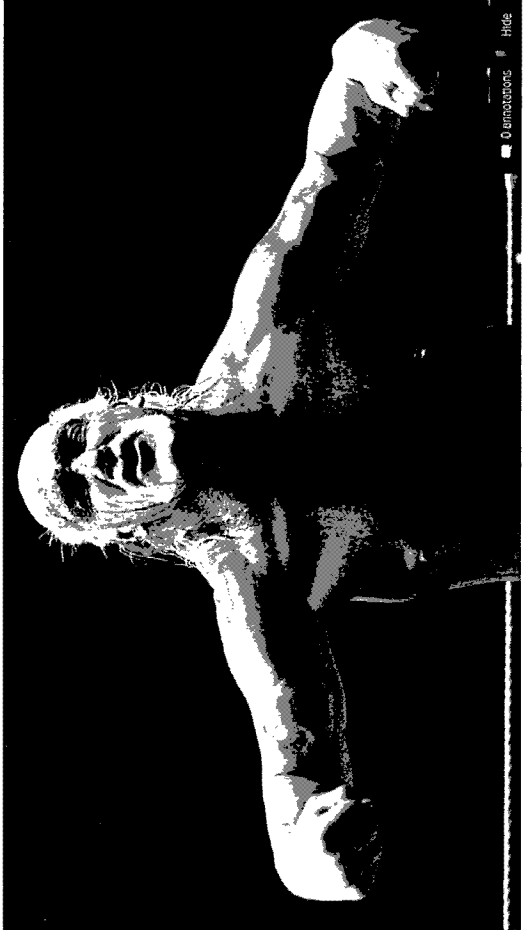


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A Judge Told Us to Take Down Our Hulk Hogan Sex Tape Post. We Won't.

Yesterday the Hon. Pamela A.M. Campbell, a circuit court judge in Pinellas County, Fla., issued an order compelling Gawker to remove from the internet a video of Hulk Hogan fucking his friend's ex-wife, as well as a 1,400-word narrative of the video written by former Gawker editor A.J. Daulerio and 466 user-submitted comments. Here is why we are refusing to comply.

Campbell made the command at the request of Charles J. Harder, an attorney for Hogan. Hogan is suing Gawker Media and a variety of other parties in Florida state court for, among other things, invasion of privacy stemming from publication of the video of him fucking his

Even for a Minute, Watching Hulk Hogan Have Sex in a Canopy Bed Is Not Safe For Work, Not Watch It.

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other parties in Florida state court for, among other things, invasion of privacy stemming from publication of the video of him fucking his friend's ex-wife and his accompanying narrative. Hogan initially brought a copyright claim against us in federal district court, but after a judge issued a series of preliminary rulings disadvantageous to his case, he dropped the matter and shifted his focus to the state invasion of privacy claim.

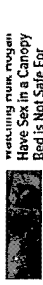
Yesterday, Campbell held a hearing to consider Harder's motion for a temporary injunction against our continued publication of the video and accompanying text. This is what Campbell ordered at the hearing's end, from a transcript of the proceedings provided by Gawker's in-house counsel:

I'm ordering that the Gawker.com remove the sex tape and all portions and content therein from their websites, including Gawker.com. Ordering to remove the written narrative describing the private sexual encounter, including the quotations from the private sexual encounter from websites and including Gawker.com.

This afternoon, she released a written order saying, in substance, the same thing. It requires us to remove the video as well as "the written narrative describing activities occurring during the private sexual encounter, including: (a) all descriptions of visual images and sounds captured on the Sex Tape or any other video of this private sexual encounter; and (b) all direct quotations of words spoken during this private sexual encounter and recorded on the Sex Tape or any other video of this private sexual encounter." Campbell, who represented the parents of Terri Schiavo in their effort to portray their daughter as conscious and alert and was appointed to the bench by former Florida Gov. Jeb Bush, described her order as serving "the public interest." She stated very clearly during the hearing that she had never watched, and did not intend to watch, the video that she was ordering us to remove: "I'm not going to look at the tape. I don't think at this point in time I need to look at the tape."

We publish all manner of stories here. Some are serious, some are frivolous, some are dumb. I am not going to make a case that the future of the Republic rises or falls on the ability of the general public to watch a video of Hulk Hogan fucking his friend's ex-wife. But the Constitution does unambiguously accord us the right to publish true things about public figures. And Campbell's order requiring us to take down not only a very brief, highly edited video excerpt from a 30-minute Hulk Hogan fucking session but also a lengthy written account from someone who had watched the entirety of that fucking session, is risible and contemptuous of centuries of First Amendment jurisprudence.

Campbell's grasp on the ramifications of that jurisprudence, such as it is, can be gleaned from a moment in the transcript of yesterday's hearing wherein she seemed to fail to understand the



Have Sex in a Canopy Bed is Not Safe For Work but Watch it Anyway
Update: The video posted here has been ordered removed by Hon. Pamela A.M. Campbell, a circuit... Read...

Campbell's grasp on the ramifications of that jurisprudence, such as it is, can be gleaned from a moment in the transcript of yesterday's hearing wherein she seemed to fail to understand the basic First Amendment principle that "speech" includes forms of communication beyond words sounds coming out of people's mouths. This is a moment when Gawker Media's attorney, Gregg Thomas, is interrupted by Campbell to attempt to clarify a point:

THOMAS: Since 1789, we've had a Constitution that honors speech. And I'm the last person here, Your Honor, to tell you that this is the speech of the highest quality or tenor, but the cases seem to say Your Honor can't make that judgment. You can't —

CAMPBELL: Let me ask you this. I'm sorry for interrupting, but directly on that point. This is the part that was irritating to me in the lawyers' pleading, where they are describing comments that are made allegedly during this tape. So is that the speech that you are trying to protect? The speech that was made during the scope of this videotape between these two consenting adults having sex in a private setting with allegedly no notice to the plaintiff? I'm not sure what speech you're trying to protect.

THOMAS: Your Honor, I'm trying to protect multiple parts of speech. The first part is the printed version of the story. This is not a sex tape by itself, Your Honor. There is a printed version... and a sex tape that goes with it. It's not a sex tape alone. Yes, Your Honor, I'm trying to protect that speech. I'm also trying to protect the speech that's there...

CAMPBELL: I'm thinking this injunction is only about the tape.

THOMAS: Yes, Your Honor. I understand that. But I also think, Your Honor, when we think of the history of the First Amendment, we think of the Pentagon papers, maybe because I'm a First Amendment lawyer. There, a top secret document that was clearly stolen that could have injured men in war in Vietnam was considered by the United States Supreme Court. And they said we're not going to stop its publication. The analogy perhaps is not appropriate.

CAMPBELL: It doesn't even have any — it's apples and oranges, worse than that actually.

THOMAS: Well, Your Honor, I don't think I'm out of order when I say speech is speech.

Despite her misapprehension that the issue at hand was "only about the tape," Campbell has seen clear to order us to disappear a 1,400-word article—words composed and published by Gawker Media editorial employees—simply because Hulk Hogan didn't like it.

A federal order from a district court judge is a serious thing. While we vehemently disagree with

THOMAS: Well, Your Honor, I don't think I'm out of order when I say speech is speech.

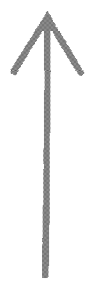
Despite her misapprehension that the issue at hand was "only about the tape," Campbell has seen clear to order us to disappear a 1,400-word article—words composed and published by Gawker Media editorial employees—simply because Hulk Hogan didn't like it.

A lawful order from a circuit court judge is a serious thing. While we vehemently disagree with Campbell's order with respect to the video itself, we have chosen to take it down pending our appeal.

But the portion of the order compelling us to remove the entirety of Daulerio's post—his words, his speech—is grossly unconstitutional. We won't take it down.

You can read the transcript of yesterday's hearing, as well as Campbell's ruling, below. And go here to read Daulerio's account of watching Hulk Hogan fuck his friend's ex-wife for 90 minutes, as is your right. And if you'd really like to watch the tape for some reason, it's online here.

Document viewer showing page 1 of 1 with a list of items including 'THE COURT ORDER', 'TERRY GUN BELLA', 'HEADLINE: DAULERIO'S RULING', 'HUGO LANCER BULLO', 'PRISON: LANCER IS IN PAINMENT', 'SALER, LLC, 8101 GORDON, A.L.', 'GAWKER MEDIA', 'NATIONAL ASSOCIATION OF ATTORNEYS GENERAL', 'PROSECUTOR', 'HERRINGTON PUBLISHING CO.', 'APRIL 29, 2013', 'CLAFF', 'HUGO LANCER BULLO'.



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DOCUMENT PAGES

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1 IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
2 IN AND FOR PINELLAS COUNTY, FLORIDA
3
4 **UPPER GOLF BELLAGIO, Professional Liability**
5 **Plaintiff,**
6 **vs.** CASE NO.: 12037447 (CL-13)
7 **HEATHER OLIVE GOSWELL MEDIA, LLC,**
8 **ORCA GROUP MEDIA, JAMES**
9 **PRIMA, SHANE & ENTERTAINMENT, LLC,**
10 **SMITH, J.C., TRISTON DESIGN, A.L.L.,**
11 **ALANSON HUNTERFIELD OF T. SPACE**
12 **Contractors,**
13 **Defendants.**
14
15 **PROCLAMATION:** NOTICE FOR DISCOVERY DISCUSSION
16
17 **REPORT:** ROBERTA E. PARRIS, A.P., COUNSEL
18 **DATE:** April 24, 2013
19 **PLACE:** 611 Palmetto Avenue, Suite 100
20 33756, Pinellas County, Florida
21 **PROCESSED BY:** Nancy P. Miller, Court Reporter
22 33756, Pinellas County, Florida
23
24
25

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DOCUMENT PAGES

Boliva v Clem at A1 Hearing Before Judge Campbell 04 24 13 (PDF)
Boliva v Clem at A1 Hearing Before Judge Campbell 04 24 13 (Text)

P. 1

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

Bolles v. Clem at Al Hearing Before Judge Campbell 04.24.13 (PDF)
Bolles v. Clem at Al Hearing Before Judge Campbell 04.24.13 (Text)

DOCUMENT PAGES

P. 1

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

Plaintiff,
TERRY GONZALEZ, professionally known as HILKE HOGAN,

vs.
Defendants,
HEATHER CLEM, GAWKER MEDIA, LLC
GAWKER MEDIA GROUP, INC. aka GAWKER MEDIA,
GAWKER ENTERTAINMENT, LLC,
WALTER BOYD, aka GAWKER MEDIA,
SALES, LLC aka GAWKER MEDIA,
DALLARD, MATT BENNETT, and
ALDOUS HENRIKSSON, collectively known as GAWKER MEDIA.

Case No. 13CV04141

ORDER GRANTING PLAINTIFF'S MOTION FOR TEMPORARY INJUNCTION

This cause came before the Court on Plaintiff's Motion for Temporary Injunction (the "Motion"). The Court having reviewed and considered the Motion and Response papers, all oral argument at the hearing, and the Court file, and being otherwise fully advised,

IT IS ORDERED:

The Motion is GRANTED for the reasons stated on the record at the hearing held on April 24, 2013.

For the duration of the enjoined action and until judgment is entered, Defendants, Gawker Media, LLC aka Gawker Media, Gawker Media Group, Inc. aka Gawker Media, Gawker Entertainment, LLC, Gawker Technology, LLC, Gawker Sites, LLC, NGA, Boston, AL,

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Order Granting Temporary Injunction (PDF)
Order Granting Temporary Injunction (Text)
[Image via Getty]