

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

TERRY GENE BOLLEA professionally
known as HULK HOGAN,

Plaintiff,

vs.

Case No. 12012447CI-011

HEATHER CLEM; GAWKER MEDIA, LLC
aka GAWKER MEDIA; GAWKER MEDIA
GROUP, INC. aka GAWKER MEDIA;
GAWKER ENTERTAINMENT, LLC;
GAWKER TECHNOLOGY, LLC; GAWKER
SALES, LLC; NICK DENTON; A.J.
DAULERIO; KATE BENNERT, and
BLOGWIRE HUNGARY SZELLEMI
ALKOTAST HASZNOSITO KFT aka
GAWKER MEDIA,

Defendants.

**PLAINTIFF TERRY BOLLEA'S MOTION IN LIMINE NO. 16 TO EXCLUDE
EVIDENCE OR ARGUMENT RELATED TO OTHER LAWSUITS**

Plaintiff Terry Bollea, professionally known as "Hulk Hogan" ("Mr. Bollea"), hereby moves this Court in limine under Fla. Stat. §§ 90.104, 90.401, 90.402, 90.403, 90.404 and 90.609, for an Order prohibiting Defendants from introducing any evidence or argument, during any portion of the trial, related to any other lawsuits involving Mr. Bollea.

In support of his motion, Mr. Bollea states the following:

1. Mr. Bollea's claims in this case arise out of defendant Gawker Media, LLC's ("Gawker") publication of a secretly filmed recording of Mr. Bollea naked and engaged in sexual relations with Heather Clem (the "Sex Video"). Mr. Bollea has brought claims for invasion of privacy and related torts. Gawker's central defense is that the publication of the Sex Video is protected by the First Amendment as a matter of "legitimate public concern."

2. Gawker intends to introduce evidence or argument related to other lawsuits involving Mr. Bollea.

3. In particular, Gawker may attempt to introduce evidence or argue about:

a. Lawsuit by Kate Kennedy against Mr. Bollea, and Mr. Bollea's responsive lawsuit against Kate Kennedy, including without limitation affidavits and filings in *Bollea v. Johnson*, No. 4-96-9 (U.S.D.C. Minn.) [Gawker Trial Exhibits #531-535];

b. Mr. Bollea's lawsuit against Post Foods [Gawker Trial Exhibit #526];

c. Mr. Bollea's lawsuit against Southland, Suntrup, JKR Advertising [Gawker Trial Exhibit #527];

d. Mr. Bollea's lawsuit against Laser Spine Institute [Gawker Trial Exhibit #528];

e. Mr. Bollea's divorce proceedings with Linda Bollea [Gawker Trial Exhibit #529];

f. The 2006 lawsuit, *Brooke Skye v. Bubba Clem*, wherein Mr. Bollea was involved as a witness [Gawker Trial Exhibit #547].¹

4. All such lawsuits, and any others involving Mr. Bollea (whether he was a party or merely a witness), are irrelevant to the claims and defenses at issue in this case, and would constitute improper character evidence. Fla. Stat. §§ 90.401, 90.402, 90.404, 90.609; *Agrofollajes, S.A. v. E.I. Du Pont De Nemours & Co.*, 48 So. 3d 976, 992 (Fla. 3d DCA 2010) (holding that the trial court erred in its decision to allow evidence as to the thousands of prior claims against defendant because plaintiffs failed to establish the prerequisite that the prior

¹ Gawker also produced documents from other lawsuits involving Mr. Bollea during discovery and has relied upon them in this case, and may attempt to rely upon or reference them at trial (even though the documents are not currently listed on Gawker's trial exhibit list), including without limitation:

1. Lawsuit by Charley Francis Hill against Mr. Bollea [Produced as GAWKER 25018-25022]
2. Lawsuit against Vince McMahon, wherein Mr. Bollea testified as a witness [Produced as GAWKER 25023-25287];
3. Mr. Bollea's lawsuit against Wells Fargo Insurance [Produced as GAWKER 26544-26776].

claims were substantially similar to those in the instant case; “Failure to lay a sufficient predicate establishing substantial similarity renders the evidence irrelevant as a matter of law.”).

5. None of these lawsuits were in any way related to Defendants’ publication of a video of Mr. Bollea naked and engaged in sexual intercourse on the Internet. Defendants’ intended purpose to introduce this evidence is to cast Mr. Bollea as litigious, or as mere pretext to introduce unproven, collateral allegations that may have been made against Mr. Bollea in order to attack his character.

6. Assuming arguendo that these other lawsuits have some relevance, their probative value is substantially outweighed by the prejudice of putting these matters before the jury. Fla. Stat. § 90.403; *Long Term Care Found., Inc. v. Martin*, 778 So. 2d 1100, 1102-1103 (Fla. 5th DCA 2001) (holding that, at trial of patient’s suit against long-term care center for failure to diagnose and treat circulation problem in foot, any relevance of complaint filed in separate lawsuit against center by second patient was outweighed by unfair prejudice against center created by hearsay allegations in complaint that center failed to maintain records justifying diagnosis and treatment of patients, failed to protect patients from physical abuse, and failed to adequately care for patients).

For the foregoing reasons, Mr. Bollea requests that the Court enter an Order prohibiting Defendants from introducing any evidence or argument at trial regarding any other lawsuit involving Mr. Bollea.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail via the e-portal system this 12th day of June, 2015 to the following:

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