

EXHIBIT B

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.

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HEARING BEFORE THE HONORABLE PAMELA CAMPBELL

DATE: October 29, 2013
TIME: 10:22 a.m. to 12:31 p.m.
PLACE: Pinellas County Courthouse
545 First Avenue North
St. Petersburg, Florida
REPORTED BY: Susan C. Riesdorph, RPR, CRR
Notary Public, State of
Florida

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1 case saying certain things in the complaint. He
2 brought it originally, as you know, in federal
3 court with much fanfare and a press conference and
4 asked for a hundred dollars million dollars, which
5 certainly got our attention. So we have tried to
6 better understand his claims. And while his --
7 Mr. Harder sort of said, well, we've been asking
8 for every document that he has. So far we've
9 gotten a total of 17 documents in the first
10 production, and we got -- other than things that
11 we created or that were publicly available. And
12 then we got one more document last Friday along
13 with a whole bunch of articles about Gawker Media
14 which were used as exhibits at the depositions of
15 our people that happened at the end of September.

16 THE COURT: Those are the 600-some-odd number
17 of responses?

18 MR. BERLIN: Right. So we have a stack of
19 documents, but in terms of actual things that are
20 not just pages from our website or articles about
21 our people, it's very, very little.

22 Let me start, if I could, with the economic
23 damages. And I think that this is -- you know,
24 we're sort of in agreement about some of the legal
25 principles that animate this and, that is that if

1 it's relevant to the issues in the case, it's
2 discoverable. And, of course, we do have in place
3 a protective order. So to the extent that there's
4 the production of sensitive information, obviously
5 it should be produced more confidential and we'll
6 treat it as such.

7 THE COURT: This is the agreed protective
8 order governing confidentiality that I signed --

9 MR. BERLIN: July 25th, I believe,
10 Your Honor.

11 THE COURT: Okay. Thank you.

12 MR. BERLIN: And, in fact, realizing that --
13 let me just speak a word about that. Realizing --
14 before I get to the specific topics, realizing
15 that some of the discovery that we were asking for
16 which -- because the discovery had already been
17 served by July 25th -- and realizing that some of
18 the discovery that plaintiff was asking for
19 involved, for example, financial information about
20 Gawker, which we've produced, we went to them and
21 said, hey, we should have a protective order. We
22 negotiated the terms over the space of about 30
23 days. Mr. Cohen and his colleagues got in on it,
24 and then we presented it to you, to the Court.
25 And we think that it actually provides a fair bit

1 of background for how we should proceed.

2 Turning to the economic damages, the
3 complaint that you have now before you talks about
4 injury to the plaintiff's brand as a wrestler, as
5 an actor, as a television personality. He -- and
6 he echoed this -- Mr. Harder echoed this today.
7 The plaintiff is entitled to seek, and hereby does
8 seek, the market value of the use of his publicity
9 rights. Right? So our task is to try and
10 understand, okay, you say this injured you
11 economically. How so? Right? So we asked some
12 questions.

13 Now, one of the things that we've learned,
14 for example, which we did not get in discovery was
15 we asked for other lawsuits that he had been a
16 party to, including, particularly as it relates to
17 this, around the same time. One of the things we
18 learned from our own investigation was that in
19 January of this year, he sued a company that did
20 some spine surgery on him and claims to have lost
21 two years of professional opportunities. Well, he
22 can't come into this court and say I lost
23 professional opportunities and come into that
24 court and say I lost professional opportunities
25 and then say I'm not going to disclose that. I

1 mean, that's sort of fair game in this process.

2 In his divorce case, right, we don't want to
3 go through all of the messy custody issues.
4 That's not what this is about. But in his divorce
5 case, he petitioned the court -- again, we found
6 this out on our own by just getting the court
7 record -- that he asked for modification of
8 support claiming that his career was on the wane
9 and that his earning potential was diminished.
10 And that all happened before this tape was posted.
11 Again, that's fair game if you were -- if you're
12 claiming economic damages, then the way our
13 adversarial system works is you put that up to
14 scrutiny.

15 Since then, right, we say, well, you know,
16 how has the brand been affected? You know, since
17 then we've learned -- again, from our own
18 investigation -- that he's opened up a store.
19 He's opened up a restaurant. He's launched a
20 hosting service for websites called Hostamania,
21 which is based on his wrestling monicker Hulkmania
22 and in which, by the way, he appears in a thong
23 with his bare buttocks exposed in the ads
24 imitating an overtly sexual Miley Cyrus music
25 video in which she appears nude and undertakes a

1 variety of sexually suggestive acts. I have to
2 say I didn't know that -- I didn't get the joke on
3 my own. I had to have my younger colleagues
4 explain to me the Miley Cyrus video, but it was
5 explained.

6 We also understand that he's in the process
7 of renewing his agreement with either TNA or WWE,
8 which are both wrestling companies. And so to the
9 extent that somebody says, I was injured in my
10 brand by this, we're entitled to say, like, okay,
11 here's all the stuff that happened immediately
12 after this video was posted and it seems like your
13 business is going well.

14 Again, all of this -- I'm just giving you
15 examples that we've been able to find on our own.
16 We have nothing on this subject in any of the
17 discovery. And, in fact, as Mr. Harder alluded, a
18 number of celebrities -- and I'll come back to
19 this in a little bit -- a number of celebrities
20 don't actually lose money when a sex video is
21 posted and sometimes they release it themselves
22 because it actually enhances their career because
23 it draws attention to it, for better or worse. I
24 don't make a judgment about whether that is a good
25 thing or a bad thing, but that is, in fact, true.

1 MR. HARDER: Fair game meaning what?

2 THE COURT: In cross-examination.

3 MR. HARDER: You mean fair game in terms of
4 medical records?

5 THE COURT: Medical, divorce records, any of
6 the other aspects of the things that Mr. Berlin
7 brought up would seem to me --

8 MR. HARDER: Okay.

9 THE COURT: That's -- we're a ways off from
10 that, but --

11 MR. HARDER: Okay. I mean, I just don't see
12 that because somebody is taped against their
13 knowledge and against their will and somebody
14 posts that to the Internet that now the plaintiff
15 has to open up their life.

16 THE COURT: You know, you should sit in any
17 day of the week that we're in here in jury trials.
18 I understand where you're coming from.

19 MR. HARDER: I don't see why anyone would
20 ever want to seek redress if now suddenly they
21 have to be violated a second time, a third time,
22 and a fourth, and a fifth time every time they're
23 deposed, every time they go on the stand, every
24 time they have to open up all their medical
25 entries and everything, especially to a company

1 that is in the business of posting things to the
2 Internet where they come across something and
3 they're like, oh, this is a juicy tidbit; let's
4 throw that up on the website.

5 THE COURT: I totally understand what you're
6 saying. But like, for example, Mr. Bollea's
7 divorce proceeding, we have government in sunshine
8 here. Unless the judge sealed certain parts of
9 it, that whole file is open to public record.

10 MR. HARDER: And if they want to go look at
11 the file, I'm not trying to stop them from looking
12 at the file. What I'm trying to stop them from
13 doing is having us make a photocopy of the file
14 and everything else that goes along with it that
15 wasn't part of the public file, because I don't
16 see how a divorce proceeding is --

17 THE COURT: Okay. Well, let's just move on
18 because I think those are ultimately -- some of
19 those are going to be issues on down the road.
20 But go ahead.

21 MR. HARDER: In terms of damages, Mr. Berlin
22 talked a lot about -- it sounds like he thinks
23 that now our damages theory is that Hulk Hogan's
24 career was damaged because of the sex tape being
25 posted and we are seeking damages because of the

1 harm to his career. That's not what we're
2 seeking.

3 THE COURT: But, see, they don't know. So
4 that's why --

5 MR. HARDER: Well, I've told him. We had a
6 three-hour phone conversation and I told him that.
7 I said if he happens to have lost a contract or an
8 opportunity, then we'll produce that contract or
9 opportunity. I don't know of any. And I've asked
10 my client many times. And if Your Honor wants to
11 just say, okay, you have until X day to produce
12 any contracts that you claim were lost, that's
13 fine. I'm happy to have a deadline, because I
14 don't think we're going to end up producing
15 anything because I don't think that he lost any
16 contracts as a result of what Gawker Media did.

17 We're not seeking damages to his career. I
18 think Mr. Berlin said, well, sometimes a
19 celebrity's career goes up rather than down
20 because of a celebrity sex tape. Maybe that's the
21 case. It's not a point that's being made by us in
22 this case. We're not saying that his career went
23 down or his career went up because of this sex
24 tape. What we're saying is that there is a
25 tremendous amount of commercial value in a

1 celebrity sex tape. Some celebrities -- or some
2 sex -- celebrity sex tapes make \$10 million,
3 \$15 million, \$20 million from the tape itself
4 because so many people go to a site and plunk down
5 money and want to watch it.

6 What we're saying is, they got the value of
7 five million plus people who were unique to Gawker
8 Media, unique viewers, went there, and their --
9 their company was enhanced financially because of
10 it and the value that they got is the value of a
11 celebrity sex tape in which Hulk Hogan is the
12 star. So we want the value rather than allowing
13 them to have it. It has nothing to do with
14 whether his career was harmed or not.

15 Mr. Berlin went for a while trying to -- it
16 sounded like he was saying that Hulk Hogan has
17 been inconsistent in his allegations in this case.
18 The only thing -- and I will admit to this -- the
19 only thing that was inconsistent is the 2006
20 versus 2008. When Hulk Hogan first said this
21 happened six years ago, I think that my office
22 took it literally rather than figuratively. I
23 think when he said it happened six years ago, he
24 was meaning it happened many years ago. And so
25 when we initially prepared the papers, we made a

1 mistake and we said, okay, it's 2012, and then we
2 go back six years, so that's 2006. And then in
3 further talking to him about this, we got down the
4 actual timeline based upon other things that were
5 happening in his life, including his separation.
6 He did live with the Clems for a short period of
7 time, I think two weeks or two months or somewhere
8 in between there. I never said that he didn't.
9 But that was part of the timeline. So once we got
10 him down on the timeline, it turns out it happened
11 to be in 2008 rather than 2006. And I apologize,
12 but that was an inadvertent error. That doesn't
13 mean you open up the floodgates to discovery. It
14 means we goofed and we unfortunately had our
15 client sign something that was under penalty of
16 perjury that was off by two years. And I
17 apologize for that. But, again, it doesn't lead
18 to this opening of the floodgates.

19 In terms of what Mr. Berlin was presenting to
20 the Court -- and I can talk about the public
21 statement. When Bubba Clem was sued, he went on
22 the radio and he told things that weren't true.
23 He said Hulk Hogan was in on this. That wasn't
24 true. And it was, I suppose, the passion of the
25 moment after having just been sued and his

1 reputation was being maligned. And because he's a
2 radio personality, he didn't want people to think
3 that he was running around taping people having
4 sex in his bedroom without their knowledge. But
5 the truth is exactly what Hulk Hogan has said.
6 And that's why we brought this lawsuit. That's
7 why we're fighting it so hard. That's why there
8 is so much money being spent. If this was
9 something that Hulk didn't care about -- and
10 Mr. Berlin implied that, that Hulk let this tape
11 get released -- why would we be doing all this? I
12 mean, that doesn't make any sense at all.

13 And Bubba Clem made an apology. He went
14 public with his statement. He put it in writing
15 and he signed it and he read it on the air. And
16 he said, what I said before was untrue. These are
17 the true facts. Hulk Hogan had nothing to do with
18 this.

19 In terms of discovery, though, we're happy to
20 give them everything that we have that's not
21 privileged that pertains to this encounter. And
22 we've done it. In terms of -- there's not a whole
23 lot. They make it sound like, oh, there's all
24 these documents and we haven't gotten any of them.

25 The document that Mr. Berlin handed to the

1 the people that prepare his taxes, any of those,
2 the plaintiff's objection is sustained.

3 Let me back up. As far as the medical
4 records, that includes the names of all of
5 Mr. Bollea's physicians.

6 The divorce proceeding, information regarding
7 the divorce proceeding, as far as Mr. Bollea, the
8 plaintiff's objections are sustained.

9 As it pertains to Mr. Bollea, or for that
10 matter, Ms. Clem's sex life, the questions that
11 the Court would determine to be relevant are only
12 as it relates to the sexual relations between
13 Mr. Bollea and Ms. Clem for the time frame 2002 to
14 the present, which was the time frame related I
15 believe in the request, 2002 to the present, but
16 the other additional -- for example, interrogatory
17 No. 4, interrogatory No. 5, No. 6, No. 7, No. 8,
18 No. 9, the objections by the plaintiff are being
19 sustained. So questions pertaining to like, for
20 example, interrogatory No. 10, identify any and
21 all times you discussed having sexual relations
22 with Heather Clem and her husband, Todd Alan Clem,
23 during the relevant time period stating for each
24 time the date, approximate time, location, and
25 substantive discussion, the objections would be

1 overruled. Plaintiff's objections would be
2 overruled. So as it pertains to the three -- and
3 I guess we really need to include Mr. Clem in that
4 aspect -- those three parties are fair game for
5 questions as it pertains to each other.

6 Is that pretty clear? I think that pretty
7 much gives guidance as to all the different
8 interrogatories globally as to the sex life aspect
9 of it.

10 Do you think so, Mr. Berlin?

11 MR. BERLIN: If I may ask just a clarifying
12 question. In the questioning you had an exchange
13 with Mr. Harder about, if we're going to limit
14 proof on emotional distress and we're going to
15 limit proof on economic damages, which I
16 understand your ruling to do, then there would be
17 limits on proof at trial. I wanted to -- in an
18 effort not to run afoul of the Court's ruling and
19 to understand how we should prepare our case, I
20 want to understand what the appropriate -- you
21 know, what that would look like at trial so that
22 we can prepare and get the information we need,
23 but not overstep the bounds of the Court's ruling.

24 THE COURT: I think some of that is going to
25 have to come up later on and maybe even more

1 specific, because you mentioned a number of things
2 today that I think would be fair game for you to
3 know, especially for purposes of trial. But --
4 and I guess maybe, Mr. Harder, you made the offer
5 to give you a deadline for any contracts or
6 events. It seems as though today in your oral
7 presentation, you have significantly eliminated a
8 number of theories of damages. So with that being
9 said, that then sort of eliminates a lot of the
10 areas of inquiry on the -- for the defense. So
11 I'm thinking that maybe comes about later on in a
12 motion for limine. They don't give you any of the
13 information, so therefore, they're not allowed to
14 now bring it up during trial. But, on the other
15 hand, if Mr. Bollea is saying, I was under severe
16 stress because of this, and, Mr. Berlin, you find
17 out, well, yeah, he was under stress because he
18 was also going through a divorce and some of these
19 other areas, I think I would rather see those more
20 accurately framed in a motion that I could
21 specifically rule on prior to a trial.

22 Does that make sense?

23 MR. BERLIN: I think it makes a lot of sense,
24 Your Honor. And perhaps it's implicit in the
25 Court's ruling, but I want to clarify this as

1 well. There is an interrogatory -- I think
2 No. 12, but I may be mis-recalling that -- that
3 asked for the plaintiff to set forth his theories
4 of damages. We have no sort of meaningful answer
5 to that. It would seem to me that the first step
6 in going down the road that Your Honor just
7 outlined would be to do that.

8 THE COURT: I think that's a good idea.

9 MR. BERLIN: Then we can bring the motion
10 that you just described so that we're all on the
11 same page and we won't have these problems.

12 THE COURT: I think you're right. In
13 interrogatory No. 12, it says, identify any and
14 all damages purportedly suffered by you as a
15 result of alleged actions by the Gawker defendant
16 and then explain with particularity the basis for
17 your calculation of such alleged damages. So I'm
18 thinking that --

19 MR. HARDER: We gave them a supplemental
20 response to that.

21 THE COURT: You did?

22 MR. BERLIN: I don't believe there's any
23 supplemental response to that, Your Honor. We got
24 a supplemental response to document requests. We
25 have no supplemental response to that.

1 MR. HARDER: I may be mistaken.

2 THE COURT: Mr. Harder will look at it. If
3 he can give that to you let's say prior to
4 November 11th or whenever the deposition is
5 scheduled, that would be helpful. Is his
6 scheduled on the 11th?

7 MR. BERLIN: I believe he's the 12th,
8 Your Honor.

9 THE COURT: Okay. So perhaps you could give
10 that response by the 8th, which is the Friday
11 before.

12 MR. HARDER: I will.

13 THE COURT: Okay. Anything else that I can
14 give clarification on?

15 MR. COHEN: Yes, Your Honor. The deposition
16 of Mr. Clem, is it my understanding that he's not
17 going to show up on the 11th or is he --

18 MR. BERLIN: His lawyer is saying he's not
19 available, but we have for two months asked for a
20 different day and said, look, we'll release you on
21 that day if you give us a different day. We
22 haven't. I would ask the Court to authorize us to
23 proceed because we have counsel coming in from all
24 over the country.

25 THE COURT: It seems to me like it's