

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

TERRY GENE BOLLEA professionally  
known as HULK HOGAN,

Plaintiff,

vs.

Case No. 12012447CI-011

GAWKER MEDIA, LLC, *et al.*,

Defendants.

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**APPENDIX CONTAINING A TIMELINE OF KEY EVENTS, EVIDENCE,  
AND TESTIMONY IN SUPPORT OF DEFENDANTS' MOTION *IN LIMINE* NO. 2:  
EVIDENCE CONCERNING PLAINTIFF'S USE OF RACIAL SLURS ON A SEX TAPE**

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## KEY EVENTS IN 2012<sup>1</sup>

- March 7 TMZ breaks the news about the existence of a Hulk Hogan sex tape. Terry Bollea and his attorney David Houston quickly grant TMZ an exclusive interview.
- April 19 *The Dirty* publishes screen shots from a Hulk Hogan sex tape.
- April 26 *The Dirty* publishes additional screen shots from a Hulk Hogan sex tape, accompanied by the text: “Terry, do you remember what you said about black people in this sex tape?” No other media outlet reports on this allegation.
- May 21 *The National Enquirer* publishes an article titled “Hulk Hogan Sex Tape Shocker, Mysterious Woman in Video was His Best Friend’s Wife.”
- Oct. 4 Gawker posts a column about a Hulk Hogan sex tape and brief excerpts from the tape.
- Oct. 5 David Houston emails a “cease and desist” letter to Gawker. The letter states that if Gawker stops using the video and discloses its source, no lawsuit will be filed.
- Oct. 6 The sex tape excerpts remain posted on Gawker’s website. Neither Bollea nor Houston takes any action.
- Oct. 7 The sex tape excerpts remain posted on Gawker’s website. Neither Bollea nor Houston takes any action.
- Oct. 8 Bollea arrives in New York for a media tour to promote TNA wrestling’s upcoming pay-per-view event. TNA’s publicist tells Bollea that “you don’t have to talk about” the sex tape and instructs him to respond to questions about the sex tape by saying simply “this has been a tough week, . . . but I’m here to talk about” TNA and then pivoting to promote TNA’s pay-per-view.
- The sex tape excerpts remain posted on Gawker’s website. Neither Bollea nor Houston takes any action.
- Oct. 9 Bollea appears on various national media outlets and discusses the sex tape at length. As TNA’s publicist later testified, he “did not follow my advice.”
- Later that day, Gawker responds to the “cease and desist” letter, informing Houston that it will not take down the posting. It offers to publish any response Bollea would like to submit. Still, the sex tape excerpts remain posted on Gawker’s website. Neither Bollea nor Houston takes any action to have them removed.

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<sup>1</sup> This Appendix provides relevant evidence and deposition testimony concerning the events described in this Timeline in tabs corresponding to each date. For ease of reference, the Appendix includes transcripts of audio and video material and excerpts of some lengthy documents, such as pleadings.

Oct. 10 Keith Davidson, a California-based attorney, emails Houston and asks to discuss the “Hulk Hogan Tape,” identifying himself as the representative for the “rights holder of the [sex tape] footage,” and someone considering representing “the possessor of the tapes.”

Meanwhile, the sex tape excerpts remain posted on Gawker’s website. Neither Bollea nor Houston takes any action to try to have them removed.

Oct. 11 Bollea posts a message about Bubba Clem on Twitter: “Still haven’t seen the end of the tape, still haven’t given up on Bubba. I still believe he’s my friend for life, HH.”

Davidson emails Houston to tell him that he is available to talk. They have a brief telephone conversation that day.

Still, the sex tape excerpts remain posted. Neither Bollea nor Houston takes any action to have them removed.

Oct. 12 Davidson emails Houston to report that he has “viewed all materials” and can discuss their contents “more substantively.” Houston and Davidson speak later that day. During the conversation, Davidson tells Houston that there is more than one tape, and “one of the tapes contain[s] racial epitaphs [sic] which could hurt BOLLEA’s career if released.”

Bollea sends a text message to Bubba Clem, saying: “We know there’s more than one tape out there and a [sic] one that has several racial slurs were [sic] told.” His message continues: “I have a PPV and I am not waiting for anymore surprises because we know there is a lot more coming.” The message expresses Bollea’s anger with Clem for filming him and continues: “I’m asking u one more time why do u lie then film me anyway.” Bollea tells Clem he “need[s] an answer now because things are moving really fast.”

Still, the sex tape excerpts remain posted. Neither Bollea nor Houston takes any action to have them removed.

Oct. 13 On Saturday, Bollea’s lawyers contact Bollea’s publicist, Elizabeth Traub, to inform her that they plan to file suit on Monday and would like her assistance issuing a press release and staging a press conference. That night at 6:12 p.m., Charles Harder emails Traub two draft complaints, which show that Bollea has not yet retained counsel in Florida.

Oct. 14 Houston tells TMZ that he and Bollea will be meeting with the FBI on Monday. TMZ posts an “exclusive” report, which states that Houston and Bollea “contacted the FBI to track down the sex tape leaker” for allegedly “distributing the illegal footage to the media.”

Oct. 15 At 8:49 a.m., Bollea posts a tweet on Twitter stating, “Now my actions will speak louder than my words, HH.” That same morning, Houston and Bollea meet with the FBI. They complain that Davidson told Houston that he had sex tape footage that included racist statements that would be highly damaging to Bollea’s career, and that Davidson’s client would release that footage if Bollea did not agree to “purchase” it from him.

Bollea’s publicist Traub sends out an alert to local and national media and issues a press release announcing the lawsuit and that Bollea is seeking \$100 million. The press release also includes a statement by Houston warning that “we will ensure that all crimes are prosecuted to the fullest extent of the law.”

Later that day, Bollea files two complaints, one in federal court against Gawker and one in state court against Bubba Clem and Heather Clem. Both complaints seek an order requiring defendants to deliver all copies of, or excerpts from, the sex tape to Bollea.

In a late-day press conference on the federal courthouse steps, Harder states that the purpose of requiring delivery of all copies of, or excerpts from, the sex tape is to facilitate their destruction. Houston issues a “warning” to “those people that are out there,” stressing that the lawsuit “sends [a] message to any other entities out there that might be considering posting all or part of this video or for that matter any other.”

While Bollea and Houston did not know whether Gawker possessed the tape with the racist slurs, he knew that Bubba and Heather Clem knew about it so sued them separately.

Oct. 16 Twelve days after Gawker posted the sex tape excerpts, Bollea files motions for a temporary restraining order and a preliminary injunction, seeking an order requiring Gawker to remove the column and excerpts and to deliver to Bollea all copies of, or excerpts from, the sex tape.

Oct. 17 Howard Stern and Bubba Clem jointly broadcast their shows. During the shows, Stern interviews Bubba about the sex tape controversy and Bollea’s lawsuit, and they have the following exchange:

HOWARD STERN: Let’s say he really is embarrassed by this. Let’s say everything that they are reporting, these rumors that the “N” word is being said –

MR. CLEM: But he said it.

HOWARD STERN: But wait a second. Let’s say he really wants to stop the -- the outcome of the tape going public, and he’s very embarrassed by what might or might not be on there, and he just is ashamed. So how does he --

MR. CLEM: As we all are.

HOWARD STERN: As they're shaking in their boots, he wants to show the world that he's serious, that he will litigate, that he will go after –

That afternoon, Bollea's attorneys begin settlement discussions with Bubba Clem's attorneys. Bollea's attorneys offer Bubba Clem and Heather Clem a settlement that, according to Houston, "amounts to a walk-away."

Houston separately emails Davidson to express Bollea's "desire to become in control of the tapes": "As you may be aware, we have recently filed suits attempting to block Gawker's further distribution or release and hopefully any other media outlets that may be out there."

Oct. 25 Bollea and Bubba Clem enter a settlement agreement as of this date. In the settlement, Clem agrees only to mention Bollea if "the statement is positive" and will "not disparage" him. Clem also agrees to "maintain total confidentiality of information regarding" Bollea. In addition, Clem agrees to turn over all information and material concerning the sex tapes and to assign his rights, including intellectual property rights, to the tapes to Bollea. Clem agrees to assist Bollea in his lawsuit against Gawker, and Bollea, in turn, agrees to dismiss suit against Clem "without prejudice." Release is contingent on Clem's compliance with his promises, and the statute of limitations remains tolled so that Bollea can renew his suit against Clem if he fails to live up to the contract. Bollea promises not to pursue Clem criminally. Bollea's counsel, however, tells Clem's lawyer that seeking Clem's prosecution "was never an issue" for Bollea. The settlement agreement is for \$5,000. Presumably, Clem's leverage was his knowledge of the racist language (since footage of the sexual encounter had already been posted publicly).

Dec. 14 Houston and Bollea watch the sex tapes with Davidson. Houston asks to see "the more damaging part of the tape with the language." Bollea and Houston then watch that portion of the tape and hear Bollea's racist statements. They also watch the footage as Bubba Clem tells his then-wife: "If we ever did want to retire, all we have to do is use that... footage of him talking about [REDACTED] people." After watching that portion of the tape, Houston said to Bollea, "My God . . . That's bad," and Bollea responded, "it just totally blows my mind to see that."

Sep. 2014 After the DCA denies Bollea's writ challenging order requiring FOIA authorizations, Houston emails U.S. Attorney's office to try to block release of the videos: "As you are aware, it has been our goal to prevent the dissemination of the videos and or any language as it concerns the videos whether it be audio or otherwise."

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 1st day of February, 2016, I caused a true and correct copy of the foregoing to be served via the Florida Courts' E-Filing Portal on the following counsel of record:

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