

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re: : Chapter 11
:
Gawker Media LLC et al., :
:
Debtors. : Case No. 16-11700 (SMB)
:
:
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**DECLARATION OF SHANE B. VOGT IN OPPOSITION TO
MOTION OF THE DEBTORS FOR LEAVE PURSUANT TO RULE 2004 OF THE
FEDERAL RULES OF BANKRUPTCY PROCEDURE TO CONDUCT DISCOVERY
CONCERNING POTENTIAL PLAN ISSUES AND POTENTIAL CAUSES OF ACTION,
AND TO ESTABLISH DISCOVERY RESPONSE AND DISPUTE PROCEDURES**

I, SHANE B. VOGT, hereby declare, pursuant to 28 U.S.C. § 1746, as follows:

1. I am an attorney with the law firm of Bajo Cuva Cohen Turkel, P.A. I am admitted *pro hac vice* to practice before this Court. I submit this Declaration in support of Defendant Terry G. Bollea’s Opposition to Motion of Debtors for Leave Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure to Conduct Discovery Concerning Potential Plan Issues and Potential Causes of Action, and to Establish Discover Response and Dispute Procedures.

2. In October 2012, one of the Debtors – Gawker Media LLC (“Gawker Media”) – Nick Denton and Albert J. Daulerio each participated in posting on Gawker.com excerpts from secretly and illegally recorded video footage of Mr. Bollea engaging in sexual activity in a private bedroom. Then, they refused Mr. Bollea’s pleas to remove the video. With no other recourse to protect his privacy, on October 15, 2012, Mr. Bollea sued Gawker Media, Mr.

Denton, Mr. Daulerio, and a number of other defendants in Florida under the caption *Bollea v. Gawker Media, LLC, et al.*, No. 12012447-CI-011 (Fla. 6th Jud. Cir., Pinellas Cty.) (the “Bollea Litigation”).

3. Mr. Bollea’s action against Gawker Media and Messrs. Denton and Daulerio proceeded to a jury trial on five claims: (1) publication of private facts; (2) invasion of privacy based on intrusion; (3) violation of Florida’s common law right of publicity; (4) intentional infliction of emotional distress; and (5) violation of Florida’s Security of Communications Act.

4. On March 18, 2016, the jury returned a verdict for Mr. Bollea on all five counts and awarded him \$115 million in compensatory damages jointly and severally against Gawker Media and Messrs. Denton and Daulerio (collectively, with Debtor, the “Judgment Debtors”). The Jury also found that punitive damages were warranted.

5. On March 21, 2016, the jury awarded Mr. Bollea an additional \$25 million in punitive damages divided as follows: \$15 million against Debtor, \$10 million against Mr. Denton, and \$100,000 against Mr. Daulerio. The jury awarded a fraction of the compensatory damages award in punitive damages based on Judgment Debtors’ respective net worth.

6. Attached as Exhibit A is a true and correct copy of the October 5, 2012 Letter from David Houston to Nick Denton.

7. Attached as Exhibit B is a true and correct copy of the October 5, 2012 Email from David Houston to Nick Denton.

8. Attached as Exhibit C is a true and correct copy of the October 9, 2012 Email from Cameron Stracher to David Houston.

9. Attached as Exhibit D is a true and correct copy of the March 18, 2016 Transcript from the Bollea Litigation (“March 18, 2016 Trial Tr.”).

10. Attached as Exhibit E is a true and correct copy of the verdict form from the Bollea Litigation (the “Verdict Form”).

11. Attached as Exhibit F is a true and correct copy of the Final Judgment in the Bollea Litigation (the “Final Judgment”).

12. Attached as Exhibit G is a true and correct copy of the March 21, 2016 punitive damages verdict sheet from the Bollea Litigation (the “Punitive Damages Verdict Form”).

13. Attached as Exhibit H is a true and correct copy of the Permanent Injunction in the Bollea Litigation (the “Permanent Injunction”).

I declare under penalty of perjury that the foregoing is true and correct.

Date: April 18, 2017

s/ Shane B. Vogt
Shane B. Vogt

BAJO CUVA COHEN TURKEL, P.A.
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Attorneys for Terry G. Bollea

Exhibit A

LAW OFFICE OF
DAVID R. HOUSTON
STATE AND FEDERAL CRIMINAL DEFENSE

Criminal Law Office
432 Court Street
Reno, Nevada 89501
Tel: 775.786.4188
Fax: 775.786.5573
Email: dhouston@houstonatlaw.com

David R. Houston, Esq.
Attorney
Kc Rosser
Business Manager
Altha Theofanides
Legal Assistant
Karen Mourreal
Secretary

Via Federal Express

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

Re: **Terry Bollea v. Gawker Media et al.**

SETTLEMENT COMMUNICATION UNDER F.R.E. 408

Dear Mr. Denton:

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

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

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

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

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

We can assure you that Hulk Hogan intends to pursue all civil and criminal remedies available against anyone connected with "shopping" around, distributing, or otherwise using the video. To this end, we will commence consultations with federal and state law enforcement about the criminal aspects of this matter. Hulk Hogan would like to end this matter immediately by learning the identity of all persons involved with "shopping" the video to you and any other party. If you immediately disclose the requested information and refrain from becoming involved with any use of the video, Hulk Hogan will consider this matter closed and will not seek legal remedies against you for the issues raised in this letter.

We look forward to receiving your response by immediately:

Sincerely,


David R. Houston

DRH:kc

Exhibit B

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

10/5/2012 11:16 AM

Dear Mr. Denton:

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

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

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

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

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

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

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

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

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

Sincerely,
David R. Houston
/kc

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

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

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

Exhibit C

From: Cameron Stracher [mailto:cameron@gawker.com]
Sent: Tuesday, October 09, 2012 3:12 PM
To: David Houston
Subject: Claim of Terry Bollea

Dear Mr. Houston:

I write in response to your undated letter to Nick Denton regarding a news article on Gawker.com about a video depicting Terry Bollea, aka Hulk Hogan, and an unidentified woman. You ask that Gawker disclose the identity of the person who provided the video and "refrain from becoming involved with any use of the video." Under the circumstances, we respectfully decline your request.

The existence and content of the video were widely reported prior to Gawker's publication. Indeed, various news outlets had already identified the woman in the video and her husband. Moreover, the video depicts Mr. Bollea having sex with a married woman in the woman's home, under circumstances and in a place where he has no reasonable expectation of privacy. (In fact, it appears that there was a surveillance camera in the bedroom from which the video was made). Finally, the one minute clip shows very little sexual activity and is clearly newsworthy given the public interest in Mr. Bollea's marriage, divorce, and his extramarital activities.

As for the specific claims you allege: 1) Given the wide disclosure of the content of the video prior to publication, the content actually posted, and the newsworthiness of the video, there can be no claim for publication of private facts; 2) given that the video was made by a third party, not Gawker, there can be no claim for intrusion upon seclusion; 3) no false light publicity claim may be maintained where the content of the video is true; 4) there can be no claim for appropriation of Mr. Bollea's name and likeness where the video is not being used for a "commercial" purpose (as the law defines it), is true, and is newsworthy. Your citations to the *Michaels* and *Eastwood* cases are not applicable here. In *Michaels*, the plaintiffs had an expectation of privacy in their own home, defendants had used plaintiffs images to promote the video at issue, and the video was significantly longer than the short clip posted by us. In *Eastwood*, the key issue was the alleged falsity of the publication, which is not relevant here.

If your client wishes to make a statement on the video or any matter related to it, we would be happy to post his response.

Regards,

Cameron Stracher
Litigation Counsel
Gawker Media

Office: 212.743.6513
Cell: 917.501.6202

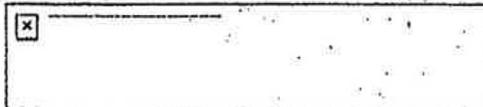


Exhibit D

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

TERRY GENE BOLLEA,
professionally known as HULK
HOGAN,

Plaintiff,

Case No.
12-012447-CI-011

vs.

GAWKER MEDIA, LLC, aka GAWKER
MEDIA, NICK DENTON; A.J.
DAULERIO,

Defendants.

_____ /

TRIAL PROCEEDINGS BEFORE
THE HONORABLE PAMELA A.M. CAMPBELL,
and a jury

DATE: March 18, 2016

TIME: 6:49 p.m. to 7:00 p.m.

PLACE: Pinellas County Courthouse
545 1st Avenue North
Courtroom A
St. Petersburg, Florida

REPORTED BY: Nathan F. Perkins, RDR
Aaron T. Perkins, RPR
Notaries Public, State of
Florida at Large

Volume 29
Pages 3828 to 3844

1 APPEARANCES:

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9 SHANE B. VOGT, ESQUIRE
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13 Tampa, Florida 33602

14 - and -

15 DAVID R. HOUSTON, ESQUIRE
16 The Law Office of David R. Houston
17 432 Court Street
18 Reno, Nevada 89501

19 Attorneys for Plaintiff

20

21

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23 APPEARANCES CONTINUED:

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APPEARANCES CONTINUED AS FOLLOWS:

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Attorneys for Defendant Gawker Media, LLC,
et al.

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ALSO PRESENT:

Terry Bollea
Nick Denton
A.J. Daulerio
John Dackson, media technician
Tim Piganelli, media technician
Michael Boucher
Seema Ghatnekar
Maureen Walsh
Michael Foley
Jeff Anderson

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P R O C E E D I N G S

(Court called to order at 6:49 p.m.)

THE COURT: Thank you. You can all be seated.

Is there anything the Court needs to address prior to the jury coming in?

MR. TURKEL: Nothing from plaintiffs.

THE COURT: Mr. Sullivan?

MR. SULLIVAN: No, ma'am.

THE COURT: All right. Thank you. Let's go ahead and bring the jury in.

THE BAILIFF: Yes, Judge.

(The jury returned to the courtroom at 6:51 p.m.)

THE COURT: Thank you very much.

So, Ms. Adkins, are you the jury foreperson?

JUROR ADKINS: No.

THE COURT: Ms. Young?

JUROR YOUNG: Yes.

THE COURT: Has the jury reached a unanimous verdict?

JUROR YOUNG: We have.

THE COURT: Could you please give the verdict form to Deputy Hernandez?

(A document was handed to the judge.)

1 THE COURT: All right. Thank you.

2 The clerk will please publish the verdict.

3 THE CLERK: In the Circuit of the Sixth
4 Judicial Circuit, in and for Pinellas County,
5 Florida, Case No. 12-12447-CI, Terry Gene Bollea,
6 professionally known as Hulk Hogan, plaintiff, vs.
7 Gawker Media, LLC, a/k/a Gawker Media, Nick
8 Denton, A.J. Daulerio, defendants, verdict.

9 We the jury return the following verdict:

10 Did plaintiff prove that by posting the video
11 defendants publically disclosed private facts
12 about the plaintiff in a manner that reasonably --
13 that a reasonable person would find highly
14 offensive?

15 Yes.

16 Did plaintiff prove that the video was not a
17 matter of legitimate public concern?

18 Yes.

19 Did Nick Denton participate in posting of the
20 video on Gawker.com?

21 Yes.

22 Did plaintiff prove that defendants
23 wrongful -- wrongfully intruded into a place where
24 he had reasonable expectation of privacy?

25 Yes.

1 Did plaintiff prove that the video was posted
2 in such a manner as to outrage or cause mental
3 suffering, shame, or humiliation to a person with
4 ordinary sensibilities?

5 Yes.

6 Did the plaintiff prove that the defendants
7 used plaintiff's name or likeness for a commercial
8 or advertising purpose?

9 Yes.

10 Did the plaintiff prove that he did not
11 authorize use of his name or likeness?

12 Yes.

13 Did the plaintiff prove that posting the
14 video was extreme and outrageous to a person of
15 ordinary sensibilities?

16 Yes.

17 Did plaintiff prove that the defendants
18 intended to cause him severe emotional distress or
19 acted with reckless disregard of high probability
20 of causing him severe emotional distress?

21 Yes.

22 Did plaintiff prove that posting of the video
23 caused severe emotional distress?

24 Yes.

25 Did plaintiff prove that defendants

1 intentionally used or disclosed the video?

2 Yes.

3 Did plaintiff prove that he had a reasonable
4 expectation of privacy in the bedroom where the
5 video was recorded?

6 Yes.

7 Did plaintiff prove that the defendants knew
8 or had reason to know that he was recorded on the
9 video without his knowledge or consent?

10 Yes.

11 As to only plaintiff's claim for violation of
12 the Florida Security of Communications Act, did
13 the defendants prove that they acted in good faith
14 reliance on a good faith determination that their
15 conduct was lawful?

16 No.

17 What is the total amount of money that will
18 fairly and adequately compensate plaintiff for any
19 economic injuries, losses, or damage caused by the
20 defendants' misconduct?

21 \$55,000,000.

22 What is the total amount of money that will
23 fairly and adequately compensate Terry Bollea for
24 the emotional distress which resulted from the
25 defendants' posting of the video on the Internet?

1 \$60,000,000.

2 Total damages of plaintiff, \$115,000,000.

3 Under the circumstances of this case, state
4 whether you find by clear and convincing evidence
5 that punitive damages are awarded against Gawker
6 Media, LLC.

7 Yes.

8 Nick Denton?

9 Yes.

10 A.J. Daulerio?

11 Yes.

12 Did defendants have a specific intent to harm
13 plaintiff when they posted the video on the
14 Internet?

15 Gawker Media, LLC?

16 Yes.

17 Nick Denton?

18 Yes.

19 A.J. Daulerio?

20 Yes.

21 So say we all the 18th day of March 2016,
22 foreperson of the jury.

23 THE COURT: Thank you very much. Would any
24 of the jurors like the jury -- or would any of the
25 counsel like the jurors polled at this time?

1 MR. TURKEL: Not necessary for the plaintiff.

2 MR. SULLIVAN: No, Your Honor.

3 THE COURT: All right. Thank you very much.

4 Would counsel please approach?

5 (At the bench)

6 THE COURT: So let's discuss time frame,
7 then, for the punitive damages. How much time do
8 you anticipate for punitives?

9 MR. TURKEL: Half day.

10 MR. VOGT: Half day. And I've just talked to
11 our expert, because -- it's awkward to do before
12 anything happens. He can be here Monday
13 afternoon from New York. So we can probably begin
14 arguing Monday morning and call him Monday
15 afternoon.

16 THE COURT: So have them convene Monday at --
17 when should I bring them back? Monday at 10:00?

18 MR. TURKEL: We're trying to stipulate to the
19 financial stuff so that there is no argument over
20 net worth.

21 MR. BERRY: We won't be able to stipulate to
22 it.

23 MR. TURKEL: So why don't we do this. Why
24 don't we put a day aside for it.

25 THE COURT: Monday?

1 MR. TURKEL: Monday. Or if you want to give
2 one day off for us to do the lawyer stuff, do it
3 Tuesday, if that's okay with the Court.

4 THE COURT: Well -- so a half day. And where
5 all do you --

6 Well, based on Mr. Berry saying he doesn't
7 think there is going to be much stipulation --

8 MR. BERRY: I just need to confer with the
9 client.

10 THE COURT: Sure.

11 MR. TURKEL: Why don't we do this. I mean,
12 obviously --

13 Well, whatever it is, it's obviously a large
14 verdict, and it's going to affect things. But I
15 think at the end of the day, Judge, why don't we
16 just agree to be here Monday and let's call it at
17 9:30. We will deal with whatever we have to deal
18 with. And if -- I mean, I don't know what else to
19 do, but you can't leave the jury just hanging in
20 the air.

21 THE COURT: No, I need to tell them when to
22 come.

23 MR. TURKEL: So I think we just come back.
24 If you want to set it midmorning so we have some
25 time for lawyer stuff, do it at 10:00.

1 THE COURT: Have them come at 10:00 and have
2 you-all come an hour before?

3 MR. TURKEL: An hour, hour and a half.

4 MR. BERRY: There was still some issues with
5 the expert as far documents that need to be
6 produced and that these need to get sorted.

7 THE COURT: Of their expert?

8 MR. TURKEL: But that's what I'm saying. If
9 you bring them in midmorning, you don't leave them
10 floating in the wind, and we have an hour and a
11 half to deal with this stuff.

12 Does that make sense?

13 THE COURT: Have them come in then, you're
14 saying, at 10:30?

15 MR. TURKEL: 10:00 or 10:30. And then we
16 have some lawyer time if we have to deal with
17 whatever. I mean, we were trying to get to a
18 place where we didn't fight about net worth. And
19 I understand Mike's position.

20 So we may have to come in and do some lawyer
21 stuff before they convene for punitives. So I
22 just feel like we could do 11:00. You could do it
23 at 1:00 and tell them we have lawyer stuff in
24 morning, but then we'd need probably half of
25 Tuesday.

1 MR. SULLIVAN: Or else you'd have them
2 sitting around.

3 THE COURT: Right. Have them come at 1:00?

4 MR. TURKEL: That's fine.

5 THE COURT: One o'clock on Monday?

6 MR. TURKEL: That's fine.

7 THE COURT: Okay.

8 (In open court)

9 THE COURT: All right. So, ladies and
10 gentlemen of the jury, I was talking to the
11 attorneys about scheduling, because at this point
12 in time, as I instructed you in the first part of
13 the instructions, now there is a second phase for
14 the punitive damage aspect. So if you-all will
15 please return, then, Monday morning -- or Monday
16 at one o'clock, and then we'll be working in the
17 morning doing our working out the legal issues and
18 that aspect of it, so that we should be able to
19 present the case to you Monday at one o'clock.

20 All right. So with that, we're not going to
21 discharge you yet, as a jury, so you still have
22 all the same obligations that I have been telling
23 you all along. It's only the things that you hear
24 and see in this courtroom altogether.

25 So at this point in time, please remember the

1 rules. The deputies will be escorting you out to
2 your cars. So you are not to talk to anybody
3 about the people or parties involved in this case
4 over the weekend. You are not to do any of your
5 own research or homework on your own over the
6 weekend and -- or Monday morning.

7 And we'll just go from there. So please
8 remember those rules. Don't read any of the
9 media. Don't do your own homework. And then
10 we'll back on Monday and address the punitive
11 damages aspect.

12 So thank you-all so very much for all your
13 hanging in there with us all this time, so please
14 continue that, and we'll see you Monday, then, at
15 one o'clock. All right? Thank you-all very much.

16 So, Deputy Hernandez, if you will escort them
17 to their cars, please.

18 (The jury retired from the courtroom at
19 7:00 p.m.)

20 THE COURT: Anything else for this evening?

21 MR. TURKEL: No. We said Monday at 9:00?

22 THE COURT: So if the attorneys will be back
23 Monday at 9:00, and then that way we can do our
24 issues and plan to be with the jury, then, at
25 1:00. All right?

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MR. TURKEL: Okay.

THE COURT: Thank you very much.

(Trial proceedings adjourned at 7:00 p.m.)

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REPORTER'S CERTIFICATE

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I, Aaron T. Perkins, Registered Professional Reporter, certify that I was authorized to and did stenographically report the above proceedings and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 18th day of March, 2016.

Aaron T. Perkins, RPR

Exhibit E

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

TERRY GENE BOLLEA
professionally known as HULK Case No. 12012447CI-011
HOGAN,

Plaintiff,

vs.

GAWKER MEDIA, LLC aka
GAWKER MEDIA; NICK
DENTON; A.J.
DAULERIO,

FILED
MAR 18 2016
KEN BURKE
CLERK CIRCUIT COURT

Defendants.

_____ /

VERDICT

We, the jury, return the following verdict:

First Claim

PUBLICATION OF PRIVATE FACTS

1. Did Plaintiff prove that, by posting the VIDEO, Defendants publicly disclosed private facts about Plaintiff in a manner that a reasonable person would find highly offensive?

YES NO

If your answer is **YES**, please answer **Question 2**.

If your answer is **NO**, then your verdict is against Plaintiff on claim for publication of private facts, and you should proceed to **Question 3**.

2. Did Plaintiff prove that the VIDEO was **NOT** a matter of legitimate public concern?

YES NO

If you answered **YES** to Questions **1-2**, then your verdict on the claim of publication of private facts is in favor of **Plaintiff**. Please proceed to **Question 3**.

If you answered **NO** to **Question 2**, then your verdict is against Plaintiff on **ALL** of his claims, and in favor of **Defendants** on their **First Amendment Defense**; and your deliberations are over and you will not consider any further claims, or damages. You should only sign this Verdict form and return it to the courtroom.

3. Did **Nick Denton** participate in the posting of the VIDEO on Gawker.com?

YES NO

Please proceed to **Question 4**.

Second Claim

INVASION OF PRIVACY BASED ON INTRUSION

4. Did Plaintiff prove that Defendants wrongfully intruded into a place where he had a reasonable expectation of privacy?

YES NO

If your answer is **YES**, please answer **Question 5**.

If your answer is **NO**, then your verdict is against Plaintiff on his claim for invasion of privacy based on intrusion, and you should proceed to **Question 6**.

5. Did Plaintiff prove that the VIDEO was posted in such a manner as to outrage or cause mental suffering, shame or humiliation to a person of ordinary sensibilities?

YES NO

If you answered **YES** to **Questions 4-5**, then your verdict on the claim of invasion of privacy based on intrusion is in favor of **Plaintiff**.

If you answered **NO** to **Question 5**, then your verdict is ~~in favor of~~ against Plaintiff on his claim for invasion of privacy based on intrusion. Please proceed to **Question 6**.

Third Claim

VIOLATION OF FLORIDA COMMON LAW RIGHT OF PUBLICITY

6. Did Plaintiff prove that Defendants used Plaintiff's name or likeness for a commercial or advertising purpose?

YES NO

If your answer is **YES**, please answer **Question 7**.

If your answer is **NO**, then your verdict is against Plaintiff on his claim for violation of Florida common law right of publicity, and you should proceed to **Question 8**.

7. Did Plaintiff prove that he **did not** authorize the use of his name or likeness?

YES NO

If you answered **YES** to Questions **6-7**, then your verdict on the claim of violation of Florida common law right of publicity is in favor of **Plaintiff**, and you should proceed to **Question 8**.

If you answered **NO** to **Question 7**, then your verdict is against Plaintiff on claim for violation of Florida common law right of publicity. Please answer **Question 8**.

Fourth Claim

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

8. Did Plaintiff prove that posting the VIDEO was extreme and outrageous to a person of ordinary sensibilities?

YES NO

If your answer is **YES**, please answer **Question 9**.

If your answer is **NO**, then your verdict on Plaintiff's claim for intentional infliction of emotional distress is against Plaintiff, and you should proceed to **Question 11**.

9. Did Plaintiff prove that Defendants intended to cause him severe emotional distress, or acted with reckless disregard of the high probability of causing him severe emotional distress?

YES NO

If your answer is **YES**, please answer **Question 10**.

If your answer is **NO**, then your verdict on Plaintiff's claim for intentional infliction of emotional distress is against Plaintiff, and you should proceed to **Question 11**.

10. Did Plaintiff prove that the posting of the VIDEO caused him severe emotional distress?

YES NO

If you answered **YES** to Questions **8-10**, then your verdict on the claim of intentional infliction of emotional distress is in favor of **Plaintiff**. Please proceed to **Question 11**.

If you answered **NO** to **Question 10**, then your verdict is against Plaintiff on his claim for intentional infliction of emotional distress. Please proceed to **Question 11**.

Fifth Claim

VIOLATION OF FLORIDA'S SECURITY OF COMMUNICATIONS ACT

11. Did Plaintiff prove that Defendants intentionally used or disclosed the VIDEO?

YES NO

If your answer is **YES**, please answer **Question 12**.

If your answer is **NO**, then your verdict on Plaintiff's claim for violation of Florida's Security of Communications Act is against Plaintiff, and you should proceed to **Question 15**.

12. Did Plaintiff prove that he had a reasonable expectation of privacy in the bedroom where the VIDEO was recorded?

YES NO

If your answer is **YES**, please answer **Question 13**.

If your answer is **NO**, then your verdict on Plaintiff's claim for violation of Florida's Security of Communications Act is against Plaintiff, and you should proceed to **Question 15**.

13. Did Plaintiff prove that Defendants knew or had reason to know that he was recorded on the VIDEO without his knowledge or consent?

YES NO

If your answer is **YES** to Questions **11-13**, then your verdict on Plaintiff's claim for violation of Florida's Security of Communications Act is in favor of **Plaintiff**, and you should proceed to **Question 14** to consider Defendants' "good faith" defense.

If your answer to **Question 13** is **NO**, then your verdict on Plaintiff's claim for violation of Florida's Security of Communications Act is against Plaintiff, and you should proceed to the **Damages Introduction** paragraph **before Question 15**. (on page 8)

Good Faith Defense

14. As to only Plaintiff's claim for violation of Florida's Security of Communications Act, did Defendants prove that they acted in good faith reliance on a good faith determination that their conduct was lawful?

YES _____ NO _____

If your answer to **Question 14** is **YES**, then your verdict on Plaintiff's claim for violation of Florida's Security of Communications Act is in favor of Defendants.

If your answer to **Question 14** is **NO**, then your verdict on Defendants' good faith defense is against Defendants, and in favor of **Plaintiff** on his claim for violation of Florida's Security of Communications Act.

Damages Introduction

If your verdict was in favor of Plaintiff on his claims for publication of private facts (YES to Questions 1-2), invasion of privacy for intrusion (YES to Questions 4-5), violation of common law right of publicity (YES to Questions 6-7), intentional infliction of emotional distress (YES to Questions 8-10) and/or violation of Florida's Security of Communications Act (YES Questions 11-13), you will consider the matter of damages and should proceed to **Question 15**.

DAMAGES

15.

A. What is the total amount of money that will fairly and adequately compensate Plaintiff for any economic injuries, losses or damages caused by the Defendants' conduct?

\$ 55M

B. What is the total amount of money that will fairly and adequately compensate Terry Bollea for the emotional distress, which resulted from the Defendants posting the VIDEO on the Internet?

\$ 60M

TOTAL DAMAGES OF PLAINTIFF
(add lines 15A and 15B above)

\$ 115M

Please proceed to: **PUNITIVE DAMAGES.**

PUNITIVE DAMAGES

16. Under the circumstances of this case, state whether you find by clear and convincing evidence that punitive damages are warranted against:

Gawker Media, LLC Yes No

Nick Denton Yes No

A.J. Daulerio Yes No

If you answered **YES** for any Defendant, please answer **Question 17** as to that Defendant/those Defendants. If you answered **NO** as to all Defendants, please sign and date this verdict form and return it to the courtroom.

17. Did Defendants have a specific intent to harm Plaintiff when they posted the VIDEO on the Internet?

Gawker Media, LLC Yes No

Nick Denton Yes No

A.J. Daulerio Yes No

Please sign and date this verdict form and return it to the courtroom.

SO SAY WE ALL, this 18th day of March, 2016.


FOREPERSON

Exhibit F

I#: 2016176296 BK: 19224 PG: 1232, 06/10/2016 at 12:10 PM, RECORDING 10
KEN BURKE, CLERK OF COURT AND COMPTROLLER PINELLAS COUNTY, FL BY DEPUTY CLERK:
CLKPR08

I#: 2016174890 BK: 19223 PG: 748, 06/09/2016 at 03:54 PM, RECORDING 4 KEN
BURKE, CLERK OF COURT AND COMPTROLLER PINELLAS COUNTY, FL BY DEPUTY CLERK:
CLKPR08

**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. 12012447 CI-01

GAWKER MEDIA, LLC, NICK DENTON,
and A.J. DAULERIO,
Defendants.

2016 JUN -8 PM 12:17
FILED
SPELERSBURG BRANCH
KEN BURKE
CLERK OF CIRCUIT COURT

FINAL JUDGMENT

Pursuant to the jury verdict rendered in this action and the Court's Permanent Injunction Order issued on this same date, IT IS ADJUDGED that:

1. Plaintiff, Terry Gene Bollea, shall recover from Defendants, Gawker Media, LLC, 114 Fifth Avenue, 2nd Floor, New York, NY 10011, FEIN xx-xxx-█, Nicholas Guido Denton, 76 Crosby Street, #2B, New York, NY 10012, SSN █ and Albert J. Daulerio, 17 Kingsland Ave., Apt. 4F, Brooklyn, NY 11211-1596, SSN █ *jointly and severally*, the sum of \$115,000,000.00, which shall bear interest at the rate of 4.78% per year, *for which let execution issue forthwith.*

2. Plaintiff, Terry Gene Bollea, shall also recover from Defendant, Gawker Media, LLC, 114 Fifth Avenue, 2nd Floor, New York, NY 10011, FEIN xx-xxx-█ of \$15,000,000.00 for punitive damages, which shall bear interest at the rate of 4.78% per year, *for which let execution issue forthwith.*

3. Plaintiff, Terry Gene Bollea, shall also recover from Defendant, Nicholas Guido Denton, 76 Crosby Street, #2B, New York, NY 10012, SSN █ the sum of \$10,000,000.00 for punitive damages, which shall bear interest at the rate of 4.78% per year, *for which let execution issue forthwith.*

Re-record to include exhibits A + B

PINELLAS COUNTY FL OFF. REC. BK 19223 PG 749

4. Plaintiff, Terry Gene Bollea, shall also recover from Defendant, Albert J. Daulerio, 17 Kingsland Ave., Apt. 4F, Brooklyn, NY 11211-1596, SSN [REDACTED] the sum of \$100,000.00 for punitive damages, which shall bear interest at the rate of 4.78% per year, *for which let execution issue forthwith.*

5. Contemporaneously with this Final Judgment, the Court has entered a Permanent Injunction Order, which is incorporated herein by reference. In accordance with the findings of fact and conclusions of law set forth in that Order, Gawker Defendants are hereby enjoined from directly or indirectly publicly posting, publishing, exhibiting, broadcasting, or disclosing the audio or visual contents of: (1) the one minute forty-one second (1:41) video excerpt ("Gawker Video"); and (2) any portion of the full length 30-minute video from which the 1:41 Gawker Video was excerpted and edited that depicts Mr. Bollea naked or engaged in sexual activity.

6. Defendants, Gawker Media, LLC, Nick Denton, and A.J. Daulerio, shall complete under oath Florida Rule of Civil Procedure Form 1.977 (Fact Information Sheet), including all required attachments, and serve it on the Plaintiff's attorney within twenty-one (21) days from the date of this final judgment, unless this final judgment is satisfied or post-judgment discovery is stayed.

7. Defendant, Gawker Media, LLC, shall complete under oath the Fact Information Sheet in the form attached hereto as Exhibit A, including all required attachments.

8. Defendants, Nick Denton and A.J. Daulerio, shall complete under oath the Fact Information Sheet in the form attached hereto as Exhibit B, including all required attachments.

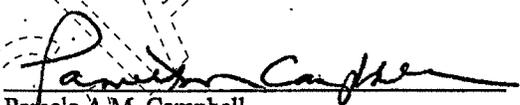
9. The Court reserves jurisdiction over the subject matter of this action and the parties hereto: to award costs to the Plaintiff, as the prevailing party in this action; to determine entitlement to and the amount of attorneys' fees to be awarded to any party in this case; to

PINELLAS COUNTY FL OFF. REC. BK 19223 PG 750

determine whether any violations of this Court's Protective Orders have occurred and, if so, to determine whether sanctions and/or contempt are appropriate; to modify or grant additional permanent injunctive relief upon the conclusion of any appellate proceedings, including but not limited to the return of surreptitious video of Plaintiff to the Plaintiff or his counsel and/or the permanent deletion of such material, that is within the possession, custody and/or control of Defendants; and to enter further orders that are proper to compel compliance with and enforce the provisions of this Final Judgment and the Permanent Injunction.

DONE and ORDERED, in chambers, in St. Petersburg, Pinellas County, Florida, this

7 day of June, 2016.


Pamela A.M. Campbell
Circuit Court Judge

Copies to:

The Attached Service List

PINELLAS COUNTY FL OFF. REC. BK 19223 PG 751

BOLLEA v. GAWKER
Case No: 12 012447 CI 11

Service List

Alia L. Smith, Esquire	asmith@lskslaw.com
Allison M. Steele, Esquire	asteele@rahdertlaw.com
Barry A. Cohen, Esquire	bcohen@tampalawfirm.com
Charles D. Tobin, Esquire	charles.tobin@hkclaw.com
Charles J. Harder, Esquire	charder@hmfirma.com
David R. Houston, Esquire	dhouston@houstonatlaw.com
Douglas E. Mirell, Esquire	dmirell@hmfirma.com
Gregg D. Thomas, Esquire	gthomas@tlolawfirm.com
Jennifer J. McGrath, Esquire	jmcgrath@hmfirma.com
Kenneth G. Turkel, Esquire	kturkel@bajocuva.com
Michael Berry, Esquire	mberry@lskslaw.com
Michael D. Sullivan, Esquire	msullivan@lskslaw.com
Michael W. Gaines, Esquire	mgaines@tampalawfirm.com
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Rachel E. Fugate, Esquire	rfugate@tlolawfirm.com
Seth D. Berlin, Esquire	sberlin@lskslaw.com
Shane B. Vogt, Esquire	svogt@bajocuva.com
Terri DeLeo	teri.deleo@bajocuva.com
Timothy J. Conner, Esquire	timothy.conner@hkclaw.com
Robert Rogers, Esquire	Robert.rogers@hkclaw.com
James Case	jamescase@aol.com

IN THE CIRCUIT COURT IN AND FOR THE SIXTH
JUDICIAL CIRCUIT OF PINELLAS COUNTY, FLORIDA
Circuit Case No. 12 012447 CI 11

TERRY GENE BOLLEA, professionally
known as Hulk Hogan,
Plaintiff,

v.

GAWKER MEDIA, LLC; NICK
DENTON
and A.J. DAULERIO

FACT INFORMATION SHEET - Gawker Media

Name of entity: _____
Name and title of person filling out this form: _____
Telephone number: _____
Place of business: _____
Mailing address (if different): _____
Gross/taxable income reported for federal income tax purposes last three years:
\$ _____ / \$ _____ / \$ _____ / \$ _____ / \$ _____ / \$ _____
Taxpayer identification number: _____
Is this entity an S corporation for federal income tax purposes? Yes No
Average number of employees per month _____
Name of each shareholder, member, or partner owning 5% or more of the entity's common
stock, preferred stock, or other equity interest:

Names of officers, directors, members, or partners: _____
Checking account at: _____ Account # _____
Savings account at: _____ Account # _____
Does the entity own any vehicles? Yes No
For each vehicle please state:
Year/Make/Model: _____ Color: _____
Vehicle ID No: _____ Tag No: _____ Mileage: _____
Names on Title: _____ Present Value: \$ _____
Loan Owed to: _____
Balance on Loan: \$ _____
Monthly Payment: \$ _____
Does the entity own any real property? Yes No
If yes, please state the address(es): _____

EXHIBIT A

Please check if the entity owns the following:

- Boat
- Camper
- Stocks/bonds
- Other real property
- Other personal property

Please attach copies of the following:

1. Copies of state and federal income tax returns for the past 3 years.
2. All bank, savings and loan, and other account books and statements for accounts in institutions in which the entity had any legal or equitable interest for the past 3 years.
3. All canceled checks for the 12 months immediately preceding the service date of this Fact Information Sheet for accounts in which the entity held any legal or equitable interest.
4. All deeds, leases, mortgages, or other written instruments evidencing any interest in or ownership of real property at any time within the 12 months immediately preceding the date this lawsuit was filed.
5. Bills of sale or other written evidence of the gift, sale, purchase, or other transfer of any personal or real property to or from the entity within the 12 months immediately preceding the date this lawsuit was filed.
6. Motor vehicle or vessel documents, including titles and registrations relating to any motor vehicles or vessels owned by the entity alone or with others.
7. Financial statements as to the entity's assets, liabilities, and owner's equity prepared within the 12 months immediately preceding the service date of this Fact Information Sheet.
8. Minutes of all meetings of the entity's members, partners, shareholders, or board of directors held within 2 years of the service date of this Fact Information Sheet.
9. Resolutions of the entity's members, partners, shareholders, or board of directors passed within 2 years of the service date of this Fact Information Sheet.

UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT THE FOREGOING ANSWERS ARE TRUE AND COMPLETE.

Judgment Debtor's Designated
Representative/Title

STATE OF FLORIDA
COUNTY OF

Sworn to (or affirmed) and subscribed before me this ____ day of _____ (year) by
(name of person making statement).

Notary Public State of Florida
My Commission expires:

Personally known ____ OR Produced identification _____
Type of identification produced _____

YOU MUST MAIL OR DELIVER THIS COMPLETED FORM, WITH ALL ATTACHMENTS, TO THE PLAINTIFF'S JUDGMENT CREDITOR OR THE PLAINTIFF'S JUDGMENT CREDITOR'S ATTORNEY, BUT DO NOT FILE THIS FORM WITH THE CLERK OF THE COURT.

UNOFFICIAL COPY

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

TERRY GENE BOLLEA, professionally
known as Hulk Hogan,
Plaintiff,

Circuit Case No. 12 012447 CI 11

v.

GAWKER MEDIA, LLC; NICK DENTON;
and A.J. DAULERIO,
Defendants.

FACT INFORMATION SHEET - A.J. Daulerio

Full Legal Name: _____
Nicknames or Aliases: _____
Residence Address: _____
Mailing Address (if different): _____
Telephone Numbers: (Home) _____
(Business) _____
Name of Employer: _____
Address of Employer: _____
Position or Job Description: _____
Rate of Pay: \$ _____ per _____ . Average Paycheck: \$ _____ per _____
Average Commissions or Bonuses: \$ _____ per _____
Commissions or bonuses are based on _____
Other Personal Income: \$ _____ from _____
(Explain details on the back of this sheet or an additional sheet if necessary.)
Social Security Number: _____ Birthdate: _____
Driver's License Number: _____
Marital Status: _____ Spouse's Name: _____

Spouse Related Portion

Spouse's Address (if different): _____
Spouse's Social Security Number: _____ Birthdate: _____
Spouse's Employer: _____
Spouse's Average Paycheck or Income: \$ _____ per _____
Other Family Income: \$ _____ per _____ (Explain details on back of this sheet or an additional sheet if necessary.)

Describe all other accounts or investments you may have, including stocks, mutual funds, savings bonds, or annuities, on the back of this sheet or on an additional sheet if necessary.

Names and Ages of All Your Children (and addresses if not living with you): _____
Child Support or Alimony Paid: \$ _____ per _____
Names of Others You Live With: _____
Who is Head of Your Household? _____ You _____ Spouse _____ Other Person
Checking Account at: _____ Account # _____
Savings Account at: _____ Account # _____

For Real Estate (land) You Own or Are Buying: _____

Address: _____
All Names on Title: _____
Mortgage Owed to: _____
Balance Owed: _____
Monthly Payment: \$ _____

(Attach a copy of the deed or mortgage, or list the legal description of the property on the back of this sheet or an additional sheet if necessary. Also provide the same information on any other property you own or are buying.)

For All Motor Vehicles You Own or Are Buying: _____
Year/Make/Model: _____ Color: _____
Vehicle ID #: _____ Tag No: _____ Mileage: _____
Names on Title: _____ Present Value: \$ _____
Loan Owed to: _____
Balance on Loan: \$ _____
Monthly Payment: \$ _____

(List all other automobiles, as well as other vehicles, such as boats, motorcycles, bicycles, or aircraft, on the back of this sheet or an additional sheet if necessary.)

Have you given, sold, loaned, or transferred any real or personal property worth more than \$100 to any person in the last year? If your answer is "yes," describe the property, market value, and sale price, and give the name and address of the person who received the property.

Does anyone owe you money? Amount Owed: \$ _____
Name and Address of Person Owning Money: _____
Reason money is owed: _____

Please attach copies of the following:

- a. Your last pay stub.
- b. Your last 3 statements for each bank, savings, credit union, or other financial account.
- c. Your motor vehicle registrations and titles.
- d. Any deeds or titles to any real or personal property you own or are buying, or leases to property you are renting.
- e. Your financial statements, loan applications, or lists of assets and liabilities submitted to any person or entity within the last 3 years.
- f. Your last 2 income tax returns filed.

UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT THE FOREGOING ANSWERS ARE TRUE AND COMPLETE.

Judgment Debtor

STATE OF FLORIDA
COUNTY OF

Sworn to (or affirmed) and subscribed before me this _____ day of _____ (year) by (name
of person making statement)

Notary Public State of Florida
My Commission expires:

Personally known _____ OR Produced Identification _____
Type of identification produced _____

**YOU MUST MAIL OR DELIVER THIS COMPLETED FORM, WITH ALL
ATTACHMENTS, TO THE JUDGMENT CREDITOR OR THE JUDGMENT
CREDITOR'S ATTORNEY, BUT DO NOT FILE THIS FORM WITH THE CLERK OF
COURT.**

UNOFFICIAL

Exhibit G

**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.

**GAWKER MEDIA, LLC aka GAWKER
MEDIA; NICK DENTON; A.J.
DAULERIO,**

Defendants.

_____ /

VERDICT

**What is the total amount of punitive damages, if any, which you find,
by the greater weight of the evidence, should be assessed against
defendant[s]?**

Gawker Media, LLC	\$ <u>15M</u>
Nick Denton	\$ <u>10M</u>
A.J. Daulerio	\$ <u>100K</u>

**If you elect not to assess punitive damages against a defendant, you
should enter a zero (0) as the amount of damages, and sign and date the
verdict form.**

SO SAY WE ALL, this 21 day of March, 2016.

Robert Jones
FOREPERSON

FILED
MAR 21 2016
KEN BURKE
CLERK CIRCUIT COURT

Exhibit H

**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. 12-012447CI-11

Plaintiff,

vs.

GAWKER MEDIA, LLC, NICK DENTON,
and A.J. DAULERIO,

Defendants.

PERMANENT INJUNCTION

THIS CAUSE came before the Court on Plaintiff, Terry Gene Bollea's, Motion for Entry of Final Judgment and Permanent Injunction filed on May 25, 2016, in the above-styled action. Mr. Bollea's claim for permanent injunctive relief was tried before the Court concurrently with the jury trial held March 1 through 21, 2016. Upon consideration of all relevant filings, the law, the evidence presented at trial, and the jury's March 18, 2016 and March 21, 2016 verdicts, and being otherwise fully advised in the premises, the Court finds as follows:

Background

1. Mr. Bollea sued Defendants, Gawker Media, LLC ("Gawker"), Nick Denton, and A.J. Daulerio (collectively, "Gawker Defendants"), for monetary and injunctive relief after they posted on the Internet a one minute forty-one second (1:41) video of Mr. Bollea engaged in consensual sexual activity and private conversations in a private bedroom (the "Gawker Video") and a written commentary about the Gawker Video.

2. After a three-week trial in this invasion of privacy case, the jury found in favor of Mr. Bollea and against all Gawker Defendants on all five counts of Plaintiff's First Amended Complaint. The jury returned a verdict awarding \$115 million in compensatory damages, jointly and severally, against all Gawker Defendants, as well as punitive damages in the amount of \$15 million against Gawker, \$10 million against Mr. Denton, and \$100,000 against Mr. Daulerio.

3. The jury found that Gawker Defendants' actions in posting the Gawker Video invaded Mr. Bollea's privacy, intentionally caused him severe emotional distress, and violated Florida's Security of Communications Act. The jury expressly found that Mr. Denton personally participated in the posting of the Gawker Video, and found by clear and convincing evidence that all of the Gawker Defendants acted with malice. The jury also found against Gawker Defendants on their First Amendment and Good Faith affirmative defenses.

4. The Court considered the factual record in full in reviewing the jury's determination that the Gawker Video was not a matter of legitimate public concern. Based upon the weight of the evidence presented at trial, this Court agrees with the jury's finding that the Gawker Video was not a matter of legitimate public concern, and was therefore not protected under the First Amendment.

5. Now that the trial has concluded, Mr. Bollea seeks a permanent, prohibitory injunction against Gawker Defendants' public disclosure, publication, exhibition, posting or broadcasting of any nudity or sexual activity, whether video or audio, contained in the Gawker Video, which was an edited excerpt from the full length 30-minute video that Gawker possessed (the "30-Minute Video"), or contained in the 30-Minute Video.

6. For the reasons set forth herein, Mr. Bollea is entitled to relief so the Court grants Mr. Bollea's request for this narrowly tailored permanent injunctive relief.

7. Before trial, this Court granted a temporary injunction in Mr. Bollea's favor regarding the materials at issue here. Florida's Second District Court of Appeal reversed and held that the pretrial temporary injunction was an "unconstitutional prior restraint under the First Amendment." But that decision, like an even earlier decision made by a federal district court, had no preclusive effect and did not present any insuperable obstacle to Mr. Bollea prevailing on the merits after a full trial. *Gawker Media*, 129 So. 3d 1196, 1204 (Fla. 2d DCA 2014); *P.M. Realty & Investments, Inc. v. City of Tampa*, 863 So. 2d 1269 (Fla. 2d DCA 2004); *Bellair v. City of Treasure Island*, 611 So. 2d 1285 (Fla. 2d DCA 1992). The decisions of Florida's Second District Court and the federal district court applied the strict prior restraint standard, which is inapplicable to a motion for injunction after a full trial on the merits. *See Advanced Training Systems v. Caswell Equipment Co.*, 352 N.W.2d 1, 11 (Minn. 1984); *Balboa Island Village Inn v. Lemen*, 156 P.3d 339, 349 (Cal. 2007). Further, after the jury was presented with the extensive trial evidence, it found that the Gawker Video was not a matter of public concern

entitled to protection under the First Amendment. Accordingly, the above preliminary, pretrial rulings are not preclusive and this Court retains the full authority to determine Mr. Bollea's claim for permanent injunctive relief on the merits. *See David Vincent, Inc. v. Broward Cnty, Florida*, 200 F.3d 1325 (11th Cir. 2000) (applying Florida law and holding that the state court's denial of a temporary injunction does not preclude plaintiffs from later pursuing a permanent injunction).

Standards Governing Permanent Injunctive Relief

8. Permanent injunctive relief may be properly granted only when the plaintiff establishes three elements: (1) the act or conduct to be enjoined violates a clear legal right; (2) there is no adequate remedy at law; and (3) injunctive relief is necessary to prevent an irreparable injury. *Legakis v. Loumpos*, 40 So. 3d 901, 903 (Fla. 2d DCA 2010); *Hollywood Towers Condo. Ass'n, Inc. v. Hampton*, 40 So. 3d 784, 786 (Fla. 4th DCA 2010). Public interest must also be weighed. *Shaw v. Tampa Elec. Co.*, 949 So. 2d 1066, 1069 (Fla. 2d DCA 2007). The equities must also be balanced, including whether the potential harm to the defending party outweighs the benefit to the plaintiff. *Liza Danielle, Inc. v. Jamko, Inc.*, 408 So. 2d 735, 740 (Fla. 3d DCA 1982).

9. The Court must consider the totality of circumstances and determine whether injunctive relief is necessary to achieve justice between the parties. *Davis v. Joyner*, 409 So. 2d 1193, 1195 (Fla. 4th DCA 1982). The appropriateness of an injunction against a tort "depends upon a comparative appraisal of all of the factors in the case, including the following primary factors: (a) the nature of the interest to be protected; (b) the relative adequacy to the plaintiff of injunction and of other remedies; (c) any unreasonable delay by the plaintiff in bringing suit; (d) any related misconduct on the part of a plaintiff; (e) the relative hardship likely to result to defendant if an injunction is granted and to plaintiff if it is denied; (f) the interests of third persons and of the public; and (g) the practicability of framing and enforcing the order or judgment." *Id.*

Findings of Fact

10. Mr. Bollea is a former professional wrestler known as "Hulk Hogan."

11. Bubba Clem, a friend of Mr. Bollea, installed a concealed security camera in his bedroom at his home. It was small, nondescript, and appeared to be a motion detector. It did not signal whether it was or was not recording. Instead, it had a small red light that flashed

continuously, even if the camera was not recording. The bedroom camera was installed high in a corner, above cabinets in the bedroom. It was positioned to record the Clems' bed, and fed directly into a dedicated DVD recorder. The bedroom camera recorded only if someone pressed the record button.

12. In 2007, Mr. Bollea went to Mr. Clem's house where he engaged in consensual sexual activity and conversation with Heather Clem, Mr. Clem's then-wife, with Mr. Clem's knowledge and consent. These activities and conversation were recorded and became the subject for the Gawker Video.

13. Mr. Bollea presented evidence that he did not know that he was being recorded.

14. After hearing the evidence at trial, the jury found that Gawker Defendants' knew or had reason to know that Mr. Bollea was recorded without his knowledge or consent.

15. Gawker.com is an Internet website.

16. Mr. Daulerio was the editor in chief of Gawker.com from January 2012 until February 2013. He worked at a different Gawker-owned website before that time period. Consistent with Mr. Denton's editorial philosophy, Mr. Daulerio believes in publishing anything he believes to be "true and interesting."

17. In March 2012, TMZ reported that there may be a "Hulk Hogan sex tape." Mr. Bollea and his attorney, David Houston, conducted an interview with TMZ. During that interview, Mr. Bollea discussed the alleged tape and said that he never consented to being filmed in any such tape, never consented to its release, and would seek to prosecute anyone who distributed such a tape. TMZ wrote an article about the existence of the tape, but did not post any video footage.

18. In April 2012, a website called "thedirty.com" published photographs that were allegedly still frames from a tape of Mr. Bollea having sexual relations. The photographs did not contain explicit content and were removed after Mr. Houston contacted the website and gained its assurances that it would not publish any video footage of Mr. Bollea engaged in sexual relations.

19. Thereafter, Gawker received the 30-Minute Video in the mail. Mr. Daulerio then watched the 30-Minute Video.

20. Mr. Daulario posted the Gawker Video without contacting any of the participants in the Video. He further testified that he still would have posted the Gawker Video even if he had been absolutely certain that Mr. Bollea had been secretly recorded without his permission.

21. After hearing the evidence at trial, the jury found that Gawker Defendants knew or had reason to know that Mr. Bollea was recorded without his knowledge or consent.

22. Mr. Daulerio edited the 30-Minute Video into the sexually explicit Gawker Video excerpt, and, on October 4, 2012, posted the Gawker Video with subtitles and a graphic narrative describing the Gawker Video on Gawker.com under the headline “Even for a Minute, Watching Hulk Hogan Have Sex in a Canopy Bed is Not Safe For Work but Watch it Anyway.”

23. The accompanying narrative written by Mr. Daulerio said that “Because the internet has made it easier for all of us to be shameless voyeurs and deviants, we love to watch famous people have sex, because it’s something the public is not supposed to see...”

24. After hearing the evidence at trial, the jury found that Mr. Bollea had a reasonable expectation of privacy in the bedroom, and Gawker Defendants’ posting of the Gawker Video was a wrongful intrusion.

25. According to Gawker Defendants’ expert, Peter Horan, Gawker’s business is driven by spikes in website traffic. When Gawker generates traffic, it generates advertising revenue and increases the value of the Gawker brand.

26. Mr. Denton testified that his business success and reputation are measured by audience growth. He also testified that invasion of privacy can have “incredibly positive effects on society” and he believes in total information transparency.

27. The Gawker Video generated traffic to Gawker.com in 2012. From its posting on October 4, 2012 through June 30, 2013, the post received over 8.6 million page views and over 5.3 million unique page views. By July 2013, the Gawker Video had been viewed 2.5 million times on Gawker.com.

28. In the year after the Gawker Video was posted, Gawker’s audience increased by 38 percent. During that same period, Gawker’s revenue increased by 30 percent.

29. While the Gawker Video webpage itself carried no advertising, visitors who clicked on links to other Gawker stories and websites that were found on that webpage saw ads and generated revenue for Gawker. The more people who viewed pages with ads, the more money Gawker made, even if the visitors did not actually click on the ads.

30. The evidence at trial and jury verdict show that Mr. Bollea did not authorize the use of his name or likeness on Gawker's website for a commercial or advertising purpose.

31. During his testimony, Mr. Daulerio indicated that that the purpose of the post was not to try to disprove anything Mr. Bollea had previously said in public.

32. Mr. Daulerio's narrative makes no mention of Mr. Bollea ever writing or talking about his sex life in a public forum.

33. Mr. Daulerio testified that he knew of no such statements by Mr. Bollea when he posted the Gawker Video.

34. Mr. Daulerio testified that neither Mr. Bollea's penis nor sexual positions were newsworthy.

35. Mr. Daulerio testified that the post had nothing to do with the biographies written about Mr. Bollea and his ex-wife.

36. Mr. Daulerio testified that his only purpose in posting the Gawker Video was to show the public its contents.

37. However, after hearing the evidence at trial, the jury found that the Gawker Video was not a matter of legitimate public concern.

38. After hearing the evidence at trial, the jury found that by posting the Gawker Video, the Gawker Defendants publicly disclosed private facts about Mr. Bollea that a reasonable person would find highly offensive.

39. After hearing the evidence at trial, the jury found that the Gawker Video was posted in such a manner as to outrage or cause mental suffering, shame, or humiliation to a person of ordinary sensibilities.

40. After hearing the evidence at trial, the jury found that posting of the Gawker Video was extreme and outrageous to a person of ordinary sensibilities.

41. Thus, the Gawker Video was a morbid and sensational prying into Mr. Bollea's private life for its own sake. A reasonable member of the public, with decent standards, would have no concern in the explicit content of the Gawker Video.

Conclusions of Law

42. Publication of the explicit content of the Gawker Video and/or the 30-Minute Video would violate a clear legal right and cause irreparable injury for which Mr. Bollea has no adequate remedy at law. Consideration of the public interest favors injunctive relief. Injunctive

relief is therefore required to prevent that violation and harm, and to protect the public interest. Moreover, balancing the equities demonstrates that imposing a permanent injunction will inflict little, if any, potential harm on Gawker Defendants, and certainly no harm that could possibly outweigh the benefit to Mr. Bollea.

43. The public interest is served by prohibiting any further use or disclosure of the explicit content of the Gawker Video or 30-Minute Video. The public has no legitimate interest in watching or hearing explicit video footage of Mr. Bollea engaged in sexual activity.

44. Mr. Bollea established by clear and convincing evidence that Gawker Defendants maliciously engaged in intentional misconduct, including: (1) publicly disclosing private facts regarding Mr. Bollea; (2) intruding on Mr. Bollea's seclusion; (3) infringing on Mr. Bollea's right of publicity under Florida law; (4) intentionally inflicting emotional distress on Mr. Bollea; and (5) violating the Florida Security of Communications Act, Section 934.03, Florida Statutes.

45. Gawker Defendants' posting of the Gawker Video was the type of "morbid and sensational prying into private lives for its own sake, with which a reasonable member of the public, with decent standards, would say that he had no concern" described in *Toffoloni v. LFP Publ'g Group, LLC*, as lacking constitutional protection. 572 F.3d 1201, 1211 (11th Cir. 2009).

46. Regardless of Mr. Bollea's status as a celebrity, the nature of the character he portrays, and any public statements he made about his personal and sex life, the facts and circumstances of this case do not legally justify or authorize Gawker Defendants' posting explicit video footage of Mr. Bollea without his consent, derived from an illegally recorded video of Mr. Bollea naked and engaged in sexual activity in a private bedroom. Consequently, based upon the findings set forth herein, and as a matter of law, Gawker Defendants' publication of the Gawker Video does not constitute protected speech. *Toffoloni*, 572 F.3d at 1211.

47. The fact that people, even celebrities, talk about their sex lives or make private recordings of themselves naked or having sex in the privacy of a bedroom, does not give the public the right to watch that person naked or having sex without that person's consent. These are materials that a reasonable member of the public, with decent standards, is not supposed to see and has no legitimate justification or right to see.

48. Mr. Bollea demonstrated through competent, substantial evidence the violation of several clear legal rights—he has proven that Gawker Defendants violated his privacy rights and right of publicity, intentionally inflicted emotional distress upon him, and violated the Florida Security of Communications Act.

49. Although in most cases reliance must rest upon the judgment of those who decide what to publish or broadcast, those who exercised the editorial discretion in this case admitted that the Gawker Video was not posted to address any matter of legitimate public concern. Accordingly, even if deference to editorial discretion were required here, the publishers conceded that the explicit content of the Gawker Video was an exploitation of public curiosity where no legitimate public interest exists.

50. Mr. Bollea will suffer irreparable harm unless a permanent injunction is entered to prohibit further public dissemination of the explicit content of the Gawker Video and the 30-Minute Video. Such irreparable harm includes further invasions of Mr. Bollea's privacy and infliction of emotional distress.

51. There is no adequate remedy at law for Mr. Bollea. The publication of the explicit contents of Gawker Video or the 30-Minute Video would constitute an invasion of Mr. Bollea's privacy and violation of Florida law accompanied by extensive harm which an award of monetary damages is insufficient to address.

52. While the jury's award of compensatory damages represents an attempt to redress the harm and injuries Mr. Bollea suffered in the past as a result of the posting of the Gawker Video, several factors require that an injunction issue to prohibit any further distribution of explicit audio or visual footage of Mr. Bollea engaged in sexual activity in a private bedroom. First, while Gawker Defendants are not currently making the Gawker Video or 30-Minute Video available, there is no court order currently in place that prohibits them from doing so. Second, Gawker Defendants continue to possess additional footage of Mr. Bollea, including the full 30-Minute Video that they received, the contents of which have never been made public. Third, material posted on the Internet is captured or saved and can be subsequently re-posted by others.

53. Based upon the factual findings contained herein, the totality of circumstances demonstrate that injunctive relief is necessary to achieve justice between the parties. *Davis*, 409 So. 2d at 1195.

Accordingly, it is

ORDERED AND ADJUDGED that

1. Gawker Defendants are hereby enjoined from publicly posting, publishing, exhibiting, broadcasting, or disclosing any nudity or sexual activity, whether video or audio, contained in the Gawker Video or the 30-Minute.

2. This Court reserves jurisdiction to enforce, modify, or supplement this Permanent Injunction, and to issue additional relief, including, but not limited to, an order requiring that Gawker Defendants deliver all copies of the Gawker Video or the 30-Minute Video, and any other excerpts thereof, to Mr. Bollea and/or his counsel, pending resolution of any appellate proceedings in this case.

ORDERED in Pinellas County, Florida, on _____, 2016.



Pamela A.M. Campbell
Circuit Judge

Copies to: Attached Service List

BOLLEA v. GAWKER
Case No: 12 012447 CI 11

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