

Florida Appellate Court Unseals Court Records in Hulk Hogan v. Gawker



By Robert L. Rogers, III, Charles D. Tobin, and Timothy J. Conner

On the eve of March’s multi-million dollar jury verdict awarded to former wrestler Terry Bollea a/k/a Hulk Hogan against Gawker, [a group of media companies who intervened](#) in the case – First Look Media, Inc., The Associated Press, the *Tampa Bay Times*, and several stations in the Scripps Media family of properties – won an appellate ruling quashing a series of trial court orders that had sealed hundreds of pages of motions, memoranda, and hearing transcripts.

The Florida Second District Court of Appeal’s four-paragraph order repudiated the trial judge’s decision to keep large swaths of filings under seal.

Hogan’s attorneys had persuaded the trial court to seal judicial records in the case related to key pre-trial decisions, including Gawker’s motion for summary judgment, Hogan’s expansive motion asking the court to appoint an expert to take electronic discovery from Gawker and its attorneys (which the court granted), Gawker’s motion for sanctions alleging that Hogan lied to the court under oath, and numerous other court filings. The sealing of records became a labyrinth of rulings – the parties filed more than twenty motions seeking to “determine the confidentiality” of such records, based on a typical agreed protective order related to discovery.

The trial court had identified three purported interests implicated by the documents filed under seal: (i) the interests in “avoid[ing] substantial injury to a party by disclosure of matters protected by a common law or privacy right” not inherent in the type of proceeding; (ii) an interest in “comply[ing] with established public policy set forth under” the Florida or U.S.

Constitutions or Florida statutes, rules or cases; and (iii) the interest in "avoid[ing] substantial injuries to innocent third parties."

In a succinct and pointed order, the Court of Appeal quashed the trial court's orders, and agreed with the media intervenors that the sealed documents must be made public, both because they were inherent to the litigation and because sealing was unwarranted under Florida law.

The Court explained that the sealed records "consist of motions, responses to motions, and other documents filed in support of the motions and responses, as well as transcripts of hearings. . . . Litigants do not have a reasonable expectation of privacy in matters inherent to a civil proceeding." It then "concluded that confidentiality of the items at issue is not necessary to avoid substantial injury to innocent third parties, that the information sought to be kept confidential is inherent in the proceeding pending in the trial court, and that confidentiality is not required to comply with established public policy."

The victory is significant as the trial judge had allowed Hogan to effectively conduct much of the case in private. Through its ruling, the Court of Appeals made clear that private litigation will not be tolerated in Florida's courts.

On May 2nd, Hogan filed a new lawsuit in Pinellas County Circuit Court against Gawker—although the majority of Hogan's claims seek relief for an alleged conspiracy between several radio personalities, agents and lawyers and their employers (but not Gawker) to extort Hogan into paying them \$1 million to not release recordings containing racially insensitive remarks.

In the Complaint's final two counts, Hogan claims that Gawker caused him emotional distress and intentionally interfered with his employment by releasing a written transcript of those remarks that had been sealed by the Circuit Court to the National Enquirer, who subsequently published them. Notably, Hogan acknowledges that the sealed transcript was later ordered unsealed by a Florida appellate court. The new case has been assigned to Judge Pamela A.M. Campbell, who presided over Hogan's prior lawsuit against Gawker.

Charles D. Tobin (Washington D.C.), Timothy J. Conner (Jacksonville, FL), and Robert L. Rogers, III (Orlando) of Holland & Knight, LLP, represent First Look Media, Inc., WFTS-TV and WPTV-TV, Scripps Media, Inc., WFTX-TV, the Journal Broadcast Group, and The Associated Press, and Alison Steele of Rahdert, Steele, Reynolds & Driscoll, P.L., in St. Petersburg, FL, represents Times Publishing Company.

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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. _____

DON BUCHWALD & ASSOCIATES, INC.;
TONY BURTON; MICHAEL CALTA aka
"Cowhead"; MATTHEW CHRISTIAN LOYD
aka "Matt Loyd" aka "Spice Boy"; KEITH M.
DAVIDSON; KEITH M. DAVIDSON &
ASSOCIATES, P.L.C.; COX RADIO, INC.;
TASHA NICOLE CARREGA; LORI
BURBRIDGE and GAWKER MEDIA, LLC,

Defendants.

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Terry Gene Bollea, professionally known as "Hulk Hogan" ("Plaintiff" or "Mr. Bollea"), sues Defendants, Don Buchwald & Associates, Inc. and Tony Burton (collectively, the "Buchwald Defendants"), Michael Calta aka "Cowhead," Matthew Christian Loyd aka "Matt Loyd" aka "Spice Boy," and Cox Radio, Inc. (collectively, the "Cox Defendants"), Keith M. Davidson, Keith M. Davidson & Associates, P.L.C., Tasha Nicole Carrega and Lori Burbridge (collectively, the "Davidson Defendants"), and Gawker Media, LLC ("Gawker"), (together collectively, "Defendants"), and alleges as follows:

NATURE OF THIS ACTION

1. Over the past several years, Mr. Bollea has been repeatedly victimized by the use, disclosure, dissemination and exploitation of surreptitiously recorded and illegally obtained