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EXHIBIT “62”



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May 22, 2015

VIA ELECTRONIC MAIL

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

Dear Charles and Sarah:

This letter sets forth the objections of Gawker Media, LLC, Nick Denton, and A.J. Daulerio (collectively, the “Publisher Defendants”) to plaintiff’s financial worth discovery requests (the “Requests”).

As an initial matter, upon receiving the Requests, we attempted to arrange a call to discuss our concerns with you about their incredible breadth and volume, and to request that we work together to narrow them in a way that would, if necessary, give an accurate picture of the Publisher Defendants’ financial worth without subjecting them to substantial and needless burden. As you know, that originally scheduled call was postponed due to a miscommunication about the time. Since we have not had an opportunity to discuss the matter with you, we have memorialized our objections in this letter, but remain willing to meet and confer in good faith about the Requests and our objections.

1. The Publisher Defendants object to the Requests on the grounds that plaintiff is not entitled to punitive damages in this case, for the reasons stated in the Publisher Defendants’ combined brief in opposition to plaintiff’s motion to amend and in support of their motion for summary judgment, and therefore is not entitled to financial worth discovery.

2. The Publisher Defendants object to the Requests on the grounds that they are excessive, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence about financial worth. Indeed, while the Publisher Defendants understand that, if a punitive damages claim is permitted to proceed, they will be required to

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produce certain information concerning their financial worth (*see* Paragraph 9, below), there is no conceivable circumstance in which more than 330 discovery requests – seeking everything from deposit slips to documents concerning monthly living expenses for Messrs. Denton and Daulerio – are even remotely necessary to accomplish that purpose, particularly given the extremely broad financial discovery already taken from Gawker. We are unaware of any reported decision approving of anywhere near such extensive financial worth discovery. *See, e.g., Tennant v. Charlton*, 365 So. 2d 418, 418 (Fla. 2d DCA 1978), *aff'd*, 377 So. 2d 1169 (Fla. 1979) (recognizing that more than just a sworn statement of financial worth is required, but approving of limited additional discovery requests seeking “income tax returns, personal or business profit and loss statements and balance sheets” for a three year period); *Church of Scientology FLAG Service v. Williams*, 671 So. 2d 840, 842 (Fla. 5th DCA 1996) (reciting total of nine interrogatories and one request for production, and finding that even that far more limited discovery “far exceeds what is appropriate at this stage of the proceedings to prove net worth for purposes of a punitive damage claim”); *Lewis v. Moody*, 195 So. 2d 260, 260-61 (Fla. 3d DCA 1967) (approving of financial worth discovery consisting of three interrogatories).

3. The Publisher Defendants object to the Requests to the extent that they call for “all documents” in many categories and are cumulative of numerous other duplicative Requests, rendering them overly broad and unduly burdensome for these additional reasons. For example, RFP 12 to Gawker seeks “year-end financial statements,” including “income statements,” and then at least four more Requests seek essentially the same things in different forms. *See* Gawker RFPs 14, 18, and 35 (requesting “corporate financial statements”; copies of all of Gawker’s “books,” including documents “concerning income and expenses”; and correspondence and other documents concerning Gawker’s “income and revenue” and/or “expenses and liabilities”); Interrog. 5(a) (“identify every source of Gawker’s income”). Likewise, in RFP 11 to Denton, plaintiff requests Denton’s bank statements, but then in RFP 21, he also seeks “deposit slips for each bank account,” even though his deposits would obviously be reflected on the bank statements. *See also* Denton Interrog. 7 (“identify all financial institutions in which you presently maintain an account of any kind”). Repeated requests for the same information in different forms is unduly burdensome and harassing.

4. The Publisher Defendants object to each Request that on its face calls for information that is neither relevant nor reasonably likely to lead to the discovery of admissible evidence. There are many examples, including, without limitation:

- a. RFP 4 to Denton and Daulerio seeks literally “all documents referring or relating to the ownership of any and all of [their] assets.” Denton and Daulerio do not object to providing information about the actual worth of material assets (if a punitive damages claim is permitted to proceed), such as their homes, vehicles, significant art works, stocks, bonds, etc. But plaintiff’s request seeks information about common household goods, including cameras and other “electronic equipment,” computers, appliances, tools, and, remarkably, pets. Requiring the

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production of all documents about items such as this for purposes of arriving at an overall net worth is completely unreasonable.

- b. Gawker RFP 55 seeks production of “all documents referring or relating to any real property leased to or from” each of the Publisher Defendants. By its own terms, this request calls for the production of all correspondence between Gawker and its landlord and the minute details of the build-out Gawker is undertaking at its new office space, even though the only thing that bears on financial worth is the amount of the lease payments or other financial obligations.
- c. Numerous document requests to each of the Publisher Defendants seek information concerning the finances of Gawker Media Group, Inc. (“GMGI”) and Kinja, KFT. *See, e.g.*, Gawker RFP 39-41, 69-97; Denton RFP 24-25, 74-92; Daulerio 63-80. Requests about the finances of *other companies* have no bearing on the financial worth of the defendants in this case.

5. The Publisher Defendants object to the Requests to the extent they purport to define the term “Gawker” and the term “you” to apply to entities and individuals other than the Responding Party. Each Publisher Defendant will limit its responses to the Requests to documents and information as to which it (or he), as the responding party, has within its (or his) possession and custody.

6. The Publisher Defendants object to the Requests to the extent that they seek information or documents protected by privilege, including without limitation the attorney-client and attorney work-product privileges.

7. The Publisher Defendants’ substantive review of its files is ongoing and, by agreeing to provide certain categories of information or documents below, the Publisher Defendants are not necessarily representing that responsive information or documents exist. The Publisher Defendants further object to the Requests to the extent that they purport to impose on the Publisher Defendants any obligation to create or prepare documents that do not otherwise currently exist. The Publisher Defendants expressly reserve their right to assert additional objections, if their continuing review of their files so warrants.

8. The Publisher Defendants reserve and do not waive any and all objections as to the relevancy or admissibility of any information and/or documents produced in response to the Requests.

9. Subject to and without waiving the objections set forth herein, if a claim for punitive damages is added to the case, the Publisher Defendants will produce any non-privileged documents from the period 2011 to the present sufficient to show, or constituting, the following:

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- a. The Publisher Defendants' actual and estimated net worth;
- b. Documents used in responding to financial worth interrogatories;
- c. Bank statements (including the most recent and the end of each year back to 2011);
- d. Brokerage/investment account statements (including the most recent and the end of each year back to 2011) and, to the extent not reflected therein, documents sufficient to show ownership of securities and interests in profit sharing arrangements, annuities or trusts;
- e. Financial statements, including, for Gawker, balance sheets and income statements for year-end 2014 and through April 30, 2015 (since Gawker has previously produced prior years' statements);
- f. Accounts receivables;
- g. Cash receipt journals;
- h. Liabilities, debts, mortgages, and other obligations, including the terms thereof, whether assets have been pledged or otherwise encumbered to secure any debt or obligation;
- i. Ownership interests in Gawker;
- j. Whether Gawker has been sold to, merged or consolidated with any other entity;
- k. SEC filings by Gawker;
- l. Federal income tax returns;
- m. Any interest held in any partnerships, LLCs, corporations, holding companies or other similar entities;
- n. Amounts of debts owed to the Publisher Defendants, including the amount of any rent or lease payments owed to them;
- o. The value of any ownership or leasehold interest in real property, including amounts and terms of leases;
- p. The Publisher Defendants' ownership of intellectual property and the amount of any income derived therefrom;

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- q. Income of and compensation paid to Denton and Daulerio;
- r. Trusts in which either Denton or Daulerio has an interest; and
- s. Ownership of material assets (such as homes, vehicles, significant artworks, stocks, etc.) and the actual value thereof.

Similarly, subject to and without waiving the objections set forth herein, if a claim for punitive damages is added to the case, the Publisher Defendants will respond to interrogatories requesting the following information:

- a. That the Publisher Defendants swear to the authenticity of the financial documents provided;
- b. That they identify the amount of their financial worth;
- c. That they identify material assets and liabilities; and
- d. Whether the Publisher Defendants (a) maintain the right to bring any action against another person or entity to recover a debt and the amount thereof, and/or (b) are currently involved in such an action.

The above-described documents and information should be more than sufficient both to establish and to test the Publisher Defendants' net worth in the event a punitive damages claim is permitted. The Publisher Defendants otherwise object to the Requests to the extent that they call for information other than that which is listed above. As explained, the Requests are excessive, and, to a large extent they are simply not the proper subject of financial worth discovery, are not relevant to financial worth, are unduly burdensome to produce, and/or are duplicative and cumulative of information that the Publisher Defendants have already agreed to produce. *See, e.g., Tennant v. Charlton*, 377 So. 2d 1169 (Fla. 1979) ("the trial court should always be sensitive to the protection of a party from harassment and from an overly burdensome inquiry"); *Church of Scientology*, 671 So. 2d at 842 (reversing order requiring financial net worth discovery that sought disclosure of "literally every aspect of [defendant's] financial existence").

10. Finally, for the avoidance of doubt, the Publisher Defendants object to the Requests to the extent they were served prior to the time permitted by Florida Statutes § 768.72, and further object to shortening the Publisher Defendants' time to respond. As you know, we agreed to review plaintiff's Requests and to provide the Publisher Defendants' objections in advance of the May 29, 2015 hearing, solely in an effort to streamline matters in light of a scheduled July 6, 2015 trial date, and we have done so. Since that time, however, plaintiff has served requests that are far more voluminous than anything we could reasonably have anticipated; the District Court of Appeal has issued an order quashing the trial date, and advising

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that an opinion would be issued later; plaintiff has indicated he would nevertheless like to proceed on that date; and the Court has set a Case Management Conference, also on May 29th, presumably to be able to address the issue if possible. Given all of those circumstances, the Publisher Defendants reserve their right to adjust the schedule for engaging in financial worth discovery as circumstances warrant.

In sum, please understand that, in the event that plaintiff is permitted to amend his complaint, the Publisher Defendants have no objection to providing reasonable financial worth discovery. We continue to object, however, to the sheer quantity of the requests propounded on them, and the excruciating detail they seek, and, if you are serious about streamlining things to proceed to trial, would urge that you substantially limit them.

As indicated above, we remain willing to schedule a mutually agreeable time to discuss the foregoing. Thank you.

Sincerely,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By: 
Seth D. Berlin
Alia L. Smith

cc: Other counsel of record