

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

GAWKER MEDIA, LLC, and  
GREGG D. THOMAS,

Plaintiffs,

CASE NO.: 8:15-cv-1202-T-24EAJ

vs.

THE FEDERAL BUREAU OF  
INVESTIGATION and THE EXECUTIVE  
OFFICE OF UNITED STATES ATTORNEYS,

Defendant.

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**ORDER**

On Wednesday, June 24, 2015, the Court held a hearing on (1) Plaintiffs' Motion for Summary Judgment (Doc. 5) and (2) Plaintiff's Motion for Expedited Consideration and Vaughn Indexes (Doc. 20). As discussed at the hearing, the Court orders the following:

(1) **By Friday, June 26, 2015**, the Federal Bureau of Investigation (FBI) shall turn over to the state court Special Discovery Magistrate Hon. James R. Case the two CDs it deemed to be responsive to Plaintiffs' November 7, 2014 Freedom of Information Act (FOIA) request. The FBI shall follow the procedures set in place in the state court case regarding delivery of the CDs to the Special Magistrate. Plaintiffs shall promptly provide counsel for the FBI with instructions on proper delivery.

(2) In its response to Plaintiffs' November 7, 2014 FOIA request, the FBI identified 1,168 responsive documents. **By Friday, June 26, 2015**, the FBI shall turn over to Plaintiffs all non-exempt documents. These documents are to include those documents that the United States

Attorneys' Office and/or the FBI have knowingly authorized to be given to Plaintiffs by Mr. Terry Bollea and his attorneys.

(3) On May 27, 2015, the Executive Office of the United States Attorney (EOUSA) released a one-page internet article, three wholly redacted emails (other than the dates), and withheld 59 pages based on FOIA exemptions (B)(5), (B)(6), and (B)(7)(c). *See* 5 U.S.C. §§ 552(b)(5) (exemption for internal agency memoranda and policy discussions); 552(b)(6) (personal privacy exemption); 552(b)(7)(C) (exemption for personal privacy of information in the law enforcement context). Keeping in mind that Plaintiffs submitted their November 7, 2014 FOIA request with privacy waivers signed by Terry Bollea, his counsel, and Heather Clem, the EOUSA shall turn over to Plaintiffs all non-exempt documents **by Friday, June 26, 2015**. The EOUSA shall also reconsider whether the redacted emails are exempt in light of the fact that privacy concerns are no longer at issue based on the signed waivers. If they are not, the unredacted emails shall be turned over. In addition, the EOUSA is to turn over any documents they have deemed could be segregated for release.

(4) **By Tuesday, June 30, 2015 at 12:00 p.m.**, the FBI shall file with the Court a categorical index of the 1,168 documents that are responsive to Plaintiffs' FOIA request. The index shall include general categories of documents, the number of pages pertaining to each category, the claimed exemption<sup>1</sup>, and the reason why disclosure of the documents could reasonably be expected to interfere with law enforcement proceedings. Also **by Tuesday, June 30, 2015 at 12:00 p.m.**, the FBI shall submit a declaration in support of the categorical index. The declaration shall provide a more particularized explanation as to why the law enforcement exemption applies to each category of documents and why disclosure of each category could

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<sup>1</sup> As discussed at the June 24, 2015 hearing, the only exemption the Court finds to be at issue with respect to the FBI is the law enforcement exemption, 5 U.S.C. § 552(b)(7)(A).

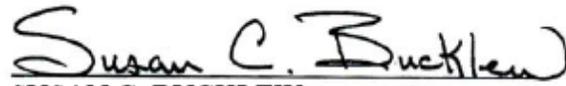
reasonably be expected to interfere with law enforcement proceedings. The categorical index and declaration should be sufficiently specific and contain a sufficient amount of information so that the Court may rule on the claimed exemptions.

(5) **By Tuesday, June 30, 2015 at 12:00 p.m.**, the EOUSA shall file with the Court a categorical index of the 59 documents that it withheld and which are responsive to Plaintiffs' FOIA request. The index shall include general categories of documents, the number of pages pertaining to each category, the claimed exemption, and the reason why the documents are subject to the exemption. Also **by Tuesday, June 30, 2015 at 12:00 p.m.**, the EOUSA shall submit a declaration in support of the categorical index. The declaration shall provide a more particularized explanation as to why a particular exemption applies to each category of documents. The categorical index and declaration should be sufficiently specific and contain a sufficient amount of information so that the Court may rule on the claimed exemptions.

(6) The FBI and EOUSA are reminded of their obligations under § 552(b) with regard to segregability: "Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection. . . ."

(7) The Court will review the categorical index and supporting declaration and will hold a hearing on **Thursday, July 2, 2015 at 9:00 a.m.** before the Honorable Susan C. Bucklew in Courtroom 10B of the Sam M. Gibbons U.S. Courthouse, located at 801 N. Florida Avenue, Tampa, Florida 33602. At that time, the Court will rule on the FBI and EOUSA's claimed exemptions and whether the agencies are required to turn over any of the withheld documents. The FBI and EOUSA shall be prepared to promptly produce the documents if ordered to do so.

**DONE AND ORDERED** at Tampa, Florida, this 24th day of June, 2015.

Handwritten signature of Susan C. Bucklew in black ink.

SUSAN C. BUCKLEW

United States District Judge

**Copies furnished to:**  
Counsel of Record