

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

HEATHER CLEM; GAWKER MEDIA, LLC  
aka GAWKER MEDIA; GAWKER MEDIA  
GROUP, INC. aka GAWKER MEDIA;  
GAWKER ENTERTAINMENT, LLC;  
GAWKER TECHNOLOGY, LLC; GAWKER  
SALES, LLC; NICK DENTON; A.J.  
DAULERIO; KATE BENNERT, and  
BLOGWIRE HUNGARY SZELLEMI  
ALKOTAST HASZNOSITO KFT aka  
GAWKER MEDIA,

Defendants.

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**PLAINTIFF TERRY GENE BOLLEA’S MOTION FOR PROTECTIVE ORDER**

**I. INTRODUCTION**

Plaintiff Terry Gene Bollea (professionally known as Hulk Hogan) hereby applies for a protective order that no video recording be made of his deposition, or, in the alternative, that the video recording of his deposition be sealed, held by the Court, and opened only by order of the Court for purposes of trial.

Defendant Gawker Media, LLC operates a celebrity gossip website that publishes, among other things, videos which invade the privacy of celebrities. One such video, a surreptitiously recorded sex tape depicting Bollea, was published by Gawker Media and gave rise to this lawsuit. Gawker Media has also disobeyed a court order in this case that it remove content from its website that invades Bollea’s privacy.

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Gawker Media has noticed the videotaped deposition of Bollea, and has indicated it intends to ask him questions about his private sex life at that deposition. Bollea has a legitimate and well-founded concern that excerpts of such a video in which Bollea testifies about his private life could later be published by Gawker or leaked for publication by another website. Accordingly, the motion should be granted.

Bollea's counsel sent Gawker Media's counsel a Meet and Confer letter on October 7, 2013, in an effort to obtain Gawker Media's agreement to the relief sought herein. On October 8, 2013, Gawker Media responded to Bollea's counsel and opposes the request for relief. Therefore, this Motion for Protective Order became necessary.

## **II. ARGUMENT**

“Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending may make any order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense that justice requires, including one or more of the following: ... (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery; ... [and/or] (6) that a deposition after being sealed be opened only by order of the court.” Fla. R. Civ. P. 1.280(c).

Florida's Constitution recognizes a right to privacy. Fla. Const. Art. 1 § 23. Protective orders are appropriate to regulate discovery inquiring into areas of constitutionally protected privacy. *South Florida Blood Service, Inc. v. Rasmussen*, 467 So.2d 798, 801 (Fla. 3d DCA 1985) (quashing order granting discovery from blood bank of identities of donors, which could be used to determine whether donors had contracted STD's and thus could indirectly disclose the sex lives of the donors). “The discovery rules. . . grant courts authority to control discovery in all aspects in order to prevent. . . undue invasion of privacy.” *Id.*

In this case, Gawker Media's line of business and the sensitive nature of the topics which may be covered at Bollea's deposition, as well as Gawker Media's conduct in disobeying an order of this Court that it take down content that invades Bollea's privacy, provide ample justification for precluding a video recording from being made of the deposition. This will ensure that there is video recording to be later published or leaked for publication if details of Bollea's private life are discussed. *Cf. Westmoreland v. CBS, Inc.*, 584 F. Supp. 1206, 1213 (D.D.C. 1984) (granting motion of CIA director that deposition taken by television network not be videotaped because videotape could be used for non-litigation purposes).

In the alternative, if a video recording of Bollea's deposition must be made, the Florida Rules of Civil Procedure provide for a procedure to ensure that the video recording is not available to be published or leaked. A protective order may issue to seal the deposition, to be opened only by order of the Court. Fla. R. Civ. P. 1.280(c)(6). The Court has the power to restrict parties from disseminating video recordings of depositions to the public. *Forrest v. Citi Residential Lending, Inc.*, 73 So.3d 269, 278 (Fla. 2d DCA 2011) (affirming temporary injunction prohibiting dissemination of video recordings of depositions on the Internet). This rule is particularly applicable where the deponent is a celebrity, as is the case here. In *Paisley Park Enterprises, Inc. v. Uptown Productions*, 54 F. Supp. 2d 347 (S.D.N.Y. 1999), cited with approval by *Forrest*, a videotaped deposition of the rock star Prince was noticed in a copyright infringement case. The defendant operated an unofficial Prince fan magazine which disseminated unauthorized footage of Prince, and its counsel would not confirm that the defendant would not try to disseminate the video of the deposition. In response, the Court permitted Prince's deposition to be videotaped but ordered that only one copy be made and deposited with a custodian, who would hold the copy subject to further order of the Court.

### III. CONCLUSION

For the foregoing reasons, the Court should order that no video recording be made of Bollea's deposition. In the alternative, the Court should order that any video recording be sealed and deposited with the Court, to be opened only by the order of the Court.

DATED: October 8, 2013

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via email this 8th day of October, 2013 to the following:

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