

EXHIBIT 22

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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TELEPHONIC HEARING BEFORE
THE HONORABLE JAMES CASE

DATE: January 31, 2104
TIME: 3:34 p.m. to 4:05 p.m.
PLACE: 201 East Kennedy Boulevard
Suite 712
Tampa, Florida
REPORTED BY: Susan C. Riesdorff, RPR, CRR
Notary Public, State of
Florida

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1 criminal investigation, and I've had cases that
2 involve criminal investigations through a civil
3 litigation. I've never seen it. I've never heard
4 of it. We've scoured the law. I assume Gawker
5 has scoured the law. They haven't provided
6 Your Honor with a single legal authority saying
7 that this is permissible because the legal
8 authority is that it's privileged. You can't get
9 at it. Gawker being the moving party has the
10 burden of proof. They have not come anywhere
11 close to meeting the burden to prove that they're
12 entitled to get into this privilege, and for that
13 matter, to have a court force Hulk Hogan to sign
14 an authorization allowing Gawker, a civil
15 litigant, to get into these documents or to give
16 authorization to get them.

17 I'm just checking my notes here.

18 Gawker says we didn't identify communications
19 on a log. Well, we're not in possession of these
20 documents. It's law enforcement that's in
21 possession. Gawker's trying to flip the issue on
22 us and say, well, we need to show that these are
23 privileged. We need to provide a privilege log.
24 That's not how it works, not in this instance,
25 because we're not the ones who possess the

1 documents. It's the FBI here. The brief -- the
2 response brief that came in today does not address
3 the sword and shield position, which is sword and
4 shield does not apply to impeachment, to -- the
5 situation is this. The sword and shield doctrine
6 applies if a party wants to try to prove its case
7 by introducing privileged documents but it refuses
8 to disclose -- to produce those documents in
9 discovery. It wants to save them until the trial.
10 Well, the sword and shield doctrine says, no, you
11 can't do that. If you're going to use documents
12 at trial, you have to disclose those in discovery.
13 Well, that is not applicable to our situation.
14 We're not going to use anything that's in the
15 FBI's files for purposes of our civil litigation.
16 We don't even know what's in those files. But
17 we're certainly not going to use those. So,
18 therefore, the sword and shield doctrine that
19 would allow a preclusion order does not exist
20 here.

21 That's pretty much what I have, Your Honor.
22 I'm happy to answer any questions.

23 THE COURT: Okay. Seth?

24 MR. BERLIN: Very well, Your Honor. Let's
25 start with the privilege question because that's

REPORTER'S CERTIFICATE

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STATE OF FLORIDA :
COUNTY OF HILLSBOROUGH :

I, Susan C. Riedsorph, RPR, CRR certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the outcome of the foregoing action.

Dated this 12th day of February, 2014, IN THE CITY OF TAMPA, COUNTY OF HILLSBOROUGH, STATE OF FLORIDA.

Susan C. Riedsorph, RPR, CRR, CLSP