striking to me and
17 certainly not the kind of thing that if you were
18 trying to streamline things and get to a fair
19 evaluation of what each of the three publisher
20 defendants was worth you would need to do.

21 And what we tried to do in our objections was
22 to go through and say, look, we understand under
23 Florida law that if punitive damages are authorized
24 to be sought, that we are -- that we are going to
25 have to give over certain information that basically

1 speaks to our financial worth. It's not limited to
2 just, hey, here's an interrogatory, tell us what
3 you're worth. They're entitled to get some
4 documents to test it.

5 But we're in a situation here where the volume
6 of what's being asked and the volume of the number
7 of requests asking it and which are duplicative of
8 one another really is imposing an undue burden. And
9 it's a little frustrating, Your Honor, because we
10 proposed a procedure that we thought was designed to
11 streamline things rather than to wait until today
12 when this was ordered and let the discovery be
13 served and then we have to answer. And that we're a
14 little frustrated that that was met with such
15 voluminous discovery.

16 What we tried to do was to come up with a list
17 of things that we thought really fairly viewed and
18 answered these questions and probably then some.
19 And that appears in our objections starting at the
20 top of page 4. And it lists documents relating to
21 the publisher defendant's actual and estimated net
22 worth. It includes documents used in responding to
23 interrogatories, bank statements for the -- you
24 know, the end of each year, going back to the 2011
25 and the current one. Brokerage and investment

1 statements, same way, each year and then most recent
2 one. Financial statements including -- and we've
3 already given over a lot of financial statements of
4 Gawker, but they wanted an updated one, so we were
5 going to update them and give financial statements
6 provided the other two defendants have them.
7 Accounts receivables, cash receipt journals,
8 documents reflecting liabilities, debts, mortgages,
9 other obligations on the idea that if you -- part of
10 your net worth is determined by things that you
11 owed, that's deducing the net worth and they're
12 entitled to know that as well.

13 We give the defendant's ownership interest in
14 Gawker, whether Gawker has been sold to, merged
15 with, or consolidated with any other entity.

16 THE COURT: Can we just go through the list and
17 everybody make argument and I just make the ruling
18 on one by one?

19 MR. BERLIN: Yeah. I was going to say these
20 were the things that we were going to give, so --

21 THE COURT: Right.

22 MR. BERLIN: -- I don't know that there is, you
23 know, a dispute about those because we're going to
24 give those. And we have given federal tax returns
25 and so forth, and trusts. And then we're going to

1 do interrogatories that the publisher defendant
2 swear to the authenticity of the documents, that
3 they have identified the amount of financial worth,
4 that they identified material assets and
5 liabilities, and whether the publisher defendant's
6 maintain their right to bring any action or --
7 about, you know, recovering any debts. Somebody
8 owes you money, that's part of the net worth, and we
9 were going to give that information as well.

10 And we did this based on looking at Florida law
11 on the subject. And there is a series of cases that
12 deal with the scope of financial worth discovery.
13 And all of the other ones were just substantially
14 more narrow. One of them involved nine
15 interrogatories and one request for production. One
16 of them involved three interrogatories. One of them
17 involved a request for a three-year period for
18 income tax returns, personal or business profit and
19 loss statements and balance sheets. And that was
20 it.

21 There has to be a reasonable limit on this,
22 Your Honor, and this just isn't it. And we think
23 the proposal we've outlined here is reasonable.
24 It's a little larger than what we had anticipated we
25 would be doing when we were here in April. And I

1 know I said I would do this, if we needed to, by
2 Tuesday. I'd ask for a few more days into the next
3 week to get it done. But I think this is a
4 reasonable proposal, and I think that it should be
5 adopted by the Court rather than having to go
6 through and serving individual objections to what is
7 essentially 330 documents of a discovery request,
8 which is really, at this point in the case, busy
9 work.

10 I mean, I want to try and cut to the chase.
11 We're going to try and move this forward. That's
12 what I want to do. I think that's where I am on
13 this.

14 And so I'm not sure what the -- the technical
15 relief is if it's a motion for protective order or
16 if there are objections that you then rule on, but,
17 either way, we would ask for appropriate relief that
18 memorializes that.

19 And I guess I could let the plaintiff speak to
20 that. And then if -- you know, just reserve a
21 moment for rebuttal if there is anything that I feel
22 like I need to address. I tried to be brief on this
23 subject, so --

24 THE COURT: Thank you.

25 MR. BERLIN: Thanks.

1 THE COURT: This is your time, Mr. Vogt.

2 MR. VOGT: This is my time. I get to tell --

3 THE COURT: So, Mr. Vogt, tell me first why you
4 don't agree with, yeah, Mr. Berlin's proposal.

5 MR. VOGT: Well, first and foremost, he's wrong
6 on the laws that pertain to discovery in terms of
7 punitive damages cases.

8 If I can approach, Your Honor.

9 THE COURT: Did you give them a copy?

10 MR. VOGT: Yes, ma'am.

11 THE COURT: Okay.

12 MR. VOGT: And this is the Dokes v. Kennedy
13 case. It actually was a follow-up to the Donahue
14 case which is cited in the Tennant case that the
15 Gawker defendants are relying on to object to this
16 discovery.

17 And it says, "Broad latitude regarding
18 discovery and punitive damages claims has been
19 allowed by this Court." That was the Donahue case
20 and Tennant case.

21 Several areas of inquiry are permissible;
22 income, cash flow, expenses, anticipated income,
23 expensed diminutions in income, anticipated
24 casualties affecting the assessment of punitive
25 damages.

1 To that list, Judge, then I'm also adding
2 briefs about bank accounts, depositories, present
3 and recent ownership of property and its value, of
4 any interests in various business arrangements.

5 Interestingly, Your Honor, in this case, the
6 Court didn't find a problem with them using standard
7 family law interrogatories, which are incredibly
8 broad, much more broad than what we've served in
9 this case. And the Court said that that was
10 absolutely fine.

11 The reason they did that, Your Honor, was
12 because in the Donahue case -- may I approach?

13 And this actually dismisses with the notion
14 that what we've asked for here is busywork. And
15 there is a long quote on the second page of this
16 case, Your Honor. It says that -- discussed about
17 possibly just providing sworn statements to someone
18 and cut off any further aggressive inquiry into the
19 true financial capacity to respond to the issue of
20 punitive damages.

21 And the Court disagreed with that. You get
22 that aggressive ability to pursue financial
23 information. They said -- they recognized that
24 people have a tendency to overinflate or
25 underinflate their assets and their net worth, even

1 under oath. And they said, "It is the height of
2 naivete to suggest that a sworn statement of one's
3 net worth must be accepted as the final word on that
4 important subject. The search for a forgotten or
5 hidden assets is of the essence of the discovery
6 process. The whereabouts of assets disclosed by a
7 recent income tax return or shown in a recent
8 financial statement furnished in another situation
9 when the current litigation was not envisioned is a
10 very definitely appropriate inquiry as is the
11 bona fides of the recent disposition of assets."

12 This is where --

13 THE COURT: But they're giving you some of the
14 backup.

15 MR. VOGT: Pardon me?

16 THE COURT: They're giving you, though, the
17 backup. They're giving you the bank statements, the
18 broker investment account statements. They're
19 giving you more than just their view of what their
20 company is worth.

21 MR. VOGT: Correct, they have selectively
22 picked and chosen what they wanted to give. Our
23 requests really don't ask for anything outside the
24 scope of these cases, Your Honor.

25 THE COURT: Here is my concern.

1 MR. VOGT: And I'll be happy to go into them.

2 THE COURT: We may be set for a July trial.

3 MR. VOGT: Correct.

4 THE COURT: I appreciate the fact that they
5 were just getting a ruling a few minutes ago on
6 punitive damages. I appreciate the fact that the
7 defense is really trying to streamline the process
8 to get you everything that -- that at least they can
9 in an expedited basis, so -- because prior to just a
10 week or ten days ago, we were all going to trial on
11 July and I still had a standing trial order out
12 there.

13 MR. VOGT: And we understand that, Your Honor.

14 THE COURT: And so, I guess, for that reason, I
15 think it's a good compromise for now.

16 And so tell me why it wouldn't be or what
17 additional things that you think you want to get on
18 this expedited schedule that the defense has agreed
19 to.

20 MR. VOGT: And our response is, it basically
21 ties in with your concerns that there is not much
22 time left. So these requests necessarily had to be
23 very broad, because if we get responses, we're not
24 going to get a second chance to come back and ask
25 for more information.

1 So if the Court's inclined to grant this, this
2 request by the defense to initially limit the
3 inquiries to the issues that are set forth in this
4 letter, what we would ask is that that not be the
5 final order, but we have the ability to come back.
6 And if we see things in bank statements or financial
7 statements and we didn't get the documents or
8 information from those, that we -- there is proper
9 follow-up on, that we have the ability to do that.

10 THE COURT: All right. Thank you. I'm sorry.
11 This was your main presentation. I cut it short.

12 MR. VOGT: That's okay, Your Honor.

13 THE COURT: Mr. Berlin, would you agree with
14 that?

15 MR. BERLIN: I'm not sure what I'm agreeing to.

16 THE COURT: So here -- I think here -- I think
17 you've made an ore tenus motion for protective order
18 to limit it just to your response to these things on
19 this expedited basis that you've agreed to provide.

20 So Mr. Vogt has then said, well, would they
21 then -- if I was going to grant your ore tenus
22 motion for protective order just on these things,
23 would they have an additional -- after they've had
24 the opportunity to go through all of this, would
25 they have an additional opportunity later on to

1 further inquire.

2 MR. BERLIN: Your Honor, if I could say just
3 two things. One is that the cases that they have
4 presented, I actually think are consistent with what
5 I've just said. In the Donahue case, the
6 defendants -- involving 16 interrogatories, the
7 defendant answered six and objected to the other
8 ten. We're not talking about 334 requests.

9 And in the other one, it lists bank accounts,
10 depositories. We've giving this stuff. What we're
11 objecting to is if you get our bank accounts, you
12 don't need every deposit slip for every -- you know,
13 be just a bunch of paper. The bank has no incentive
14 to misstate what the deposit is. It's on the bank
15 account, so -- and the amounts that are there
16 reflect what's what.

17 So I think that -- I think it's consistent with
18 what I was saying. I generally think that if for
19 some reason -- I mean, remember that the discovery
20 that we're talking about here, Your Honor, is
21 answering one question: What are you worth, right?

22 And, realistically, if we give over all that
23 stuff, it would be very difficult to imagine that
24 they would not be able to formulate a reasonable
25 answer to that question. Right?

1 They've also now asked for depositions of each
2 of the people on that subject and we've scheduled
3 them for the end of June. And, you know, the
4 combination, while that would seem very unlikely.
5 But if for some reason they came and said we can't
6 answer the question what are you worth without some
7 additional piece of information, and we object to
8 that information, and they want to come back to
9 Your Honor, I have no objection to that. I think
10 that's -- that that's what you're here for --

11 THE COURT: Right.

12 MR. BERLIN: -- to resolve that dispute, so --

13 THE COURT: All right. Thank you.

14 So I'm granting defense's ore tenus motion for
15 protective order to limit the discovery to those
16 things that the defense has agreed to provide in the
17 May 22nd, 2015, letter to Mr. Harder. And that the
18 defense is going to provide this information -- was
19 it by next Thursday, the 4th? Is that what you
20 wanted?

21 MR. BERLIN: I think we had originally proposed
22 the 2nd. And if I could look at --

23 THE COURT: 3rd?

24 MR. BERLIN: If I could look at Ms. Smith and
25 find out.

1 MS. SMITH: I think, yes.

2 MR. TURKEL: When we cut the deal to do all
3 this today, I thought it was the 2nd.

4 THE COURT: But then I think that the defense
5 asked for a few days.

6 MR. BERLIN: I'm asking -- basically, this is
7 more than we thought it was going to be, and if I
8 had a couple extra days. If we can do Thursday or
9 Friday of next week, it's still before the
10 depositions. If I can get it done sooner, I will.

11 THE COURT: 5:00 on the 4th, is that good?

12 MS. SMITH: We'll make it.

13 THE COURT: Okay.

14 MR. BERLIN: Ms. Smith is bearing the burden of
15 that production, so --

16 THE COURT: I'm sorry.

17 MR. BERLIN: Yes, I'm sorry as well. I
18 apologize.

19 THE COURT: So -- all right. So by 5:00
20 Thursday. That's June 4th. All right? And with
21 the --

22 MR. BERLIN: 5:00 p.m. on the 4th, yes.

23 THE COURT: And if there is a problem after the
24 plaintiff has had the opportunity to review all of
25 that, there is more information and you guys can't

1 work it out, you're welcome to come back.

2 MR. BERLIN: Your Honor, I have one other
3 question about the punitive damages since Your Honor
4 has ordered that that go forward.

5 THE COURT: Yes.

6 MR. BERLIN: My understanding, again, this is
7 not -- I'm not an expert at this, so perhaps
8 Mr. Davis can speak to this if I get this wrong, but
9 my understanding is that under a case called
10 W.R. Grace, that when that -- when punitive damages
11 are issued, that it is the practice in Florida to
12 bifurcate the issue of net worth presentation to the
13 jury. And I would ask that we do that in this case.

14 THE COURT: So the first part of the trial is
15 going to go forward. The jury will make their
16 decision on the underlying complaint. And then at
17 that point in time, based on the verdict of the
18 jury, then they'll present the additional
19 information. The same jury will make additional
20 decision.

21 Do you agree with that, Mr. Turkel?

22 MR. TURKEL: I don't know that it's mandatory
23 to do it that way. Usually they file a motion to
24 bifurcate and you vet out whether it has to happen.

25 You know, it's, to me, something that we'll

Exhibit 4

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; GAWKER MEDIA, LLC
aka GAWKER MEDIA; GAWKER MEDIA
GROUP, INC. aka GAWKER MEDIA;
GAWKER ENTERTAINMENT, LLC;
GAWKER TECHNOLOGY, LLC; GAWKER
SALES, LLC; NICK DENTON; A.J.
DAULERIO; KATE BENNERT, and
BLOGWIRE HUNGARY SZELLEMI
ALKOTAST HASZNOSITO KFT aka
GAWKER MEDIA,

Defendants.

_____ /

**PLAINTIFF TERRY BOLLEA'S
MOTION TO COMPEL FULL AND COMPLETE FINANCIAL WORTH DISCOVERY
AND ADDITIONAL FINANCIAL WORTH DEPOSITIONS**

Plaintiff Terry Bollea, professionally known as "Hulk Hogan" ("Bollea"), by counsel and pursuant to Rule 1.380, Florida Rules of Civil Procedure, moves for the entry of an order compelling Defendants, Gawker Media, LLC ("Gawker"), Nick Denton ("Denton") and A.J. Daulerio ("Daulerio") (collectively, "Gawker Defendants"), to provide a full and complete disclosure of their net worth and to appear for additional depositions once those disclosures have been made, and states in support as follows:

On May 29, 2015, Mr. Bollea was granted leave to amend to assert a claim for punitive damages and, as a result, is entitled to full and complete discovery concerning Gawker Defendant's net worth. Gawker Defendants objected to the scope of the financial worth discovery that Mr. Bollea originally served. Based on these objections, at the May 29, 2015

hearing, the parties agreed and the Court ordered that Gawker Defendants would provide certain financial worth discovery to Mr. Bollea, with the caveat that Mr. Bollea would be entitled to seek additional discovery if Gawker Defendants' responses were incomplete. Most notably, Gawker Defendants were required to provide documents "sufficient to show... Gawker's, Denton's and Daulerio's actual and estimated net worth." Mr. Bollea was hopeful that Gawker Defendants would, as promised, provide discovery sufficient to determine their net worth. Unfortunately, this has not occurred.

Gawker Defendants instead produced minimal, incomplete documentation, and general, unsubstantiated testimony regarding their net worth. They produced *some* tax returns. They produced **some** financial statements. They produced **some** year-end, undetailed account statements. Gawker Defendants produced as little information as possible while still attempting to make it **appear** as if they were complying with the Court's order.

Many of the documents Gawker Defendants produced demonstrate that **other** relevant documents exist that were not provided to Mr. Bollea. Additionally, on June 16-17, 2015, Mr. Bollea's counsel incurred the cost and expense of preparing for and traveling to New York to take the depositions of Gawker Defendants regarding their net worth. These depositions confirmed that **Gawker Defendants failed to produce numerous documents** that are necessary and relevant to establishing their net worth. Many of these documents are **easily accessible** by Gawker Defendants on their computers and other devices. In particular, Mr. Bollea learned that the following, discoverable documents exist, which Gawker Defendants failed to produce:

1. **Written valuation(s) of Gawker-affiliated companies:** In early 2015, Gawker explored debt financing through Young America Capital, Inc. ("YAC"). As part of that process, Gawker provided, or YAC prepared, a **written valuation** of Gawker Media Group, Inc. ("GMGI"), including its wholly owned assets, Gawker and Kinja, KFT ("Kinja"). It is commonplace for such valuations to be prepared during debt financing efforts. Yet Gawker Defendants **failed to produce** this written valuation related to its

debt financing efforts through YAC, or any other written valuations of Gawker-affiliated companies. All should be ordered produced.

2. **Written future financial projections:** As part of its involvement with YAC, Gawker provided YAC with various future financial projections for the company. Gawker's corporate designee, COO and acting CFO Scott Kidder, testified that he prepared various financial projections during 2014–2015. Mr. Kidder also confirmed that he maintains copies of these projections on his computer. However, none of these projections were produced. Mr. Bollea is entitled to **all financial projections** for GMGI, Gawker and Kinja prepared during 2014 through 2015.

3. **Financial Information Provided to The Brenner Group:** Mr. Denton produced certain reports from The Brenner Group, which valued certain GMGI stock. Yet GMGI, Gawker and Kinja provided financial projections and other financial documents and information to The Brenner Group for use in its valuation. None of those financial projections, or the other financial information and documents were produced to Mr. Bollea. Mr. Bollea is entitled to these documents because they can be (and actually were) used to assist in the valuation of GMGI, Gawker and Kinja.

3. **GMGI's tax returns:** None of GMGI's tax returns have been produced. Mr. Bollea is entitled to these documents to assist in the valuation of defendant Nick Denton's ownership interest in GMGI, which is his largest asset.

4. **Kinja's and GMGI's bank statements:** None of these bank statements have been produced. Mr. Denton and Mr. Kidder confirmed at their depositions that these entities have bank accounts. Mr. Bollea is entitled to the statements from these bank accounts to value Mr. Denton's ownership interest in GMGI, including GMGI's subsidiaries, Gawker and Kinja, and their assets.

5. **Kinja's tax returns:** Kinja is a Hungarian corporation to which Gawker transfers millions of dollars each year (constituting all or nearly all of Gawker's profits). Kinja files tax returns in Hungary. However, Kinja's tax returns have not been produced. These documents are necessary to value Mr. Denton's ownership interest in GMGI, which owns 100% of Kinja.

6. **Denton's financial information sent to JP Morgan:** Mr. Denton recently obtained a \$2 million mortgage on his New York apartment, and used the proceeds for renovations and other expenditures. However, Mr. Denton failed to produce copies of his financial information and application to JP Morgan for the \$2 million mortgage. Mr. Bollea is entitled to this documentation, which will include the net worth and financial information that Mr. Denton himself provided to JP Morgan in connection with his mortgage.

7. **Denton's National Financial Services accounts:** Mr. Denton failed to produce account statements for his "National Financial Services" account(s), as listed in his tax returns, which generated over \$4,600 in interest in [REDACTED] alone. Mr. Bollea is entitled to this documentation to determine the value of Mr. Denton's assets.

8. **Denton's foreign bank account statements:** Mr. Denton lists several foreign bank accounts on his 2012 tax return. However, he failed to produce any bank statements from any of these accounts.
9. **Governing documents associated with GMGI, Gawker and Kinja:** Mr. Denton and Gawker failed to produce any operating agreements, shareholder agreements, stock option agreements, buy-back agreements, by-laws and similar agreements or governing documents associated with GMGI, Gawker and Kinja. These documents are necessary to value Mr. Denton's stock, as well as to determine whether there is any control premium associated with it.
10. **Gawker, GMGI, and/or Kinja insurance policies:** Mr. Denton and Gawker failed to produce insurance policies for Gawker, GMGI and/or Kinja providing for key man insurance, renters insurance, or business loss insurance. These policies are relevant to determining the value of GMGI and Gawker, as well as their assets and business operations. Mr. Bollea is entitled to these materials.
11. **Silicon Valley Bank construction loan documents:** Gawker failed to produce documents associated with the recent \$8 million construction loan Gawker obtained from Silicon Valley Bank (SVB) to construct its new offices located at 114 Fifth Avenue. These documents would include, but not be limited to, loan applications, financial disclosures, promissory notes, loan agreements, guarantees, financial covenants and conditions, and related materials. Mr. Bollea is entitled to these documents to value Gawker and GMGI.
12. **Financial disclosures re: 114 Fifth Avenue lease:** Gawker, Kinja and/or GMGI provided financial disclosures to their new landlord in connection with the negotiation and execution of the new lease for 114 Fifth Avenue. Mr. Bollea is entitled to these financial disclosures.
13. **Kinja/Gawker Inter-Company Development Agreement, Royalty Agreement, and related documents:** Mr. Denton and Gawker failed to produce the Inter-Company Development Agreement between Kinja and Gawker, and any similar agreement(s) relating to the loaning out of one company's employees to the other company, as well as the Royalty Agreement between Kinja and Gawker, which provides the basis for Gawker transferring a large percentage of its profits to Kinja each year. They have also failed to produce copies of documents sufficient to establish how the "royalty payment" from Gawker to Kinja is calculated each year, and the services provided in exchange. Mr. Bollea is entitled to these agreements and documents to assist in the valuation of Gawker and GMGI.
14. **Denton's Loans/Investments:** Mr. Denton failed to produce any documents evidencing loans to or investments made by Mr. Denton in GMGI, Gawker, or Kinja. Mr. Denton testified that such documents exist.
15. **International licensing agreements:** The only source of revenue for the Gawker entities, aside from the revenue generated by Gawker, is from international licensing agreements. These Licensing Agreements between Kinja and other companies for

international licensing of Gawker content and/or Kinja intellectual property have not been produced.

16. **Monthly financial reports to SVB:** Mr. Kidder confirmed at his deposition that Gawker is required to provide monthly financial reports to SVB, under the terms and conditions of covenants in the contracts governing Gawker's line of credit and notes. These monthly financial reports prepared by Mr. Kidder and provided to SVB were not produced.

17. **Documents associated with a GMGI "stock split" in 2013:** were not produced.

18. **Gawker Stock Option Plan:** was not produced.

19. **Capitalization tables:** Only one "capitalization table" or "cap table" for GMGI was produced. Mr. Bollea is entitled to cap tables for Gawker, GMGI and Kinja, from 2011 through the present to trace the ownership of the companies.

20. **Board meeting minutes:** Mr. Bollea is entitled to all board meeting minutes reflecting the discussion of Gawker, Kinja or GMGI's financial condition, loans, stock prices, royalty payments, offers to buy GMGI or any interest therein, debt financing, and valuations of GMGI, Gawker and/or Kinja during 2014–2015.

21. **Gawker and GMGI's state and local income tax returns:** were not produced.

22. **Denton's prenuptial agreement:** Mr. Denton did not produce his prenuptial agreement, including any financial disclosures by Mr. Denton associated with it. Under New York law, Mr. Denton was required to disclose his net worth in connection with this agreement. *See McKenna v. McKenna*, 994 N.Y.S.2d 381, 383 (A.D. 2014). Mr. Bollea is entitled to these recent disclosures.

23. **Denton's Citibank international account statements:** Mr. Denton failed to produce copies of statements from 2012 to the present for his Citibank international account, which is listed on Mr. Denton's 2011 tax returns.

24. **Denton's Fidelity investment accounts:** Mr. Denton failed to produce statements from 2012 to the present for all of his Fidelity investment accounts. These accounts generated over \$11,000 in interest in a calendar year, and clearly contained significant amounts of money.

25. **Denton's New York apartment insurance policies:** Mr. Denton failed to produce copies of insurance policies associated with his New York apartment, as well as a detailed description of, and values for the contents of, the apartment. Although Mr. Denton testified otherwise during his deposition, his mortgage requires him to maintain this insurance.

26. **Mr. Denton's 2013 W-2 forms:** were not all produced.

27. **Denton's U.S. treasury bonds statements:** Mr. Denton did not produce statements for his account that contained \$440,000 in U.S. treasury bonds and other

unspecified securities which he sold in or about 2012, or any documents demonstrating how this money was used.

28. **Denton's Bank of Scotland account:** Mr. Denton failed to produce any statements during the period 2012 to the present for a Bank of Scotland account about which he testified at deposition.

29. **Denton's Citigold accounts:** Mr. Denton did not produce statements for his three Citigold accounts in London for the period 2012 to the present. At least one of these accounts contained more than \$100,000.

30. **The transaction details from Mr. Denton's Chase bank account:** were redacted.

31. **Detailed monthly statements for Defendants' financial accounts:** Mr. Denton, Mr. Daulerio, Gawker, GMGI and Kinja all failed to produce detailed monthly statements for all of their financial accounts, including details of all deposits, credits, transfers, debits, withdrawals and checks. The details on the year-end statements that were produced are insufficient to determine the Gawker Defendants' respective net worth.

32. **Denton's irrevocable family trust documents:** Mr. Denton testified that he has placed an amount of shares that equal (according to the sole cap table produced by Gawker) over 20% of the total value of GMGI into an irrevocable family trust run by a member of his immediate family, but over which he claims to have no control. Mr. Bollea is entitled to documents from which he can ascertain whether, in fact, these shares can no longer be considered a part of Mr. Denton's net worth. Such documents include the trust documents, as well as those that clearly identify the grantor, trustees, beneficiaries and terms of the trust, as well as what shareholder voting rights belong to the family trust. Mr. Bollea is further entitled to documents that evidence the consideration originally paid for the shares placed in trust, the date of creation of the trust, and the date that these shares of GMGI belonging to Mr. Denton were deposited into the trust.

33. **Statements for Kinja's financial accounts in Hungary:** were not produced.

34. **Reports and notes of pitch meetings and meetings held with prospective purchasers or financiers who sought to buy Gawker or GMGI or a portion thereof:** were not produced. Mr. Denton testified that at least two of these meetings took place, and the value of GMGI was discussed in at least one of the meetings. These documents should include, but are not limited to, all documents associated with the meeting held last year at which an offer was made to purchase GMGI. These documents should also include, but are not limited to, all documents associated with the presentations YAC provided to two potential "investors" in connection with efforts to obtain debt financing for Gawker. They should also include the presentation itself (*i.e.*, Powerpoint), and any investor information materials or offering documents. Gawker Defendants also should be required to provide Mr. Bollea with the names of the potential "investors" and the Media Company that made the offer to purchase GMGI last year (which Mr. Denton refused to disclose during his deposition).

All of this information is discoverable. In *Tennant v. Charlton*, 377 So.2d 1169, 1170 (Fla. 1979), the Florida Supreme Court quoted with approval the opinion in *Donahue v. Hebert*, 355 So.2d 1264, 1265 (Fla. 4th DCA 1978), on the proper scope of net worth discovery: “The search for forgotten or hidden assets is of the essence of the discovery process. The whereabouts of assets disclosed by a recent income tax return, or shown on a recent financial statement furnished in another situation when the current litigation was not envisioned is very definitely appropriate inquiry as is the bona fides of the recent disposition of assets. These are routine inquiries for every knowledgeable trial lawyer in cases in which the financial resources of a party is a relevant issue. One must be afforded reasonable latitude in double and cross checking a party's statements about his current net worth. This, of course, can be done by reviewing income tax returns, recent financial statements, and the myriad of other sources of financial information.”

Mr. Bollea is entitled to information that allows him to determine Gawker Defendants’ net worth. In the case of Gawker, that includes projections of future revenue (which could affect the value of the company), and financial information provided to potential financiers and professionals engaged to value the company, as well as tax return information. In the case of Mr. Denton, it includes financial information provided to mortgage lenders, bank account information, and information regarding the value of the companies in which he holds stock. This also includes the value of GMGI and its subsidiaries, as Mr. Denton’s shares in that company are by far the most valuable single asset he holds. As such, this especially includes information regarding the family trust into which Mr. Denton has testified that he has transferred a significant portion of his main assets – his shares in GMGI. Mr. Bollea is not required to rely on Gawker Defendants’ representations as to what any of these assets are worth (and whether they are in the

possession of the Gawker Defendants)—under *Tennant* and *Donahue*, he is entitled to test and verify Gawker Defendants’ assertions.

For the foregoing reasons, the motion to compel should be granted. Moreover, because Gawker Defendants failed to produce documents within their possession, custody and control to which Mr. Bollea is clearly entitled, Gawker Defendants should be required to appear for the completion of their financial worth depositions once they have provided full and complete financial worth discovery. Mr. Bollea also respectfully requests that the Court consider ordering these depositions to take place in Pinellas County, Florida, so that he is not be forced to pay the cost and expense of traveling to New York again to complete these depositions. Alternatively, Mr. Bollea respectfully requests the Court consider requiring Gawker Defendants to pay for the costs associated with travel, including attorney time, incurred in completing these depositions.

Respectfully submitted,

/s/ Kenneth G. Turkel

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by E-Mail via the e-portal system this 22nd day of June, 2015 to the following:

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/s/ Kenneth G. Turkel

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Exhibit 5

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA

TERRY GENE BOLLEA professionally
known as HULK HOGAN,

Case No. 12012447CI-011

Plaintiff,

vs.

HEATHER CLEM, et al.,

Defendants.

**ORDER REGARDING PLAINTIFF TERRY BOLLEA'S MOTION TO COMPEL
FURTHER FINANCIAL WORTH DISCOVERY AND DEPOSITIONS**

This cause came before the Court on June 29, 2015, on Plaintiff Terry Bollea's "Motion to Compel Full and Complete Financial Worth Discovery and Additional Financial Worth Depositions" (the "Motion"). The Court has reviewed the Court file, reviewed and considered the Motion and response papers, heard argument of counsel, and is otherwise fully advised.

IT IS ORDERED AND ADJUDGED, that the portion of the Motion seeking additional financial worth document discovery is GRANTED IN PART AND DENIED IN PART, as follows:

- **Request No. 1 ("Written valuation(s) of Gawker-affiliated companies"):** Request denied. Gawker shall provide written verification that no additional valuations of the companies exist, except The Brenner Group valuations.
- **Request No. 2 ("Written future financial projections"):** Request denied.
- **Request No. 3 ("Financial Information Provided to The Brenner Group"):** Request denied.
- **Second Request No. 3 ("GMGI's tax returns"):** Gawker shall provide written verification that GMGI does not file tax returns.
- **Request Nos. 4 and 33 ("Kinja's and GMGI's bank statements" and "statements for Kinja's financial accounts in Hungary):** Requests granted

in part and denied in part. Gawker shall provide 2015 bank statements for GMGI and Kinja.

- **Request No. 5 (“Kinja’s tax returns”):** Request denied.
- **Request No. 6 (“Denton’s financial information sent to JP Morgan”):** Request denied.
- **Request Nos. 7, 8, 23, 29 (additional bank account statements for Nick Denton):** Requests granted in part and denied in part. Mr. Denton shall provide account statements for each of the bank accounts identified in plaintiffs’ requests for December 2011, December 2012, December 2013, December 2014, and May 2015.
- **Request Nos. 9, 13 (governing documents and inter-company agreements):** Requests granted.
- **Request No. 10 (“Gawker, GMGI, and/or Kinja insurance policies”):** Request denied.
- **Request No. 11 (“Silicon Valley Bank construction loan documents”):** Request granted in part and denied in part. Gawker Media, LLC shall produce its loan application for the June 2015 construction loan it obtained from Silicon Valley Bank.
- **Request No. 12 (“Financial disclosures re: 114 Fifth Avenue lease”):** Request denied, except that Gawker shall provide a written verification that the financial disclosures Gawker Media, LLC made to its landlord for 114 Fifth Avenue are the same as those which have already been produced in this litigation.
- **Request No. 14 (Nick Denton’s loans or investments in GMGI, Gawker and/or Kinja):** Request denied.
- **Request No. 15 (“International licensing agreements”):** This request was withdrawn by the plaintiff.
- **Request No. 16 (“Monthly financial reports to SVB”):** Request granted in part and denied in part. Gawker Media, LLC shall produce the monthly financial reports it has submitted to Silicon Valley Bank in 2015.
- **Request Nos. 17, 18 (documents regarding GMGI’s stock split and the Gawker stock option plan):** Requests granted.
- **Request No. 19 (historical capitalization tables for GMGI, Gawker, and Kinja):** Request denied, except that Gawker shall arrange to have GMGI

provide a written verification that the GMGI capitalization table previously produced in this litigation is the most recent version.

- **Request No. 20 (board meeting minutes reflecting discussion of Gawker, Kinja, or GMGI's financial condition during 2014-2015):** This request was withdrawn by plaintiff.
- **Request No. 21 ("Gawker and GMGI's state and local income tax returns"):** Request denied, except that Gawker Defendants shall provide a written verification that Gawker Media, LLC's state and local tax returns for 2011-2013 reflect the same income and expense information that appears on its federal returns.
- **Request No. 22 ("Denton's prenuptial agreement"):** Request denied.
- **Request No. 24 ("Denton's Fidelity investment accounts"):** Request granted.
- **Request No. 25 ("Denton's New York apartment insurance policies"):** Mr. Denton shall provide a verification that he does not maintain insurance on his Manhattan condominium, other than the insurance provided to all tenants by the condominium association.
- **Request No. 26 ("Mr. Denton's 2013 W2 forms"):** This request was withdrawn by the plaintiff.
- **Request No. 27 ("Denton's U.S. treasury bonds statement"):** Request granted.
- **Request Nos. 30, 31 (transaction details for bank statements and every monthly statement for each account since 2011):** Requests denied.
- **Request No. 32 ("Denton's irrevocable family trust documents"):** Request granted.
- **Request No. 34 ("Reports and notes of pitch meetings and meeting held with prospective purchasers or financiers who sought to buy Gawker or GMGI or a portion thereof"):** Request granted in part and denied in part. Gawker shall provide presentation materials used in any pitch meetings and/or any other meetings held with prospective purchasers or financiers.

IT IS FURTHER ORDER AND ADJUDGED that, by agreement of the parties, Gawker shall produce the materials ordered produced within seven days of the entry of this Order.

IT IS FURTHER ORDERED AND ADJUDGED that plaintiff's request for additional financial worth depositions is DENIED.

DONE AND ORDERED in Chambers at Pinellas County, Florida this ____ day of _____, 2015.

Pamela A.M. Campbell
Circuit Court Judge

Copies furnished to Counsel of Record

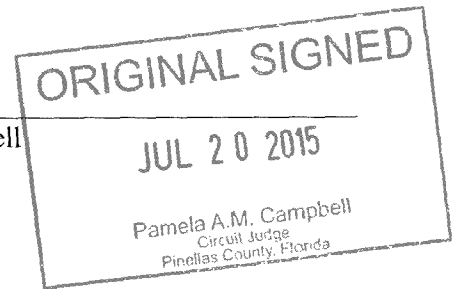


Exhibit 6

Item #	Date	To	From	CC	Subject	Privilege Type
1	3/21/2012	Gaby Darbyshire <Gaby@gawker.com>	Nicholas Soivilien		Re: Copyrighted Images of Moss	STL
2	3/10/2014	Ryan Brown <ryan@gawker.com>	Jamie Melendez <jamie@gawker.com>	Legal <legal@gawker.com>	Re: Copy right infringement.	AC, WP
3	3/10/2014	Heather Dietrick <hdietrick@gawker.com>	Jamie Melendez <jamie@gawker.com>		Fwd: Copy right infringement.	AC, WP
4	5/13/2013	Heather Dietrick <hdietrick@gawker.com>	Jesse Ma <jesse@gawker.com>		Fwd: Pageviews on the Rubino post/Seidman photo	AC, WP
5	5/13/2013	Heather Dietrick <hdietrick@gawker.com>	Jesse Ma <jesse@gawker.com>	Charlie Jane Anders <charliejane@io9.com>; Annalee Newitz <annalee@io9.com>	Fwd: C&D	AC, WP
6	3/6/2014	John Cook <john@gawker.com>	Jamie Melendez <jamie@gawker.com>	Legal <legal@gawker.com>	Re: Unauthorized photo usage	AC, WP
7	3/6/2014	John Cook <john@gawker.com>	Jamie Melendez <jamie@gawker.com>	Legal <legal@gawker.com>	Re: Unauthorized photo usage	AC, WP
8	3/6/2014	Jamie Melendez <jamie@gawker.com>	John Cook <john@gawker.com>	Legal <legal@gawker.com>	Re: Unauthorized photo usage	AC, WP
9	3/6/2014	John Cook <john@gawker.com>	Jamie Melendez <jamie@gawker.com>	Legal <legal@gawker.com>	Re: Unauthorized photo usage	AC, WP
10	3/6/2014	John Cook <john@gawker.com>	skidder@gmail.com <skidder@gmail.com>	Jamie Melendez <jamie@gawker.com>; Legal <legal@gawker.com>	Re: Unauthorized photo usage	AC, WP
11	3/6/2014	John Cook <john@gawker.com>	skidder@gmail.com <skidder@gmail.com>	Jamie Melendez <jamie@gawker.com>; Legal <legal@gawker.com>	Re: Unauthorized photo usage	AC, WP
12	3/6/2014	legal@gawker.com <legal@gawker.com>	skidder@gmail.com <skidder@gmail.com>		Fwd: Unauthorized photo usage	AC, WP
13	3/6/2014	Scott Kidder <scott@gawker.com>	Jamie Melendez <jamie@gawker.com>	legal@gawker.com <legal@gawker.com>	Re: Unauthorized photo usage	AC, WP
14	3/6/2014	Jamie Melendez <jamie@gawker.com>	Heather Dietrick <hdietrick@gawker.com>		Re: Unauthorized photo usage	AC, WP
15	3/6/2014	Scott Kidder <scott@gawker.com>	Heather Dietrick <hdietrick@gawker.com>	legal@gawker.com <legal@gawker.com>	Re: Unauthorized photo usage	AC, WP
16	3/6/2014	Heather Dietrick <hdietrick@gawker.com>	johnnduncan@gawker.com <johnnduncan@gawker.com>	Scott Kidder <scott@gawker.com>; legal@gawker.com <legal@gawker.com>	Re: Unauthorized photo usage	AC, WP

3/28/2014

CONFIDENTIAL

2532	11/20/2013	Neetzan Zimmerman <neetzan@gawker.com>; Legal <legal@gawker.com>	Jesse Ma <jesse@gawker.com>			
2533	undated	Gawker Media, LLC	John Duncan		Tornado Photos Summary Structural Outline	AC, WP AC
2534	12/11/2011	Gawker Media, LLC	Mayer Brown LLP		Economic Analysis	AC

Exhibit 7



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September 11, 2015

VIA EMAIL

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Washington, DC 20036

Gregg D. Thomas, Esq
Rachel E. Fugate, Esq
Thomas & LoCicero PL
601 S. Boulevard
Tampa, Florida 33606

Re: **Terry Gene Bollea v. Heather Clem, Gawker Media LLC, et al**
Circuit Court of the Sixth Judicial Council in and for Pinellas County,
Florida Case Number 12012447CI-011

Dear Seth:

This letter concerns the financial worth discovery conducted by Mr. Bollea pursuant to the Court's July 20, 2015 Order compelling production of documents. Such discovery remains incomplete, and we write in the hopes of informally resolving the issue and avoiding a motion.

Missing trust documents. Gawker and Mr. Denton are in violation of the Court's July 20, 2015 Order requiring that they turn over all documents relating to his family trust which would show the extent of his control over that trust, including trust documents, documents that show the grantor, trustees, beneficiaries, and terms of the trust, shareholder voting rights, and documents evidencing the consideration originally paid for the shares, date of creation of the trust, and date shares in GMGI belonging to Mr. Denton were deposited into the trust. All of these documents were clearly requested in Mr. Bollea's motion to compel, and Mr. Bollea's motion was granted in full. However, no such documents were produced and Mr. Denton contends in his Affidavit that he "do[es] not have the documents memorializing the trust" The requested documents, however, go beyond those that merely memorialize the trust. Moreover, any documents within the possession of Mr. Denton's counsel (who presumably do possess copies of a trust created at the behest of Mr. Denton), or anyone else who can readily make the documents available to Mr. Denton upon his request, are clearly within Mr. Denton's custody and control and should be produced. Without these documents, it is impossible to fully test the veracity of Mr. Denton's claim that he does not control the shares in the trust and thus that his shares in GMGI (by far his largest asset) are not subject to a control premium.

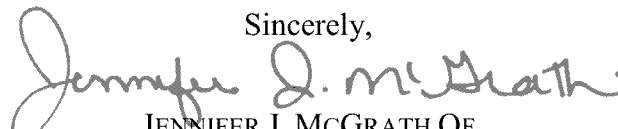
Missing account statements. Mr. Denton's 2012 tax return shows a London CitiGold account, number 0000499375, with a maximum value during the year of over \$100,000. No statements from this account were produced, in violation of the court's July 20 order. Please produce statements from this account consistent with the terms of the Court's order (i.e., for December 2011, December 2012, December 2013, December 2014, and May 2015).

Additionally, in violation of the Court's July 20 order, the production is missing statements for December 2011, 2012, and 2013 for CitiGold account number 0080708432, and December 2011, 2012, 2013, and 2014 for CitiGold account number 0083411244, both of which are listed on the 2012 tax return. Please produce these statements as required by the Court's order.

Transfer pricing studies. Gawker has previously denied the existence of any transfer pricing studies, in its response to the Fifth Set of Document Demands (e.g., Response to Request 140: "subject to Gawker's understanding of the term 'transfer pricing studies', Gawker states that it has no non-privileged documents responsive to this Request"). However, the Gawker-Kinja license agreement [page GAWKER28910_C] recites the existence of such a study dated December 12, 2011, which allegedly formed the basis of the compensation paid to Kinja pursuant to the license agreement. This document should have been produced in response to numerous document demands served during merits discovery, as well as during net worth discovery. Please produce it forthwith.

Latest statement for each account. Mr. Bollea wishes to establish Mr. Denton's net worth as close to the time as trial as possible. The Court's order attempted to deal with this by requiring production of the latest statement (at the time May 2015) from each account held by Mr. Denton. However, with the trial continuance, Mr. Bollea now requires the latest account statement from each account so as to update the valuation. Please produce such statements.

Please provide written confirmation no later than the close of business on September 15, 2015 that these documents will be produced forthwith. Otherwise, Mr. Bollea will be forced to again move to compel and to seek sanctions for Gawker's noncompliance with the July 20 court order. If you have any questions, please contact me.

Sincerely,

JENNIFER J. MCGRATH OF
HARDER MIRELL & ABRAMS LLP

cc: Charles J. Harder, Esq.
Ken Turkel, Esq.
Shane Vogt, Esq.

September 17, 2015

VIA ELECTRONIC MAIL

Jennifer J. McGrath, Esq.
Harder Mirell & Abrams LLP
132 S. Rodeo Drive, Suite 301
Beverly Hills, CA 90212

Re: *Bollea v. Clem, Gawker Media, LLC, et al.*,
No. 12012447-CI-011 (Fla. Cir. Ct.)
Objections to Financial Worth Discovery

Dear Jennifer:

I write in response to your letter sent on Friday evening, September 11, 2015 regarding financial worth discovery.

Before turning to the substance of your letter, I feel constrained to renew my objection to your firm's repeated practice of waiting until Friday evenings or Jewish holidays to file motions or send correspondence demanding an immediate response. In this instance, your letter was sent after hours on a Friday evening and demanded a response within two business days, despite the fact that those two days were Rosh Hashanah (the first of which is also a court holiday). This was also unnecessary: your letter relates to discovery responses served some six weeks ago in connection with a trial that is not for six months.

Turning to the substance of your letter:

Trust Documents. As Mr. Denton explained, under oath at his deposition and in a sworn affidavit, neither Gawker nor he has possession, custody or control of the trust documents you seek. Neither is a party to the trust agreement – neither is the grantor of the shares in the trust, the beneficiary of the trust, or the trustee. I also feel constrained to note that your letter demands all manner of documents that were not included in either the document request at issue or the Court's order, although that is largely academic in light of the foregoing.

Mr. Denton's Account Statements. Mr. Denton has provided all the required account records that he has or has access to. As both he and we have explained, the few additional statements you seek relate to long-closed accounts for which he no longer has copies or access to obtain copies. Your continued insistence that he somehow locate years-old bank statements for long-dormant accounts is entirely unreasonable. Mr. Denton has readily conceded that he is

Jennifer J. McGrath, Esq.
September 17, 2015
Page 2

worth tens of millions of dollars, so continuing to seek records for closed accounts that once held much more modest sums that are not material to his current financial worth serves no valid purpose in connection with presenting plaintiff's case on that issue.

Transfer Pricing Studies. Gawker again confirms its response to RFP No. 140 that it has no non-privileged documents responsive to this Request.

Latest Statement for Each Account. Mr. Denton will provide, by February 15, 2016, the account statements for his active accounts for the period ending January 30, 2016.

Although you have repeatedly declined our invitations to discuss such matters informally, I am willing to meet and confer about the above at a mutually-convenient time. In that regard, and consistent with my comments above, please note that I will be out of the office on Tuesday and Wednesday, September 22 and 23 in observance of Yom Kippur. Thank you.

Sincerely,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By: 

Seth D. Berlin

cc: Other counsel of record



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September 17, 2015

VIA EMAIL

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Thomas & LoCicero PL
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Re: **Terry Gene Bollea v. Heather Clem, Gawker Media, LLC, et al**
Circuit Court of the Sixth Judicial Council in and for Pinellas County, Florida
Case Number 12012447CI-011

Dear Seth:

I write in response to your letter dated September 17, 2015.

First, we reject your claim that we are imposing unreasonable time periods to respond to correspondence. Presumably, you were already aware of Gawker's positions with respect to all the matters raised in my letter; therefore, it was certainly reasonable to seek a response within four days of receipt of my letter. (In any event, if you needed a bit of extra time to respond due to your being out of the office, you could have easily requested it as a matter of professional courtesy.)

Second, the fact that the trial date is in March does not mean that discovery must be delayed and pushed up against the trial date. In fact, this discovery was first ordered in May, and it is now September and Mr. Bollea still does not have relevant documents on the net worth issue.

Third, on the merits of the enumerated discovery issues, we respond as follows:

Trust Documents. Gawker and Denton are relying on an over-narrow definition of "control". We highly doubt that Denton cannot obtain documents relating to his family trust, a trust that has a substantial interest in a multi-million dollar corporation which comprises the bulk of his net worth. Defendants have asserted dubiously narrow definitions of "control" in the past in this litigation (with respect to Kinja documents), and the Court rejected them. The Court has already ordered the production of these documents over Gawker's and Denton's objections, and unless your clients agree to comply with this order, we intend to obtain an order that specifically

September 17, 2015

S. Berlin

Page 2

requires production of documents that Gawker or Denton can obtain from the trust or the trust's lawyers.

Further, the language in my letter regarding the scope of the request is taken directly from Mr. Bollea's motion papers; the Court granted Mr. Bollea's motion on this issue in its July 20 order.

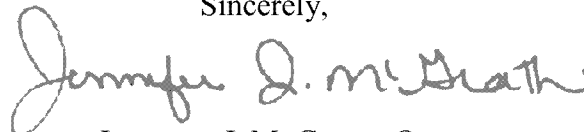
Mr. Denton's Account Statements. If Mr. Denton will provide a verified statement under oath that the accounts at issue no longer exist or have zero balances, we will not pursue our motion to compel in reliance on that representation.

Transfer Pricing Studies. Your response on this issue is completely at odds with the relevant documentation. The agreement between Gawker and Kinja specifically recites that such a study was done, which it specifically identifies, and further recites that the study was relied on in determining the terms of the agreement. Thus, your claim that no such transfer pricing study exists would mean that Gawker and Kinja made a false representation as a part of a document that resulted in the shipping of millions of dollars every year out of Gawker's accounts and into Hungary where it can be secreted from creditors and taxation authorities. In short, your claim strains credibility, but if it is in fact true, it has serious implications for whether the transfers to Kinja were fraudulent and those funds should be considered a part of Gawker's net worth (as well as for proceedings supplementary which may occur to recover those moneys after a judgment is entered). If, in fact, a transfer pricing study was done as Gawker and Kinja stated in their agreement, please reconsider your position and produce it immediately.

Latest Statement for Each Account. In reliance on your representation that Mr. Denton will provide the statements for all active accounts for the period ending January 30, 2016, no later than February 15, 2016, Mr. Bollea will not move to compel production of these statements at this time.

If you wish to discuss any of these matters, please write or call me no later than the close of business September 21, 2015. If we do not resolve these matters, we will be forced to move to compel and to seek monetary sanctions.

Sincerely,



JENNIFER J. MCGRATH OF
HARDER MIRELL & ABRAMS LLP

cc: Ken Turkel, Esq. (via email)
Shane Vogt, Esq. (via email)
David Houston, Esq. (via email)

September 21, 2015

VIA ELECTRONIC MAIL

Jennifer J. McGrath, Esq.
Harder Mirell & Abrams LLP
132 S. Rodeo Drive, Suite 301
Beverly Hills, CA 90212

Re: *Bollea v. Clem, Gawker Media, LLC, et al.*,
No. 12012447-CI-011 (Fla. Cir. Ct.)
Objections to Financial Worth Discovery

Dear Jennifer:

I write in response to your letter sent last Thursday night. To respond to your substantive questions:

1. **Transfer pricing study.** Gawker has never contended that there was no such study. Rather, it has explained that it has no *non-privileged* responsive documents. The study, which was prepared by the law firm Mayer Brown, LLP, was included on the privilege log produced by Gawker on March 28, 2014, and Mr. Kidder referenced it, as a privileged document, at his second deposition (April 14, 2015) at pages 144-151.
2. **Trust documents.** As we and Mr. Denton have explained repeatedly: Mr. Denton is not the grantor of the trust (his father transferred the shares into the trust), he is not the beneficiary of the trust (his niece and nephews are), and he is not the trustee (his sister is). Mr. Denton has no control over the trust, nor does he possess or control the trust documents. *See, e.g.*, Denton Dep. Tr. (June 16, 2015) at 152:9 – 165:9. Although we think it would be illogical to argue that Mr. Denton’s net worth includes shares of GMGI that are in a trust with shares granted by his father, controlled by his sister, and benefiting his niece and nephews, plaintiff remains free to make this non-sensical argument to the jury at trial, if the Court permits it.
3. **Bank accounts.** We believe that Mr. Denton has already testified that the accounts you reference are closed or dormant and have zero balance. *See, e.g.*, Denton Dep. Tr. (June 16, 2015) at 30:15 – 31:3; 37:10-18; 49:21 – 50:14; 104:5-8. Nevertheless, in an effort to avoid further debate or litigation over this non-issue, he will provide a further affidavit confirming this fact.

Jennifer J. McGrath, Esq.

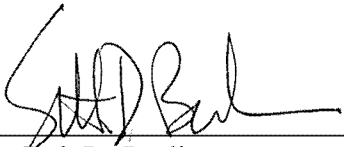
September 21, 2015

Page 2

As you know, I will be out of the office tomorrow and Wednesday in observance of Yom Kippur. But I should generally be available on Thursday or Friday to discuss the foregoing. Thank you.

Sincerely,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By: 
Seth D. Berlin

cc: Other counsel of record

Exhibit 8



Andrew Harrer/Bloomberg/Getty

EMPEROR



*Lloyd
Grove*

The Gospel According to Nick Denton—What Next For The Gawker Founder?

In a candid interview, the media entrepreneur talks about the future of Gawker, staff changes, The New Republic, and the life-changing importance of coming out.

Internet media entrepreneur Nick Denton is a person to whom harsh judgments adhere like barnacles.

“There’s no point in writing about Nick if you can’t get to the fundamental

problem of his nihilism,” former employee Moe Tkacik once told *The New Yorker* about her boss.

“Other people’s emotions are alien to him,” another Denton underling, Choire Sicha, said in the same article.

“I think he’s a total dick,” TechCrunch founder Michael Arrington told me back in 2008. “I think he’s amoral. I don’t think he has any sense of right and wrong, and he’ll do anything he can to make money and have a successful blog.”

Yet the Nick Denton who greets me at the Nolita headquarters of Gawker Media—the Manhattan startup he founded on a shoestring, but which has grown 12 years later into a \$40 million-a-year company with some 300 employees on five continents—would seem to bear little resemblance to the greedy sociopath of common caricature.

“I’m a constructive person,” he insists. “I like to build things. I’m a sand castle-building kid who can’t understand why other boys would want to kick the castle down. I hate internal disputes and internal dissention and I will make every effort to eliminate that.”

Never mind that Gawker.com, Denton’s original gossip blog, sharpened its teeth on internal disputes, the mockery of the Manhattan media elite, and the kicking-down of castles—an entertainingly brutish sensibility fueled by understandable resentment, given that Denton barely paid his young charges and worked them half to death.

(Back when I wrote a column for the New York *Daily News*, I was a frequent Gawker target; after I lost that job, Gawker reported—not inaccurately—that I “might pass unnoticed, appearing to be any number of undistinguished and fleshy middle-aged white men.” Denton, laughing, says today: “That seems relatively generous.”)

Denton, who speaks in the clipped cadence of the Oxford-educated Brit he is, has built quite a castle. The Gawker Media empire consists of eight blogs boasting 125 million unique visitors per month and devoted to sports (*Deadspin*), automobiles (*Jalopnik*), science fiction (*io9*), video games (*Kotaku*), design and technology (*Gizmodo*), user-friendly software (*Lifhacker*), and women’s interests (*Jezebel*).

Denton talks excitedly of his plans to move Gawker Media's headquarters next year to a luxuriously renovated building on Fifth Avenue and 17th Street in Manhattan's Flatiron neighborhood, complete with a two-story entertainment and event venue.

"I came out completely to everybody 16 years ago. It changes the climate, it changes the weather, it changes the entire environment."

He has signed a long-term lease for three 19,000-square-foot floors, with plans to defray the enormous rent (around \$4.5 million a year) by subletting one of the floors to another company.

"We'll actually be in the same building as First Look," Denton says gleefully, referring to eBay billionaire Pierre Omidyar's troubled media startup, which has been riven by staff shakeups, internal bickering, and firings.

"Right now I'm rather afraid that First Look is going to be a small huddle of people in this vast, cavernous space," Denton adds, not bothering to suppress

a giggle. "That's a major part of Omidyar's \$250 million—it's a significant chunk of real estate. He's going to have a hard time. The market is cruel."

Personally and through a family trust, Denton says he owns 68 percent of his privately-held, Cayman Islands-registered company that press reports have valued in the neighborhood of \$300 million, though Denton says, "On the open market, if it were for sale—which it isn't—it's more like \$200 million."

At this point in his life, Denton has enough filthy lucre in his bank account to affect a certain lack of interest in the stuff. "This is not a 'money-making venture,'" he insists. "For me, I just like the activity, and the activity just happens to make money."

He scoffs at the suggestion that a large company—in much the same way that AOL purchased Arianna Huffington's services while swallowing up

the *Huffington Post* for \$315 million—could keep Denton on as Gawker’s leader who reports to upper management with the promise of a commensurately gigantic payday.

“How manageable do you think I am?” asks Denton, who, after a career as a working journalist for Britain’s *Telegraph* and *Financial Times*, serendipitously became a Web entrepreneur—and a millionaire—in the late 1990s with the sale of a party and event site called First Tuesday.

“I haven’t been managed for a long time,” he says. “I like the culture here. I like my colleagues. I couldn’t imagine a team of executives I would trust and enjoy working with like my colleagues here...I don’t think I could operate in one of those larger and more political organizations.”

Denton, who at 48 is something of a grand old man of the Web, sports his trademark gray stubble and a muted sweater the color of mushroom soup, as he holds forth in a glass-encased conference room (having evicted two of Gawker Media’s twenty-something Hungarian software developers in town from the Budapest office for an all hands meeting and a holiday party).

It’s the day after Denton announced—with a great deal more fanfare in *Capital New York* and the *New York Times* than perhaps the news deserved—that he’s giving up the title of president of his company but retaining the title of CEO.

It’s the sort of executive tweak that might warrant a business-section headline about a publicly traded media firm 500 times the size of Denton’s.

Yet in a 4,110-word communiqué—the *War and Peace* of corporate memos—he outlined a new management structure in which the famously domineering and decisive boss would now share power with six senior Gawker Media executives and run the company by consensus.

The memo—sprinkled with decidedly non-corporate words such as “douche” and “fucking”—copped to Denton’s own mistakes and those of others, notably the promotion and subsequent demotion of Gawker Media executive editor Joel Johnson, in a writing style that Denton calls “blunt—but calculatedly blunt.”

He doesn’t want to talk about Johnson, an old and possibly former friend who

Denton believes is angry at him—and Johnson didn't respond to an email from The Daily Beast. In his memo, Denton wrote, "I made a mistake in Editorial, hiring a talented guy whose voice and vibe I loved, who represented nerd values, and whom I thrust into a job which changed under his feet."

Denton indicated that the Gawker and Gizmodo sites under Johnson's leadership weren't making enough noise with well-reported scoops. "I didn't even think to warn that Gawker is always first about the story," Denton wrote. "I took that for granted. I was in so much of a hurry that I didn't even look at other candidates, a cardinal sin. I made a mistake, and I'm sorry to Joel, and I'm sorry to those to whom he is a friend."

Of course, the memo was mostly about Denton, who compared himself to a dead Chinese Communist leader "The fact is," Denton wrote, "that I would like to end my career as a behind-the-scenes powerbroker, a Deng Xiaoping of Gawker Media, exerting discreet influence through obscure committees. It's more my style." He hardly needed to add: "I'm a showman; I do like to make a splash."

In a wide-ranging conversation, Denton dished on competitors, shared his theories on the media business, discussed his pragmatic political views tempered by his pro-life position on abortion rights, confided his hopes to become a parent since his marriage in May to actor Derrence Washington, and explained how coming out as gay 16 years ago has informed his thinking about crisis public relations.

*On the public hammering being administered to Facebook billionaire and *New Republic* owner Chris Hughes in the wake of last week's defenestration of longtime *TNR* editors Franklin Foer and Leon Wieseltier and the mass exodus of nearly all of the others: "Media executives like Chris Hughes—I don't know whether you'd call Chris Hughes an 'executive'—*people* like Chris Hughes have to remember that before any of the HR rules, you need to remember the number one rule of PR, which is: Get ahead of the story. You have to make sure that your version of the story is ready. You have to talk to your people before they hear from other people and you have to publish before other people publish. A reactive management memo after a story already leaps out—that's just a mistake. That's bad practice."

*On how Denton acquired his crisis management insights: “It’s partly to do with being out and being gay, and seeing the transformation that takes place. I came out completely to everybody 16 years ago. When you realize that if you own your own story, if you say it yourself, it has a transformative effect, and you’re no longer a closeted homo waiting for that moment when somebody is going to call you out, and you actually take that initiative rather than being dragged out. It changes the climate, it changes the weather, it changes the entire environment.”

*On the person chosen to replace Frank Foer as *TNR*’s editor in chief, Gabriel Snyder, who worked for Denton in 2009 as Gawker’s top editor: He was “a poor one. He hired some good people, he worked really hard, but he didn’t have any story aggression.” (Snyder didn’t respond to emails from the *Daily Beast*.)

*On the recent flap in which a top executive of the Uber ride-sharing network suggested at a private New York dinner that it might be advisable to hire opposition researchers to investigate Uber critic Sarah Lacy, editor of the tech site *PandoDaily*: “That was such a nonsense scandal. What do you think these PR people, at least the good ones, are doing anyway? They’re dropping ideas for stories, and a good journalist is always looking for people to dish on competitors or dish on enemies—that’s where all the good information is.”

As for Lacy—who worked with Michael Arrington at *TechCrunch* when he was a frequent victim of Denton’s tech biz blog *Valleywag* (which these days is folded into Gawker.com)—“I think Arrington’s place has been taken by Sarah Lacy. In terms of somebody whose journalistic power has gone to their head, that makes her a perfect target for satire.”

Lacy retorts: “I’ve pretty much run out of things to say about Nick Denton’s obsession with my life. But I guess Uber’s [co-founder] Travis Kalanick will be happy to know there’s always a home for stories about me on Gawker.”

*On his abiding love for the United States: “I’m married to an American so I’m staying in America. I’m going to become a citizen, though I have to check out the tax consequences first.”

*On his political beliefs, although he doesn’t bother to vote: “My politics are that I like to get things done, so I am centrist and, for obvious reasons, I’m

socially liberal. I don't really believe that the government—or, in fact, any kind of hierarchical organization—is very good at delivering any kind of service.” As for his views on abortion, “There's no advantage to me of going there. I don't have conventional liberal views on abortion, no.”

*On the prospect of parenthood: “Probably yes.”

*On his philosophy of the digital media business: “The real secret of success is to avoid the herd. This is a new medium. It's developing pretty rapidly and there are relatively few people who understand it and have a real sense of how everything—mobile, personalization, desktop, interactive comments, blogging—how all these pieces are going to fit together. A lot of people who seem to know what they're talking about don't.

“And if you spend all your time reading Twitter and the Internet trades, you will veer this way and that, and you'll be latching on to the latest trends and spouting the latest buzzwords and talking about ‘millennials’ and ‘engagement’ and you'll lose sight of who you are and end up with soulless properties.”

*In defense of nihilism: “Some of our younger staff, particularly on a site like Gawker, can be a little nihilistic. I think with that generation, so many of their hopes have been so dashed that nihilism is really a natural response. Does the Internet make for a better world? Not really.

“The Internet has made for as much toxic discussion as it has for mutual understanding. And what were those other hopes? Oh right, Obama. That didn't really work out for people. And jobs aren't that plentiful and career paths aren't there. Even in journalism, the career path from blog to magazine to book to a comfortable life—that doesn't really exist.

“So, in the young Manhattan intelligentsia, nihilism is actually pretty standard. And one has to fight against that and create some haven for optimism. And that's really hard to do.”

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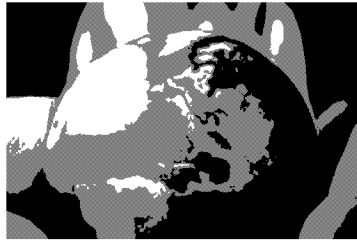
5 COMMENTS

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Exhibit 9

BUSINESS INSIDER

Gawker Media Generated \$45 Million In Net Revenue Last Year And It's Raising A \$15 Million Round Of Debt



ALYSON SHONTELL
JAN. 28, 2015, 7:47 AM

Nick Denton orders the shrimp linguine. He doesn't look at Balthazar's menu; the media mogul frequents the restaurant and everyone from the hostess to fellow diners knows who he is.

Denton personally owns just under 50% of Gawker Media, a company he founded and bootstrapped in the early 2000s, before Facebook was a semi-reliable traffic hose for publishers and banner ads generated meaningful revenue. Through a family trust, Denton owns 68% of the company. He says insiders own 90% of Gawker Media.



Nick Denton

Business Insider

The board currently consists of himself and Gawker's CTO Tom Plunkett, although Denton is looking to add three new, strategic faces to his table. Union Square Ventures' Fred Wilson was one person he considered as an advisor, although they haven't found a way to work together yet.

Aside from a casual conversation or two, Denton says he has never been tempted to sell his site, which is worth at least \$250 million based on the company's 2014 net revenue of \$45 million. But growing Gawker Media hasn't always been easy.

Denton admits that while his company's traffic increased 20% last year to almost 500 million monthly pageviews and 130 million unique visitors, Gawker wasn't producing its strongest content.

"Editorial traffic was lifted but often by viral stories that we would rather mock," Denton lamented in a recent company-wide memo. "We were nowhere on the Edward Snowden affair. We wrote nothing particularly memorable about NSA surveillance. Gadgets felt unexciting. Celebrity gossip was emptier than usual."

In a matter of months, Gawker's entire Valleywag editorial team turned over. Gizmodo, which was once a category leader in tech and gadget news, lost key writers and suffered from competition with other up-and-coming publications like The Verge. Annalee Newitz, who ran Gawker's tech blog iO9, was recently placed at the helm of a combined iO9 and Gizmodo entity to oversee a turn-around.

Earlier in 2014, Denton himself felt a little burnt out. He took a sabbatical following his May wedding. But he says he returned refreshed, with an action plan.

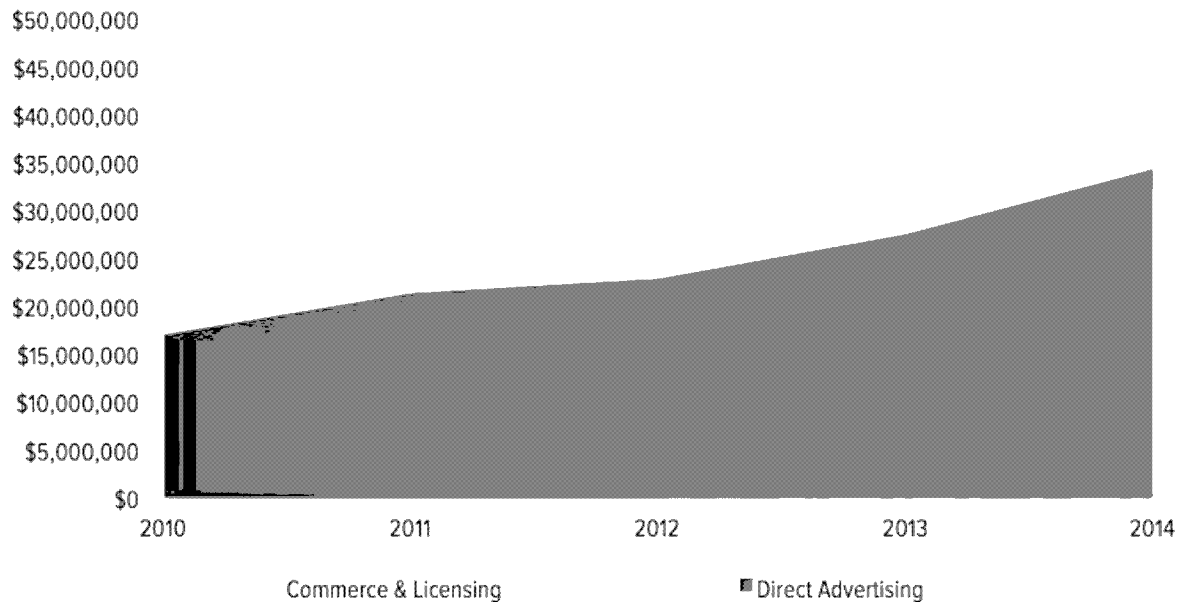
That action plan included promoting six of his staffers to managing partners; they now share Denton's role at the top of the organization. Heather Dietrick took over Denton's role as Gawker's President; Erin Pettigrew leads Strategy; Tommy Craggs is executive editor of all 8 Gawker websites, including Jezebel and Deadspin; Scott Kidder is COO; Andrew Gorenstein is President of Advertising; Tom Plunkett is CTO. Most business decisions between the seven leaders are now made in a massive group text messaging chain.

From a revenue perspective, things at Gawker have never been better. Even Gizmodo, which has stumbled, has played an integral role in the company's e-commerce efforts.

Last year, Gawker Media's gross e-commerce revenue exploded to \$100 million, netting it about \$10 million, paired with \$35 million in traditional advertising revenue. Gawker's e-commerce product, headed up by long-time employee Erin Pettigrew, primarily places affiliate links in articles about products that can be purchased on sites like Amazon. Skimlinks helps Gawker monetize this referral traffic.

Ryan Brown, Gawker's VP of Business Development, says Cyber Monday and Black Friday were "like the Super Bowl" for Gawker's commerce team, which spent months planning ways to promote the best holiday deals. This past Saturday, an Amazon Prime promotion Gawker ran generated 25,000 subscriptions.

Gawker Media Group Revenue Diversification, 2010-2014

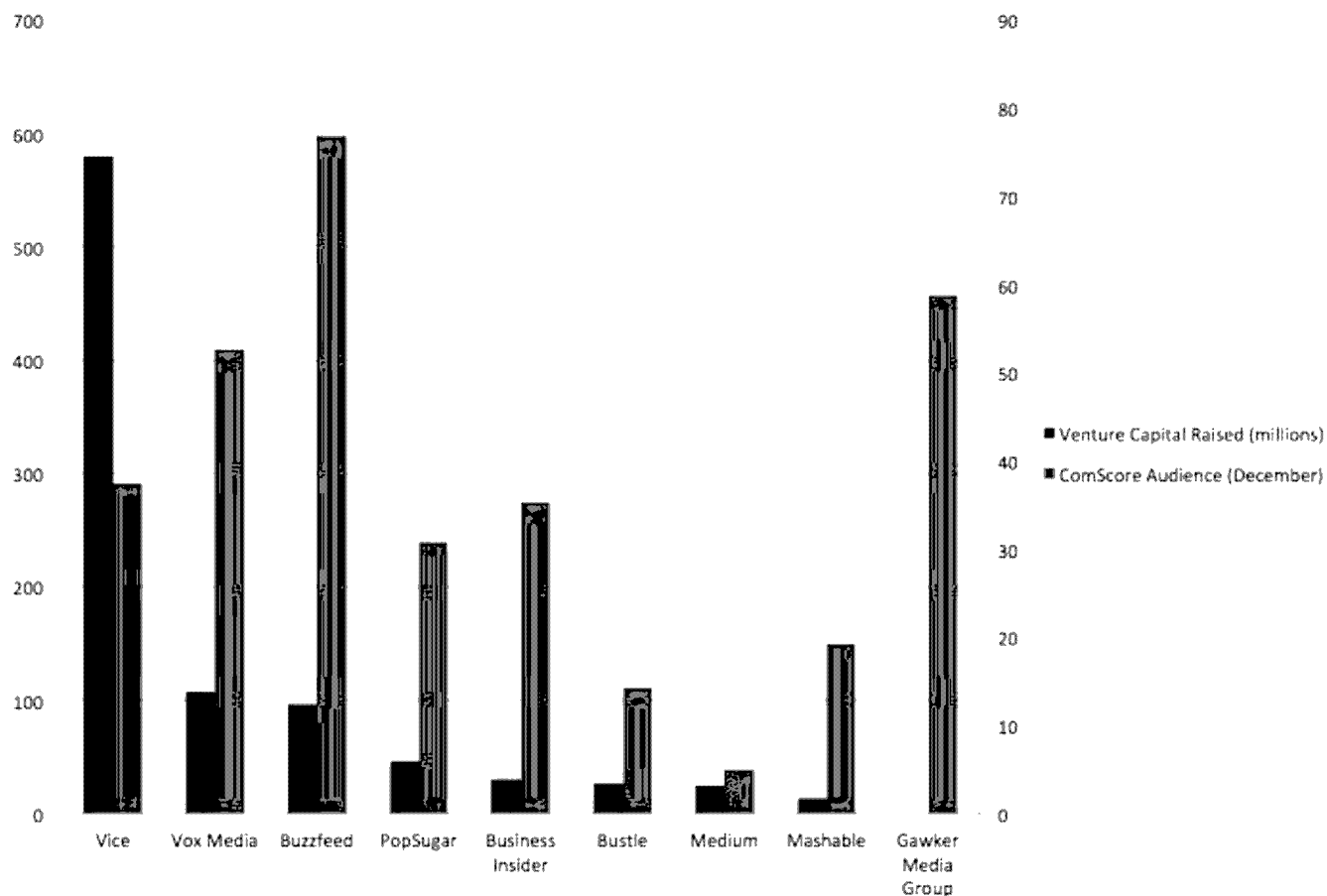


Gawker Media

Gawker's revenue over the past few years. E-commerce became meaningful during 2014.

Denton has never raised traditional capital from a venture firm or corporation, but his 2015 plan does include raising millions of dollars of debt from a few banks and funds. Denton says the amount will be "less than 10% of the company's open-value market of equity," likely \$15 million. And he promises Gawker will still be " beholden to no one."

"[The financing is] not particularly aggressive," says Denton. "We've been almost embarrassingly under-leveraged and conservatively run!" Young America Capital is leading the process.



Gawker Media

The cash will be used to further growth and continue transforming Gawker from a publisher into a platform like Twitter or Facebook.

"We will be the first online media company to create its own technology, rather than be reduced to a content provider subject to someone else's algorithm," Denton wrote in his memo.

Kinja, which turns every commenter into a blogger, was one innovative attempt to turn Gawker into a platform. This year, Denton is energized by the intersection of mobile messaging and media, and he is eager to figure out how Gawker can create sharable content for phones. He also wants to experiment with new ways to seed, test, and spread content online.

While 2014 was a year of growth for Gawker, Denton pledges that 2015 will be better.

"For a good 12 months from the summer of 2013 I was variously betrothed, distracted, obsessed by Kinja, off on honeymoon, off on sabbatical. I'm not sorry for that. For ten years, I've danced with this octopus," Denton wrote honestly to his staffers. "I have now a balanced team of partners whose capabilities are widely acknowledged. These are six people I can confide in. I am happy to share power with them. We will be candid with each other. The drift this year: it will never happen again."

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