

EXHIBIT A

ELECTRONICALLY FILED 2/24/2014 9:03:44 AM: KEN BURKE, CLERK OF THE CIRCUIT COURT, PINELLAS COUNTY

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. Riesdorff, RPR, CRR
Notary Public, State of
Florida

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1 to know that I'll read the things that you send to
2 me ahead of time. So I try to make our time as
3 productive as possible.

4 I believe that initially this was scheduled
5 for a short time. I don't know what the last
6 communication with you all was. At least we do
7 have two hours this morning. So I would like to
8 make the most use of that time and for it to be
9 productive.

10 I do have a notebook. I do also have lots of
11 copies of different things. I'm not sure if it's
12 duplicative in the notebook. I didn't take the
13 time to go through and make all those
14 determinations. So I have -- I've only seen one
15 copy of a notice of hearing today, which was
16 Mr. Thomas' notice of hearing which had the Motion
17 to Compel Discovery From Plaintiff By Defendants
18 Gawker Media and Gawker Media's Motion to Compel
19 Defendant Heather Clem to Respond to Discovery
20 Requests and the Motion to Dismiss the Defendant
21 Gawker Media Group.

22 It seems to me that we would make best use of
23 our time if they are noticed for today to do the
24 things as much as we can for those issues that
25 pertain to the depositions that are scheduled for

1 November 11th. Does that make sense?

2 MR. HARDER: Yes, Your Honor.

3 MR. BERLIN: Yes.

4 THE COURT: Okay. So with that in mind, it
5 seems to me starting out with plaintiff's motion
6 for protective order as the first -- I think
7 there's two motions for protective order.

8 MR. HARDER: Correct.

9 Your Honor, I can cover both, because the
10 second motion for protective order just relates to
11 the videotapes. So I can cover them both. Thank
12 you, Your Honor.

13 I would like to go over the types of
14 discovery that we're seeking to have precluded.
15 They're covered in our two protective orders. And
16 then also, they kind of bleed into our opposition
17 to their motion to compel in certain respects. So
18 if it's -- I'm not going to take up a whole lot of
19 time as to the latter things, but I just wanted to
20 kind of cover them all so that we can cover our
21 bases.

22 Obviously, Your Honor's familiar with the
23 case. It involves a single sexual encounter that
24 was secretly taped, and the Gawker defendant
25 posted a minute and a half of the highlights of

1 aspects of damages.

2 In terms of emotional distress, we're just
3 asking for what's known in Florida law as garden
4 variety emotional distress, that if something
5 happens to somebody that a reasonable person would
6 become distressed over that, then a jury would
7 award damages that's appropriate for that
8 situation. We are saying that he was filmed in a
9 bedroom engaged in private activities and it was
10 posted on the Internet for six months, that that
11 is something that would cause anyone, if that had
12 happened to them, to be distressed by that. And
13 we're going to ask the jury to give damages
14 appropriate to that. He did not seek medical
15 treatment for distress relating to this tape. So
16 we don't feel that anyone should have to go into
17 all of the aspects of his medical history.

18 THE COURT: But isn't it also appropriate
19 then for the defense to be able to determine the
20 flip side of that, well, were there other issues
21 medically that he was dealing with at the time
22 that would have caused the same level of stress?

23 MR. HARDER: Well, we're not saying that we
24 want damages for all of the stress that he was
25 feeling in his life at the time of the tape.

1 first, Your Honor, if that's okay.

2 THE COURT: Okay. Actually, the complaint
3 was filed October 15th. So, see, we are here on
4 our year anniversary.

5 MR. BERLIN: And the amended complaint, I
6 think, was in December. So it's almost a year
7 even for that.

8 Good morning, Your Honor. Let me try and go
9 through the various topics that Mr. Harder raised
10 in some sort of order that I think will probably
11 help make sense. And I agree it probably does
12 make sense to do this topically rather than one
13 request at a time given the number of requests
14 that are at issue. And if there are particular
15 questions after that about a specific request, we
16 can perhaps turn to that.

17 Mr. Harder addressed, as I said, topics that
18 were both in the motion for protective order as
19 well as the motion to compel. If it would be
20 helpful to the Court, I will be happy to try and
21 address all of those together and just, you know,
22 reserve on our motion a brief time for some
23 rebuttal.

24 As some of the Court's questioning indicated,
25 this is a case where the plaintiff has brought a

1 parameters now. That's why I'm reserving some
2 time for me at the end here because I'm going to
3 give you some parameters.

4 MR. BERLIN: The only other thing I would
5 say, Your Honor, is that -- with respect to that
6 is that we do have these depositions lined up for
7 a couple weeks from now. They took a long time to
8 schedule. We went through almost 30 days back and
9 forth just getting the schedules lined up with
10 witnesses, and I would like to be able to proceed
11 with that. If appointing somebody would delay
12 that, then I probably would have some concerns
13 about that.

14 THE COURT: I don't know what his schedule
15 would be. Okay. Thank you very much.

16 Mr. Cohen?

17 MR. COHEN: Judge, it may be helpful if
18 Mr. Harder responds. He's more conversant with a
19 lot of these issues and not coming in at the end,
20 if that's okay with Your Honor.

21 THE COURT: Well -- but it seems to me that
22 there may be some conflict, because Mr. Harder is
23 asking -- well, Mr. Harder's client, Mr. Bollea,
24 is asking for stuff from Ms. Clem, which I believe
25 she's objecting to. And on the other hand, he is

1 objecting to some of the same stuff that they're
2 asking for. So I see some -- a bit of an inherent
3 conflict in some of it.

4 MR. COHEN: There are some conflicting
5 issues, Your Honor. That's patently obvious. But
6 I think that if Mr. Harder proceeds, then I don't
7 think that my response will probably necessitate a
8 long response.

9 THE COURT: Okay. Well, then, I'm going to
10 sort of consider this to be your response to the
11 ultimate motion for protective order that
12 Mr. Berlin was just doing as well.

13 MR. HARDER: Correct. Just on that last
14 point regarding Heather Clem, we have not made any
15 motion to compel as to Heather Clem. I think she
16 objected to some --

17 THE COURT: But I think some of my rulings --
18 Mr. Berlin, let me give this back to you.

19 Some of my rulings affect Ms. Clem as well as
20 far as like videotaping and links of and whether
21 or not anybody is telling every sex partner
22 they've ever had, all those kinds of discovery
23 requests I think go all the way around.

24 MR. COHEN: They do, Your Honor.

25 MR. HARDER: Just to go over some of the

1 points that Mr. Berlin made, as far as the garden
2 variety distress claim, it's discussed in the case
3 of Olges versus Dougherty, and we cite to that on
4 page 8 of our first motion for protective order.
5 That's the case that says, in a garden variety
6 emotional distress case where the plaintiff is
7 simply alleging that the very nature of the
8 defendant's conduct would cause any normal person
9 mental anguish and where the plaintiff is not
10 intending to put on expert medical testimony as to
11 his emotional state, no such discovery is required
12 or permissible.

13 And so I would just direct the Court's
14 attention to that case.

15 THE COURT: I only say, though, that if I
16 agree with you in that regard, you're very limited
17 when we get to the ultimate trial. There's very
18 limited testimony that the plaintiff has in that
19 regard.

20 MR. HARDER: I understand, Your Honor.

21 THE COURT: I would anticipate we would be
22 spending lots of time in motions in limine and a
23 lot of the issues that Mr. Berlin, Ms. Fugate, and
24 Mr. Thomas are determining on their own would all
25 seem to be fair game.

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 search. Lexis-Nexis has a database. Google has a
2 database. They're a news organization. I assume
3 they know how to get news stories. And we're not
4 hiding anything. It's -- those types of things
5 are available.

6 I think a key point here is that when they're
7 asking for discovery, that discovery either has to
8 be relevant to what the case is about or it has to
9 lead to -- be reasonably calculated to lead to
10 admissible evidence. I just don't see how the
11 great majority of things that they've moved to
12 compel on are going to lead to admissible
13 evidence. They want everything about his sex
14 life. They want everything about his finances.
15 They want everything about a great number of
16 things, everything about his divorce. Well, it
17 has to lead to admissible evidence. I don't see
18 how any of these things are admissible.

19 In terms of privilege, we haven't done a
20 privilege log because I don't have any
21 privilege -- there are no privileged
22 communications that I'm aware of -- and I've asked
23 for them and I've done everything I can to find
24 them -- other than communications that happened
25 after litigation counsel was retained to fight

1 THE COURT: Okay. Thank you. All right. So
2 since we have mostly treated these by topics, I'm
3 just going to give the topic and then my ruling as
4 to the topic as opposed to going down motion by
5 motion. I'll let you all figure how is the best
6 way to prepare the orders on this.

7 The depositions of the plaintiff, Jennifer
8 Bollea, and Linda Bollea will be permitted to be
9 videotaped, which is then denying the primary or
10 the first request of the second plaintiff's motion
11 for protective order; however, granting the
12 alternative, which is they would be videotaped
13 under seal, not to be disseminated to anyone other
14 than the attorneys representing these specific
15 parties without further order of the Court. And
16 there's to be no further dissemination beyond the
17 attorneys representing the parties specifically in
18 this case without further order of the Court.

19 The deposition of the plaintiff, Mr. Bollea,
20 will be permitted to take place over two days.
21 Any further time frame than the two days would
22 need to have Court approval or at the agreement of
23 parties.

24 The deposition of Jennifer Bollea will be
25 permitted to take place over a one half hour -- or

1 let's say five-hour time frame.

2 MR. HARDER: Half day?

3 THE COURT: If I say half day, some people
4 may think that's 9:00 to 12:00.

5 MR. HARDER: I understand, but --

6 THE COURT: That's why I'm saying five.

7 MR. HARDER: You said half hour.

8 THE COURT: Oh, okay. I'm sorry. I'm sorry.
9 Five hours. So no more than five hours. The same
10 with Linda Bollea; it should be no more than five
11 hours without either agreement of the parties or
12 further Court order.

13 The deposition of Heather Clem, no one has
14 really addressed has aspect of it. Perhaps when I
15 sort of narrow some of the scope, that may be an
16 aspect. So why don't we just get the -- if
17 there's an issue pertaining to Heather Clem, then
18 I'll address that.

19 For purposes of the deposition, interrogatory
20 responses, requests for production, and any other
21 kind of discovery, the medical records of
22 Mr. Bollea, the plaintiff's objection is
23 sustained.

24 For purposes of financial records of the
25 plaintiff, tax returns, whoever -- the names of

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

1 REPORTER'S CERTIFICATE

2
3 STATE OF FLORIDA :

4 COUNTY OF HILLSBOROUGH :

5
6
7 I, Susan C. Riesdorph, RPR, CRR certify that I
8 was authorized to and did stenographically report the
9 foregoing proceedings and that the transcript is a true
10 and complete record of my stenographic notes.11 I further certify that I am not a relative,
12 employee, attorney, or counsel of any of the parties,
13 nor am I a relative or employee of any of the parties'
14 attorney or counsel connected with the action, nor am I
15 financially interested in the outcome of the foregoing
16 action.17 Dated this 31st day of October, 2013, IN THE
18 CITY OF TAMPA, COUNTY OF HILLSBOROUGH, STATE OF
19 FLORIDA.20
21
22 Susan C. Riesdorph, RPR, CRR, CLSP
23
24
25