

# **EXHIBIT B**

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

CASE NO. 12012447-CI-011

TERRY GENE BOLLEA professionally  
known as HULK HOGAN,

Plaintiff,

vs.

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

Defendants.

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HEARING  
BEFORE THE HONORABLE PAMELA A.M. CAMPBELL  
(Pages 1 through 133)

Friday, January 17, 2014  
9:35 a.m. - 12:09 p.m.

St. Petersburg Judicial Building  
545 First Avenue North  
Courtroom E  
St. Petersburg, Florida 33701

Stenographically Reported By:  
Lori K. Ash, RPR  
Notary Public, State of Florida  
U.S. Legal Support, Inc.  
(813) 876-4722

1 extent my objection is overruled, I will do my  
2 very, very best and comply with the 20-day  
3 order.

4 THE COURT: Thank you very much. I  
5 appreciate it.

6 So there was one thing that I noticed in  
7 the documents to be produced on request  
8 Number 14, copies of any sex videos that  
9 depicts Mr. Bollea having sexual relations,  
10 including, but not limited to, with Mrs. Clem,  
11 I think that was already -- I think I had --  
12 there were prior objections. I'm not sure who  
13 made them, but I had sustained those  
14 objections.

15 MR. THOMAS: Your Honor, I think the way  
16 you limited that is sex videotapes between  
17 Heather Clem and Mr. Hogan. If there are  
18 multiple tapes of sex between Mr. Hogan and  
19 Ms. Clem, I think we are entitled to that.

20 THE COURT: No. You're entitled to what's  
21 involved in this lawsuit. That's what I'm  
22 going to say. You're limited solely to this  
23 lawsuit. Now, if somewhere along the way you  
24 discover something through some deposition and  
25 you go, oh, my gosh, they had sex ten times and

1           blah, blah, blah, you expound upon it, you can  
2           bring that in for me to reconsider and open  
3           that. But at this point in time, I don't find  
4           it to be any other tapes relevant to this  
5           because Gawker, to my knowledge through this  
6           litigation, has only posted that one. So it's  
7           that particular one that I believe the  
8           Plaintiffs are seeking the relief under.

9           MR. HARDER: That's correct, Your Honor.  
10          The concern that we have and I believe that we  
11          conveyed before the Court in the past is that  
12          Gawker, being a media organization that likes  
13          to publish sex tapes of people, if there  
14          happens to be another tape we would ask that  
15          they not receive possession of that, because we  
16          have an idea of what's going to happen to it.  
17          It's going to end up going public, and we are  
18          trying to prevent that. Now, if there happens  
19          to be documentation discussing it, then that's  
20          a different story, and it should be marked  
21          confidential and pursuant to a protective  
22          order.

23          MR. THOMAS: Your Honor, I want to talk  
24          about a document that is confidential -- I do  
25          want to talk about a document that's

1 confidential and that's the settlement  
2 agreement.

3 THE COURT: Well, I think we are coming to  
4 that one on the next motion. The next motion  
5 seems to be communications related to the  
6 settlement with Bubba the Love Sponge --

7 MR. THOMAS: Yes, Your Honor.

8 THE COURT: -- Mr. Clem, as I'm going to  
9 refer to him.

10 MR. DIACO: Your Honor, may I ask for a  
11 point of clarification since I wasn't here when  
12 you ruled on Number 14?

13 THE COURT: I don't know that I  
14 specifically ruled on Number 14. It's just in  
15 my reviewing it for today I think that would  
16 fall under the purview of what I previously  
17 ruled.

18 MR. DIACO: I'm not sure if everyone has  
19 possession of the video or not or if you're  
20 asking me now to produce a copy of the entire  
21 video.

22 THE COURT: I'm not asking you to  
23 produce -- well, I don't know. I think there  
24 were -- apparently there were some -- I think  
25 in going through the motions -- and I'm not

1           sure if it's the next one or the one of the  
2           other ones this morning -- but apparently there  
3           was a -- Mr. Clem's voice was heard on the  
4           beginning of the tape, and I'm not sure if that  
5           was the one that Gawker published. I couldn't  
6           really understand the distinction.

7           MR. DIACO: I believe it was.

8           THE COURT: Mr. Berlin?

9           MR. BERLIN: As far as we know,  
10          Your Honor, that was not. And when we had this  
11          hearing in October -- first of all, let me say  
12          the subpoena was served at the end of August.  
13          This is essentially encompassed within  
14          Your Honor's ruling in October that pre-dated  
15          that, and obviously we are not looking for  
16          things that Your Honor has already ruled on.  
17          But when we were here in October, if I may  
18          refresh the Court's recollection, when we were  
19          here, the reason why we limited it to -- we had  
20          a long discussion of the facts, but the reason  
21          why we limited it to videos involving Mr. Hogan  
22          and Ms. Clem is because we believe on another  
23          tape there was discussion from some of the  
24          other people in the media that is not on  
25          Gawker's tape -- there is a statement by

1 Mr. Clem and Mrs. Clem to the effect of "If we  
2 ever needed to get rich, now we have this  
3 tape." Because that obviously affects the  
4 motivation of two of the three key people in  
5 this case, that's why we asked for that.

6 To the extent Mr. Harder has concerns  
7 about publication, we've already gone over  
8 that. He's certainly aware it can be produced,  
9 that information, either under protective order  
10 which would restrict the dissemination or, if  
11 there's a heightened concern, give it to the  
12 lawyers only and Your Honor keep custody of the  
13 tape. But when those two witnesses are  
14 essentially saying we can use this to make a  
15 lot of money if we disseminate it, it seems to  
16 be very much relevant to what's going on in  
17 this case and whether what they are saying is  
18 exactly what went down.

19 Your Honor, I didn't want to contradict  
20 what Your Honor just said, but the ruling that  
21 you made in October was a little bit broader  
22 and was for that reason. And if you're  
23 concerned about it, then we can certainly  
24 address the confidentiality concerns, but we've  
25 got to get a copy of that so we can, you know,

1 see if that testimony -- see if that's there.  
2 That would significantly prejudice us if two of  
3 the key players made statements to each other  
4 that's been supported by other people who have  
5 seen the tape and we can't have it.

6 THE COURT: Has it been determined at this  
7 point through the rest of the other discovery  
8 that I'm not aware of the physical location of  
9 the -- I don't want to say tape because I don't  
10 know the format, but the original location or  
11 possession, who is in possession or are there  
12 multiple people? Can anybody speak to that?

13 MR. BERLIN: It's our understanding that  
14 Mr. Clem has those, Your Honor. That's why we  
15 subpoenaed them.

16 MR. DIACO: I don't know if he does or  
17 not, but I will certainly check with him after  
18 this. Certainly my fear would be to give the  
19 entire video to Gawker in the wake of what has  
20 happened in the past, with the allegations that  
21 resulted in this lawsuit by Mr. Bollea. And so  
22 I don't know what they have. They obviously  
23 have something, enough to publish those  
24 excerpts online. So I'll comply with  
25 Your Honor's ruling, but I would strenuously



1 object to providing the full tape to a tabloid  
2 media outlet who's already proven no qualms, no  
3 quandaries with publishing things like this  
4 without the consent of the participants. So I  
5 think it's very, very -- we need to be very  
6 careful here.

7 THE COURT: The tape at issue here is 101  
8 minutes. So is the one Mr. Clem has 101  
9 minutes or is it, you know, 20 minutes?

10 MR. BERLIN: Your Honor, the part that was  
11 broadcast was 101 seconds. That was what was  
12 broadcast. The tape that we --

13 THE COURT: That's a big difference. I  
14 was thinking 101 minutes.

15 MR. BERLIN: No. No. 101 seconds.

16 MR. DIACO: That's a heck of an endurance.

17 MR. BERLIN: 101 seconds is what was  
18 broadcast. I have no objection to having the  
19 video both -- you know, what we think is on  
20 this tape may be a longer version of what was  
21 on this tape and may be from a different -- but  
22 have the tapes involved with Ms. Clem and  
23 Mr. Bollea produced just to counsel. We won't  
24 give them to the client but just to counsel,  
25 and if Your Honor wants to look at them and

1 refer them to the custody of the Court. We  
2 need to be able to see what's on it. It's the  
3 key evidence in the case. And the thing that  
4 is most troubling is we are now finding out,  
5 you know, having been told since the subpoena  
6 was issued in August that we have no documents  
7 and there's other documents we have, maybe we  
8 have multiple documents, but we object to it.  
9 This isn't how the process is supposed to go.

10 THE COURT: Mr. Berlin, you are going a  
11 little too far afield. Mr. Diaco just said he  
12 would check if Mr. Clem may have possession of  
13 the tape, so --

14 MR. DIACO: This is my first time to  
15 present my argument to the Court.

16 MR. BERLIN: My point is in the response  
17 to the subpoena.

18 THE COURT: I think we've heard enough.  
19 Mr. Harder.

20 MR. HARDER: Your Honor, we have -- this  
21 case is about a tape that never should have  
22 been made and never should have been made  
23 public, both. And the fact that tapes exist  
24 are very, very troubling to Terry Bollea. They  
25 never should have been created. He didn't know

1 that they were being created. He wouldn't have  
2 consented to any of that. And the fact that  
3 they got published -- a minute and 41 seconds  
4 got published, which was the highlight reel, is  
5 an absolute outrage, and we have been doing  
6 everything we can to contain that situation.

7 What Gawker now wants is if there happens  
8 to be more footage than they received -- they  
9 received 30 minutes of footage. They took that  
10 30 minutes and edited it and then posted it to  
11 the Internet. It was there for six months, and  
12 then pursuant to Your Honor's order it came  
13 down.

14 If there happens to be more video than  
15 they have, we would strongly urge Your Honor to  
16 not allow that video to go anywhere. Frankly,  
17 we want it to be destroyed, but it certainly  
18 shouldn't be going into more hands. Mr. Berlin  
19 doesn't have a right to see my client having  
20 private relations with somebody in a private  
21 place when he didn't consent to it.

22 THE COURT: Do you disagree with  
23 Mr. Berlin's representation as to a ruling that  
24 I made back last October? I don't really  
25 recall that.

1 MR. HARDER: Your ruling was as it  
2 pertained to documentation and testimony. We  
3 made a protective order motion that  
4 Hulk Hogan's general sex life was not allowed;  
5 but just words, testimony, documentation that  
6 would pertain to the relationship between  
7 Hulk Hogan and Heather Clem, you allowed that  
8 discovery, but in order to contain what was a  
9 much broader request for discovery. But  
10 Your Honor never said that all video would have  
11 to be produced.

12 THE COURT: Do you --

13 MR. BERLIN: I have a transcript,  
14 Your Honor.

15 MR. HARDER: Your Honor, that motion was  
16 between Hulk Hogan and Gawker. We don't have  
17 anything at all except what they have given us  
18 in terms of video. So they received a  
19 30-minute video. We never had it until they  
20 gave it to us. And there was 1 minute and 41  
21 seconds that was on the Internet that obviously  
22 we looked at, but if there happens to be more  
23 video, that issue was never litigated, because  
24 we don't have it and apparently they are  
25 telling us they don't have it.

1           THE COURT: I guess so the credibility of  
2 Mr. Bollea as far as his knowledge of the  
3 Clems -- Mr. and Mrs. Clem's practices as far  
4 as taping or any other -- the credibility of  
5 Mr. Bollea, he's actually the one in question,  
6 his knowledge, his sense of taping, those kinds  
7 of things, I think that they are at least  
8 appropriate for deposition and some discovery.

9           Am I asking at this point in time for any  
10 other tapes to be turned over to the defense?  
11 No. But I think that the topic is certainly  
12 one that is appropriate.

13          MR. HARDER: I understand, Your Honor. I  
14 would propose a compromise. If there happens  
15 to be more footage, I would -- rather than  
16 having Gawker or counsel get that footage,  
17 perhaps Judge Case could get that footage and  
18 look to see if it speaks to the issues that  
19 they are saying, because I am very, very  
20 confident that there is nothing on any videos  
21 that would show that Hulk Hogan knew about  
22 this, consented to this, any of that.

23          Now, I think what Mr. Berlin is saying, if  
24 I understand him -- and I don't even -- I'm  
25 operating in the dark here, because he's

1 talking about certain things that happened on  
2 the video and yet they've never produced any  
3 evidence of that to me and this is the first  
4 time I've ever heard of it, that apparently  
5 maybe the Clems were having a discussion that  
6 they were going to get rich from this video,  
7 then that's an issue that would pertain to the  
8 Clems. It wouldn't pertain to Hulk Hogan  
9 knowing about or consenting to, but it would  
10 pertain to the Clems.

11 THE COURT: Mrs. Clem is still a defendant  
12 in this case.

13 MR. HARDER: She is.

14 THE COURT: So it certainly would be  
15 something that even your client would want to  
16 know.

17 MR. HARDER: Probably, yes.

18 MR. THOMAS: Your Honor, what I would ask  
19 as to that is today you ask Mr. Diaco if he  
20 will agree to preserve all tapes that relate to  
21 Ms. Clem and Mr. Hogan.

22 THE COURT: Yes. I think that's  
23 appropriate.

24 So, Mr. Diaco, we don't want to later on  
25 have any spoliation of evidence issues coming

1 up or anything for purposes of jury trial later  
2 on and any issue of Valcin presumption.

3 So if you would please ask Mr. -- and I  
4 would like to enter an order that requires  
5 anybody that has any possession of anything --  
6 and I'm going to say anything really broadly --  
7 so anything, any written material, any audio,  
8 any video, any text messages, anything that  
9 pertains to the video that is the subject  
10 matter of this lawsuit to be preserved.

11 Anybody have a problem with that?

12 MR. BERLIN: I would just add it may be  
13 one longer tape or two shorter tapes. It could  
14 be --

15 THE COURT: I said anything. Anything  
16 means anything.

17 MR. BERLIN: I don't want --

18 THE COURT: If one tape is a minute and  
19 one is 10 minutes, all of it gets preserved.

20 MR. BERLIN: I don't want anybody to come  
21 back later and say, well, this isn't the tape  
22 that Gawker had broadcast, it was a different  
23 tape, so we didn't preserve it. That's all.

24 THE COURT: If you've got ten tapes,  
25 preserve all ten tapes.