

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.

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**PLAINTIFF TERRY BOLLEA'S MOTION IN LIMINE NO. 1 TO EXCLUDE  
EVIDENCE OR ARGUMENT RELATED TO PRIOR COURT RULINGS**

Plaintiff Terry Bollea, professionally known as "Hulk Hogan" ("Mr. Bollea"), hereby moves this Court in limine under Fla. Stat. § 90.104 for an Order prohibiting Defendants from introducing any evidence or argument, during any portion of the trial, referencing prior rulings or opinions issued by the Second District Court of Appeal in this case and the Court in the case styled *Bollea v. Gawker Media, LLC et al.*, U.S. District Court, M.D. Fla., Case No. 8:12-cv-02348. [Gawker Trial Exhibits #5–9].

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

1. Defendants have repeatedly argued that prior rulings and opinions in Mr. Bollea's federal case and issued by the Second District Court of Appeal are relevant and binding in this case.

2. This assertion is wrong. Appeals of orders on motions for temporary injunctions have **no** preclusive effect on the remainder of the litigation. In *Hasley v. Harrell*, 971 So.2d 149, 152 (Fla. 2d DCA 2007), the Second DCA expressly held that “a true temporary injunction is not law of the case.” The Second DCA further held in *Hasley*: “[U]nderpinning this doctrine is the fact that, at the preliminary injunction stage, the parties are not required to completely prove their cases. Thus, an appellate court’s ruling on a preliminary injunction, where review is made based on a record made at a less-than-full hearing, is not binding at a later trial on the merits.” *Id.* The *Hasley* court distinguished the situation of a temporary injunction based on a less-than-full hearing from one where a trial court conducts a **full trial** before granting an injunction. When an injunction is granted following a full trial, the appellate ruling would be law-of-the-case. *Id.*

3. Here, this Court’s temporary injunction issued **without** an evidentiary hearing, and before discovery was conducted. *Accord Whitby v. Infinity Radio Inc.*, 951 So.2d 890, 896 (Fla. 4th DCA 2007); *Ladner v. Plaza del Prado Condominium Ass’n, Inc.*, 423 So.2d 927, 928–29 (Fla. 3d DCA 1982). Importantly, **the rule that a temporary injunction ruling is not law-of-the-case for later proceedings applies even when the later proceedings involve “the same facts.”** *Belair v. City of Treasure Island*, 611 So.2d 1285, 1289 (Fla. 2d DCA 1992) (emphasis added).

4. In fact, the Second DCA already ruled that the rulings in the federal case have no preclusive effect; most notably because “the federal court did not draw any decisive conclusions on the merits,” and merely found that “Mr. Bollea was not entitled to injunctive relief at a preliminary stage in the proceedings.” *Gawker Media, LLC v. Bollea*, 129 So.3d 1196, 1204 (Fla. 2d DCA 2014).

5. Further, the legal implications of the prior rulings is purely an issue of law for the Court, not the jury, to decide.

6. Assuming *arguendo* that these prior rulings have some relevance, their probative value is substantially outweighed by the prejudice of putting these matters before the jury. Fla. Stat. § 90.403. These matters would confuse the jury and mislead the jurors by suggesting how they should decide this case. Jurors should not be expected to fully understand the intricacies and standards associated with preliminary legal proceedings, and the different standards applicable during a trial on the merits.

For the foregoing reasons, Mr. Bollea requests that the Court enter an Order prohibiting Defendants from introducing any evidence or argument at trial referencing Mr. Bollea's prior federal lawsuit and the prior rulings and opinions issued in the federal case and this lawsuit.

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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