

EXHIBIT 18

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

TERRY GENE BOLLEA,
professionally known as HULK
HOGAN,

Plaintiff,

Case No.
12-012447-CI-011

vs.

HEATHER CLEM; GAWKER MEDIA,
LLC, aka GAWKER MEDIA, et
al.,

Defendants.

_____ /

TELEPHONIC HEARING BEFORE
THE HONORABLE JAMES CASE,
including confidential sessions

DATE: February 24, 2014

TIME: 1:32 p.m. to 3:27 p.m.

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Notary Public, State of
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1 I then said, Seth, why don't we have a
2 conference about this.

3 And he said, Okay.

4 Or maybe he suggested it, and I said okay.
5 But we had a conference. And the only thing --
6 the only thing that is responsive, that there is
7 anything new is three sentences that we provided
8 in a further response to No. 9, which said -- it's
9 three sentences. It says -- and Your Honor has
10 them. I have been working off of memory as to
11 what it says, but it's, essentially, these are the
12 times that Mr. Bollea and Ms. Clem had their
13 encounters.

14 Otherwise -- and then it's No. 10. We had
15 provided that response to No. 10 way back in
16 August, except we had a date wrong. Instead of
17 2008, it was mid 2007. And I apologize. And this
18 is actually -- and Seth is correct -- the second
19 time I have made an apology about the dates. I'm
20 trying to get it right. It's difficult when I
21 have a client who does not have documents
22 pertaining to these things, pertaining to when
23 things occurred, and he's working off of his
24 memory. And I get information as to when things
25 occurred based upon his memory, and it turns out

1 that we have to make a slight adjustment to the
2 date because we find out things.

3 So the only reason I'm kind of dancing around
4 this is I can't divulge attorney-client privileged
5 communications, so I have to avoid that. But it's
6 unfortunate. If I had -- if I could go into my
7 time machine and go back, I would have put the
8 correct dates in from the very beginning, which
9 is -- it's approximately mid 2007.

10 In any event -- in any event, we provided a
11 supplemental response to 9, which states when the
12 sexual encounters occurred, and we provided a
13 supplemental response to 10, which changed the
14 date. But, otherwise, back in August, we had said
15 the communications that Mr. Bollea can remember
16 having with the Clems. He can't remember every
17 single conversation he ever had with them, but
18 what we put in there is what he can remember.

19 In terms of documents, he doesn't have any.
20 He doesn't have any documents other than -- I
21 mean, we've produced some texts, and we produced
22 them way back in August. These are texts from --
23 I think it was around April-ish of 2012, and we
24 produced those. We're not holding back on
25 anything, except communications between Mr. Bollea

1 the period when reports about a sex tape first
2 surfaced in March and April 2012 and that the
3 Gawker story published in early October of 2012,
4 and then later that month when Hogan and Mr. Clem
5 had a falling out publicly and ended up in
6 litigation and then quickly settled.

7 There are similar orders in similar
8 situations which we cited in our papers. And the
9 plaintiff here should be required to produce the
10 information and documents in these narrow
11 requests, specifically interrogatory No. 10 and
12 request for production No. 54.

13 And I will reserve some time for rebuttal,
14 but that's -- I wanted to try and keep this part
15 of it brief.

16 THE COURT: Okay. Mr. Harder?

17 MR. HARDER: Yes, thank you, Judge Case. I
18 will take them in different order. Let's start
19 with the phone record, because we have already
20 started talking about that.

21 I think that a reasonable accomodation would
22 be to have Mr. Bollea review his phone records and
23 then to provide a supplemental response that would
24 identify any phone calls that happened to be on
25 his phone records with Bubba or Heather Clem. I

1 don't think it would be appropriate for me to
2 identify phone calls that he has had with his
3 litigation counsel, because those will probably
4 show up in the 2012 phone records.

5 Beyond communications with litigation counsel
6 and litigation and Bubba and Bubba and Heather
7 Clem, I don't know that there is going to be
8 anything in the phone records that's pertinent to
9 the case.

10 Mr. Berlin just said that we didn't provide
11 any of the information about his 2012
12 communications with Bubba Clem. And that actually
13 is not totally accurate, because in our response
14 to Interrogatory No. 10, we say, In or about
15 spring 2012, Mr. Bollea asked Mr. Clem to explain
16 the media reports regarding allegations of a
17 possible sex tape involving Mr. Bollea. Mr. Clem
18 denied having any knowledge or involvement in the
19 sex tape.

20 So we identified that. I don't know why a
21 phone record is necessary, because we identified
22 it.

23 As far as all of the phone calls that have
24 ever been made to Mr. Bollea or from Mr. Bollea in
25 the year 2012, obviously, we're talking about

1 99-percent-plus phone calls that have nothing at
2 all to do with this case. So I just don't think
3 that any of that is appropriate, especially when
4 it's not like we are withholding information. We
5 are providing information.

6 Also, I mentioned earlier, about a half hour
7 ago, there were texts between Terry Bollea and
8 Mr. Clem on the subject of, What is all this about
9 a possible sex tape? We've produced those texts,
10 so Gawker has those texts. So everything that we
11 have we've produced.

12 But, again, I'm happy to have Mr. Bollea --
13 and going off of Mr. Berlin's statement that a
14 person who has a telephone account can go into his
15 account and look at the account for phone calls to
16 somebody -- a certain number or from a certain
17 number, if it's that easy, this is going to be
18 very easy. We can identify the phone company.

19 I don't even mind identifying by date and by
20 phone -- well, I would rather not identify by
21 phone number, but just say a phone call was made
22 to or a phone call was made from Mr. Clem's phone
23 or Terry Bollea to Mr. Clem or Mr. Clem to Terry
24 Bollea and the duration of that call and the time
25 in which that call took place.

1 I don't have any problem with that. I just
2 don't want to open the floodgates to all phone
3 calls that Mr. Bollea has ever had. I just think
4 that is completely inappropriate and not called
5 for, and it seeks things that are not relevant,
6 and it invades Mr. Bollea's privacy. So I think
7 that a reasonable accomodation could be reached
8 there.

9 As far as the FBI records, we kind of went
10 back and forth on this about -- what was it, a few
11 weeks ago? And Your Honor made the recommendation
12 to Judge Campbell. And with respect, Your Honor,
13 we filed an exception because we feel that the law
14 reads a certain way that we don't think that the
15 discovery should occur. But Judge Campbell has a
16 hearing scheduled on that issue for April 23rd,
17 which is her earliest availability. So we will
18 have her revisit that issue.

19 So as far as the FBI records and Mr. Bollea's
20 communications with the FBI, which are all part of
21 the same thing, we would recommend that
22 Judge Campbell hear all of this, and whatever your
23 recommendation may be, on the date of the hearing
24 that's been scheduled, which is April 23rd.

25 As far as the media appearances, Mr. Berlin

1 makes it sound like we're, again, we're hiding
2 things. And again, that's not the case.

3 Mr. Bollea uses a publicist for certain
4 things. This is not a publicist for all purposes
5 necessarily. When Mr. Bollea was doing a media
6 tour in early October, it was because he was
7 promoting a Pay-per-view wrestling event. He had
8 no knowledge whatsoever that Gawker was about to
9 launch a sex tape about him. No one ever bothered
10 to call Mr. Bollea, such as Gawker, to say,
11 Mr. Bollea, we're about to launch a sex tape. Do
12 you have any comment? Was this secretly, or
13 anything like that. Gawker just posted it.

14 So while Mr. Bollea was in the middle of a
15 media tour for a Pay-per-view event, the news
16 about a sex tape came out. And, obviously, he did
17 not have a media tour to promote the sex tape. I
18 think that's, if I'm reading it correctly, what
19 Mr. Berlin is suggesting, and that's just simply
20 not the case.

21 Now, as far as the documents relating to the
22 media tour, Elizabeth Traub didn't work on that
23 media tour. And I have talked to Mr. Berlin about
24 this, and I have said, Elizabeth Traub doesn't
25 have any documents at all about that media tour.

1 And I have checked and double checked and triple
2 checked, and that's the case because she didn't
3 work on it. So they're seeking to compel things
4 that she doesn't have. And they brought -- they
5 brought a petition in New York state court to have
6 her produce things that she doesn't have and also
7 to get into privileged communications. And,
8 unfortunately, the New York court has to deal with
9 that.

10 As far as documents that may be in
11 Mr. Bollea's possession, I have checked with him.
12 I haven't gotten anything. He's still checking to
13 see if he has, for example, a list of his media
14 appearances. These media appearances took place
15 16 months ago, possibly a little bit longer than
16 that. So these things were scheduled 16 to 17
17 months ago. Mr. Bollea is not the type of person
18 who gets a document and keeps it. He's the type
19 of person who gets the document, does a media
20 tour, and then probably throws out the media tour
21 lists soon after he does the media tour. And,
22 again, this is a media tour for a wrestling event;
23 it was not for the sex tape.

24 So in terms of what's the relevant scope of
25 documents, are we supposed to produce his plane

1 ticket? Are we supposed to produce his itinerary
2 of where he flew and when, of when he showed up to
3 which building and which address and who he was
4 speaking to? I don't know if he has any of that.

5 But then there is the other question of, Is
6 that really relevant? Is it relevant which
7 airline he flew on or which date he took a flight,
8 whether it was a 6:00 a.m. flight or a 10:00 a.m.
9 flight.

10 I would like to get some sense of whether
11 he's required to find that, because maybe he would
12 be able to find an old plane itinerary as opposed
13 to a media itinerary which could have been done by
14 a different person. I don't know.

15 But it's not that we're withholding anything,
16 because the relevant stuff is we all acknowledge
17 that he did talk with the press while he was on
18 this media tour for the wrestling event. And
19 Gawker seems to have found every single occasion
20 where he talked to a reporter, because when he
21 talked to somebody, there is an article about it,
22 a YouTube or wherever it happens to be. If he was
23 on the Today Show, then there is probably a tape
24 of some sort.

25 We don't have any of the tapes. For the

1 press clipping files, he doesn't keep one. His
2 publicist doesn't keep one. His publicist didn't
3 work on this particular event, in any event, so
4 she wouldn't have one even if they did keep press
5 clipping files on things she worked on, because
6 she didn't work on this one.

7 But from someone from Mr. Bollea's point of
8 view, there is so much media out there that -- and
9 it's all available at any time. You go to Google
10 and you type in "Terry Bollea Today Show 2012,"
11 you'll get probably a whole bunch of articles
12 about how he was on the Today Show. It's not just
13 from the "today.com" or the "nbctoday.com"; it's
14 from all kinds of folks, because everyone likes to
15 report on what other people reported on. And so
16 you just get this huge explosion of media reports.

17 I'm not sure that the things that Gawker is
18 seeking are relevant. I talked to Seth after he
19 filed the motion, and we had a meet-and-confer
20 conference after the fact. And I said if we have
21 any list of the media people that he spoke to, I'm
22 happy to get that to you. Elizabeth Traub doesn't
23 have it, and Mr. Bollea has not been able to find
24 it. And, Your Honor, if he can find it, I'm happy
25 to give that over to them. But it's not the type

1 of thing that he keeps, and if he -- it may not be
2 in his possession, so --

3 THE COURT: Okay.

4 MR. HARDER: And as far as sanctions,
5 obviously, we oppose sanctions. I don't want
6 anyone saying I don't oppose sanctions. I just
7 don't feel that anything is sanctionable here. I
8 don't think that we did anything wrong, and I
9 don't think that the motion was necessary. And
10 Mr. Berlin could have given me a call after he
11 sent his meet-and-confer letter and says, Let's
12 talk, and, What are you willing to give? And I
13 would have had this conversation with him and the
14 things that I am willing to do, such as look
15 through the phone records for the relevant phone
16 calls as opposed to giving over all of the phone
17 calls of 2012. I would have been happy to do
18 that.

19 And as far as -- and the schedule of
20 reporters that he spoke to, I told Mr. Berlin I'm
21 happy to give it to him when we find it, but the
22 publicist doesn't have it and he doesn't have it.
23 So that's kind of where we are. Thank you.

24 THE COURT: All right. Mr. Berlin?

25 MR. BERLIN: Your Honor, just to be helpful,

1 let me try and go through the order that
2 Mr. Harder used, even though it wasn't the order
3 that was in our motion or the order that was used
4 originally.

5 THE COURT: Okay.

6 MR. BERLIN: The phone records, I think that
7 there is sort of two issues.

8 One is we served an interrogatory that has to
9 do with communications. And if he can use
10 documents that are within his possession, custody,
11 or control to answer that question, he ought to be
12 asked to do so and not just say, you know, Here
13 are two sets that describe all of the
14 communications that I had in a two-month period
15 with Bubba Clem, which is what the current
16 interrogatory does.

17 As far as the records themselves, certainly,
18 calls with Bubba Clem and Heather Clem are
19 certainly relevant. Calls with, whether it's
20 Ms. Traub or if he has another publicist, since it
21 seems like from the publicity tour that he's
22 saying Ms. Traub didn't assist him in doing that,
23 then presumably someone else did. Those calls
24 would be relevant, certainly. Calls with people
25 with media organizations, directly would be

1 relevant.

2 And the problem that I want to avoid, Your
3 Honor -- and this is why we said we're not going
4 to start calling people but that we wanted to be
5 able to obtain these records -- is, you know, I'm
6 reluctant to say, Well, let me just have
7 Mr. Harder decide what's relevant or not relevant,
8 because he doesn't -- he has a different theory of
9 the case. He has, in many briefs that we have
10 filed back and forth, a different view of what's
11 relevant, you know. The briefs and these two
12 motions, he says, Here is what's relevant to this
13 case. And it's a fairly narrow description, and
14 it excludes the primary thing that we're trying to
15 do, which is to be able to test what the plaintiff
16 is saying in these various factual contentions.

17 So we think the appropriate thing is to be
18 able to review them. They, obviously, can be
19 produced pursuant to the confidentiality in this
20 case. And although Mr. Harder has alluded in both
21 his papers and earlier in this session, that
22 Gawker is a media company that publishes things,
23 we have not published anything that we have
24 received in discovery, whether it was designated
25 as confidential or otherwise, and have

1 scrupulously honored the confidentiality order and
2 would -- and would continue to do so.

3 But trying to have him guess what we think
4 would be important is a bad idea in discovery, and
5 that's not how it's supposed to work. And I think
6 also that you are -- your particular suggestion
7 was maybe that I ought to have the record at his
8 deposition so we can -- that one can ask him those
9 questions and is particularly important so we
10 can -- we can go through and ask them.

11 We would hope to do it and have the records a
12 little bit in advance so that we're not sitting
13 there going line by line saying, Whose number is
14 this? Whose number is this? Because he's not
15 likely to know that off the top of his head,
16 although some of them presumably, but a good
17 number of them he may not. So there has got to be
18 some way of getting that information.

19 On the FBI records, Your Honor, this is a
20 fairly narrow request. It's not -- the last time
21 we were here saying, Can we have a FOIA, the
22 privacy act, FBI authorization for the FBI's files
23 subject to whatever objections they might make?
24 It was calling for their whole file. Here it's to
25 the -- limited to the subject of either his or his

REPORTER'S CERTIFICATE

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I, Aaron T. Perkins, Registered Professional Reporter, certify that I was authorized to and did stenographically report the above excerpted hearing 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 action.

Dated this 25th day of February, 2014.

Aaron T. Perkins

Aaron T. Perkins, RPR

