

EXHIBIT 8

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

Case No. 12012447CI-011

-----)
TERRY GENE BOLLEA professionally
known as HULK HOGAN,

Plaintiff,

vs.

HEATHER CLEM, GAWKER MEDIA, LLC a/k/a
GAWKER MEDIA, GAWKER MEDIA GROUP, INC.
a/k/a 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 a/k/a GAWKER MEDIA,

Defendants.
-----)

VIDEOTAPED DEPOSITION OF

NICK DENTON

New York, New York

Wednesday, October 2, 2013

Reported by:
Toni Allegrucci
JOB NO. 10071

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October 2, 2013

10:01 a.m.

Videotaped Deposition of
NICK DENTON, held at the offices of
Esquire Deposition Solutions,
1384 Broadway, New York, New York 10018,
pursuant to Notice, before
Toni Allegrucci, a Notary Public of the
State of New York.

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ALSO PRESENT:

ANDREW RITCHIE, Videographer

HEATHER L. DIETRICK, Counsel, Gawker Media

1 N. Denton

2 Q. And in considering whether or not
3 to publish the story, did you believe that
4 Mr. Hogan -- strike that.

5 In deciding whether to publish the
6 story or not, did you believe that Hulk Hogan
7 would not respond in any way to the
8 publication of the story?

9 A. Oh, I had no idea.

10 MR. BERLIN: Sorry. I need to
11 object because I don't think this is the
12 main point of your question, but the
13 preamble to your question asked about in
14 considering whether or not to publish
15 and I don't think there's been any
16 testimony on that, so I just wanted to
17 memorialize an objection to that and
18 then you can answer the question if you
19 can.

20 Q. Did you believe that the Hulk Hogan
21 sex tape story would go unmarked by Mr. -- by
22 Hulk Hogan?

23 A. I don't think -- people would
24 normally respond in some way.

25 Q. You believe they would?

1 N. Denton

2 A. Yeah, people would normally respond
3 in some way.

4 Q. And did you anticipate that that
5 would be a public response in addition to a
6 private response?

7 A. I don't think I gave --

8 MR. BERLIN: Objection.

9 You can answer the question.

10 A. I don't think I gave the matter
11 that much, that much thought.

12 Q. Well, let's in deference to the
13 objection Mr. Berlin makes let's explore if
14 we can what the nature of the conversations
15 that were had with you concerning the
16 Hulk Hogan sex tape story before it was
17 actually published on Gawker.com.

18 Who spoke to you about the story,
19 what was said?

20 A. My recollection is hazy and I,
21 well, I'd have to tell you how I believed it
22 all went down based on how it usually goes
23 down.

24 Q. Okay.

25 A. Which is that I can't say this with

1 N. Denton
2 absolute certainty. But I think that I had a
3 conversation with A.J. Daulerio on the fire
4 escape outside the 4th floor of the Gawker
5 office. Well, that's where we would normally
6 have these kind of conversations.

7 Q. This is not a place where you were
8 intending to do away with him or throw him
9 over?

10 MR. BERLIN: On behalf of
11 Mr. Daulerio, I object.

12 A. Did you find him charming?

13 Q. Lovely, lovely. But he smokes a
14 lot, is that why the fire escape is the
15 chosen locale, or?

16 A. I think he prefers informal
17 environments.

18 Q. Okay. All right. So tell me about
19 the conversation you had on the fire escape?

20 A. I have a recollection of a degree
21 of excitement on his part, excitement about
22 the story.

23 Q. Did he tell you what the nature of
24 the story was?

25 A. I don't think he went into any kind

1 N. Denton

2 of great detail.

3 Q. Did he talk to you about having
4 obtained the sex tape DVD?

5 A. I presume so, but I can't remember
6 any distinct conversation.

7 Q. Did you review the sex tape video
8 either in whole or in part prior to the
9 publication of Mr. Daulerio's story?

10 A. No. I actually still haven't seen
11 it.

12 Q. Okay. And what did you as best you
13 recall say to him in response to his
14 excitement?

15 A. I actually can't tell you
16 specifically. I can tell you what I was
17 likely to have said to him based on other
18 stories.

19 Q. All right.

20 A. I would have encouraged him to
21 avoid gratuitous, gratuitous representation
22 of the tape by which I mean, for instance,
23 putting out the whole tape without making a
24 point. I don't like that. And I would have
25 advised him to consult with our counsel.

1 N. Denton

2 Q. Okay. When you say, when you use
3 the word "gratuitous," do you mean anything
4 other than what you've just said in terms of
5 having the entire tape included or is there
6 something else, is there some, do you have
7 some other meaning to gratuitous?

8 A. I can tell you what my, my personal
9 feeling is about these kind of stories and it
10 is to some extent reflected in our general
11 editorial policy.

12 Q. Okay.

13 A. Which is that I believe we all,
14 well, I hope that we all have sex and that
15 celebrities are humans and that, that if
16 we're going to make a point we need to
17 include as much detail as gives the story
18 kind of color and meaning, but, but not so
19 much that we're simply revelling in somebody
20 else's embarrassment. I don't like it when
21 anyone stands in judgment over, over others
22 for behavior that they are likely to have
23 pursued themselves. Seems hypocritical to
24 me.

25 Our enemy's hypocrisy, so we have

1 N. Denton
2 to be particularly on the lookout for it
3 ourselves. Does that, does that make sense?

4 Q. Yes, it does. And my question then
5 following on that is whether you think that,
6 that the excerpts of the video or the
7 narrative that Mr. Daulerio wrote that
8 accompanied the video crossed any lines of
9 with respect to how you perceive the way in
10 which matters like this should be treated?

11 A. It was as I understand a roughly
12 short excerpt of the video. As I said, I
13 haven't seen it. The text I actually read
14 for the first time last week and having read
15 it last week I thought its tone was, it was
16 sweet, as sweet as in sympathetic.

17 I didn't, I didn't feel it was
18 gratuitous. I was not embarrassed by it.

19 Q. The narrative went into some great
20 detail about what was depicted on the
21 entirety of the 30 minute videotape, correct?

22 A. It's --

23 MR. BERLIN: Objection. The
24 witness has already testified he hasn't
25 watched the 30 minute tape, but subject

1 N. Denton

2 to that objection you can answer the
3 question.

4 Q. Is that your recollection or
5 understanding?

6 A. It was a well written story with as
7 much detail as the story needed.

8 Q. And do you believe that the detail
9 depicted in the excerpts that were included
10 with the story were necessary?

11 A. I think, I think every story, you
12 know, whether it's children's book or the
13 bible or an article requires a certain amount
14 of, you know, anecdote and description in
15 order for it to, in order for it to work, to
16 communicate. In a children's book the color
17 of the ball would be described. The
18 descriptions are essential to a story and so,
19 yes, I believe that this particular story had
20 about as much description as was, was needed
21 for the communication of the broad idea.

22 Q. And given that fact, then, the use
23 of the excerpts themselves was superfluous
24 and gratuitous, was it not?

25 MR. BERLIN: Objection.

1 N. Denton

2 You can answer.

3 A. The act of being?

4 Q. The actual minute forty-one seconds
5 of the video?

6 A. Photographs of video have
7 communicative power that words often don't.
8 Even for our audience which is a reading
9 audience and even for our sites which tend to
10 be certainly sort of text driven, there's a
11 power to an image.

12 The Trayvon Martin story, the
13 teenager who was killed by a vigilante. When
14 you saw a photograph of him wearing his, I
15 think it was him wearing his hoodie, but
16 basically him looking like a black teenager,
17 that was a photograph we actually -- we
18 actually ran the photograph of him dead,
19 something which was controversial and I'm
20 glad that we did because that communicated
21 that, you know, he's, he was just a skinny
22 teenager. And so photographs and video do
23 have a power that sometimes words lack.

24 Q. Well, let's pick up on that for a
25 moment. Do you have an understanding of

1 N. Denton
2 used in terms of what revenues you derive
3 from advertising?

4 MR. BERLIN: Objection.
5 You can answer the question.

6 A. Not directly, no.

7 Q. But indirectly?

8 A. The unique visitors for a site, for
9 a month, that would help to determine whether
10 an advertiser includes you in a buy, in a
11 buy.

12 Q. And whether you meet certain
13 targets for numbers of impressions?

14 A. Sorry?

15 Q. And whether you meet certain
16 targets for numbers of impressions?

17 A. We -- at least since we moved to
18 uniques we don't measure or track or reward
19 based on impressions.

20 Q. You don't reward your employees
21 based on that?

22 A. No.

23 Q. But the contracts that you sign
24 with advertisers are premised upon the
25 numbers, numbers of impressions, correct?

1 N. Denton

2 A. They are, yes.

3 Q. I think we can put the article
4 aside for the moment.

5 MR. BERLIN: Is it possible to have
6 a break?

7 MR. MIRELL: Sure.

8 THE VIDEOGRAPHER: The time now is
9 12:26 p.m. This marks the end of tape
10 No. 2. Going off the record.

11 (Recess taken 12:26 p.m. until
12 12:44 p.m.)

13 THE VIDEOGRAPHER: The time now is
14 12:44 p.m. This marks the beginning of
15 tape No. 3. We're back on the record.

16 Q. Okay. We're back on the record,
17 Mr. Denton, and you recognize you are still
18 under oath?

19 A. Yes.

20 Q. In the last answer you gave me you
21 spoke about you mentioned A.J. Daulerio and
22 we've spoken about him before. Mr. Daulerio
23 is not currently the editor of Gawker.com,
24 correct?

25 A. Yes.

1 N. Denton

2 BuzzFeed?

3 MR. BERLIN: Objection.

4 You can answer.

5 A. Yes.

6 Q. And what is that in summary?

7 MR. BERLIN: Objection.

8 You can answer.

9 A. I don't think that they as a
10 company or German Peretti, the founder, as an
11 individual has any purpose.

12 Q. You, you identified them though as
13 a competitor of yours --

14 A. Yes.

15 Q. -- in the answer you just gave. In
16 what since then do you regard them as a
17 competitor?

18 A. They are a competitor of traffic
19 and they are a competitor for advertising
20 revenues and a competitor for talent,
21 editorial talent.

22 Q. If you would take a look at the
23 question and answer that begin at the bottom
24 of the first page. The question is: So how
25 much money are you making from alternative

1 N. Denton
2 revenue sources like affiliates, and then
3 your response is, we don't make many
4 commercial bets, but affiliate revenue from
5 Amazon and others. The original business
6 model of Gawker Media is finally coming into
7 its own.

8 Can you just describe for me
9 briefly what you meant by "finally coming
10 into its own"?

11 A. The growth rate is in the triple
12 digits at the moment. And the \$15 million in
13 transactions on Amazon, that is a measure of
14 a business line that is coming into its own.

15 Q. And that business model is fed by
16 individuals who click onto web pages that
17 contain advertisements for particular
18 products that can be purchased through
19 Amazon?

20 A. It's more direct than that. That,
21 that would be revenue generated by purchases
22 on Amazon, a book or a, an electronic device
23 that was mentioned in one of our articles
24 would generate a link and a promotion of a
25 purchase and the reader could purchase the

1 N. Denton
2 article, it would feel as if they were
3 purchasing the article, purchasing the
4 product actually on the, on the article or
5 from the article.

6 Retail and media are to some extent
7 merging. It was part of the original promise
8 of the web; it's taken some time to realize.

9 Q. Understood. Just one other thing
10 on this document, perhaps two others. But
11 one, at the bottom of the second page where
12 the paragraph begins "the Gawker Stalker
13 map"?

14 A. Yeah.

15 Q. The quote from you is, it propelled
16 Gawker forward, won us notoriety, drew in
17 advertisers even.

18 Is that a correct statement?

19 A. It is, as is the fact that it's a
20 regret. I'm happy to explore the tension
21 between that if you want.

22 Q. Okay. Well, perhaps, perhaps over
23 lunch. Let me just ask you briefly since you
24 mentioned it about the quotation concerning
25 Trayvon Martin that appears on the third

1 N. Denton
2 sexual activity that occurs in the bedroom of
3 your apartment?

4 A. I would obviously be embarrassed,
5 yes.

6 Q. Why?

7 A. Why? Because I don't want any
8 folds of fat to be exposed to the public, it
9 would be embarrassing.

10 Q. Is that the only reason for the
11 embarrassment? And I'm sure -- you appear to
12 me quite lean, certainly by comparison, and
13 so I'm confident that would not be a
14 significant issue.

15 A. I suppose it depends, depends on
16 the circumstances of, of the tape. I think
17 there are some, been some sex tapes that have
18 added to the luster of celebrity, a
19 personality like Paris Hilton or
20 Kim Kardashian, that have been the basis for
21 a career, and there's certain tapes that
22 have, that have been actually even filmed
23 with a view to their possible dissemination
24 that. You know, that's the, that's the
25 celebrity media industrial complex that we

1 N. Denton

2 all exist within.

3 Q. Okay. But --

4 A. But some are just simply
5 embarrassing.

6 Q. So I'm just trying to understand
7 what the nature of the embarrassment might
8 be, I mean, aside from your physical
9 appearance concerns. Is there anything else
10 about setting up a live stream of sexual
11 activity occurring in your apartment's
12 bedroom that would be embarrassing?

13 A. I think it would probably be
14 embarrassing if, I think that if it seemed to
15 be exhibitionist, that, you know, if, if the
16 act was filmed with a view to some sort of
17 dissemination I would have thought that would
18 be, it would seem a little weird to people.
19 You know, if there were large numbers of
20 videos with many different sexual partners,
21 to the extent that some people had a view on
22 fidelity or promiscuity or within that local
23 environment that that was not seen as being
24 acceptable behavior then I could see that
25 that would be embarrassing.

1 N. Denton

2 If there were sexual practices that
3 were depicted that were seen by people in
4 that community as being perverted or abnormal
5 and that would cause titering or worse forms
6 of disapproval, I could see that that would
7 be embarrassing. So I think it depends very
8 much on the context.

9 Q. Would it be more embarrassing or
10 objectionable if, hypothetically, your
11 boyfriend were to surreptitiously set up a
12 camera in your bedroom and begin taping your
13 sexual activities?

14 MR. BERLIN: Objection.

15 You can answer the question.

16 A. I would break up with him.

17 Q. You would find that beyond the
18 pail?

19 A. It wouldn't be a media question, it
20 would be a question of relationships and
21 trust.

22 Q. Do you know -- strike that.

23 Did you know prior to the
24 publication of Mr. Daulerio's article and the
25 promulgation of the sex tape video of

1 N. Denton

2 A. I believe in total freedom and
3 information transparency. I want everybody
4 to know everything. And I think society,
5 this country that I moved to will be better
6 off if we could talk freely about everything.

7 So that's -- I'm an extremist when
8 it comes to that. That's why I love the U.S.
9 I love the presumption that, that expression
10 is free and I want to make fullest use of
11 that liberty and the liberty that the
12 internet provides.

13 There's still too many stories
14 which are kept within the guild of
15 journalists or insiders, stories that people
16 believe everybody knows and yet the general
17 public does not know, and I don't accept that
18 the public should have any less right to know
19 these, know that information, to talk about
20 that information as the people who are on the
21 inside who are talking, are discussing it
22 amongst themselves, often enjoying the
23 privilege that they have of better access to
24 information.

25 Q. And my question to you was what

1 N. Denton

2 excerpts that were published with it?

3 A. I can't remember my full list.

4 Q. I'll try to refresh your
5 recollection: Unnecessary, gratuitous or
6 slut-shaming.

7 MR. BERLIN: There were -- let me
8 object because there were other things
9 on the list. But let me also object to
10 the extent the witness has testified
11 already that he has not watched the
12 video and to the extent that you can you
13 can answer the question.

14 A. I don't think there's anything
15 slut-shaming about it. And I think the
16 concept of slut-shaming is actually probably
17 rather unfairly -- women are given more
18 protection than men are in the court of
19 public opinion, reader opinion, certainly
20 amongst more progressive readers.

21 Q. Mr. Berlin is correct. Well, first
22 let me ask you to just respond to the
23 question in terms of whether you believe that
24 the Hulk Hogan sex tape video and the story
25 that accompanied it was in any way

1 N. Denton
2 unnecessary or gratuitous?

3 MR. BERLIN: I have the same
4 objection. You can answer.

5 A. I was -- I thought, I thought the
6 tone of the piece was actually was almost
7 perfectly judged. It was human and
8 humanizing. I don't believe there was any,
9 any real judgment. It showed, as far as I
10 can tell from the description that I read
11 last week, it showed Hulk Hogan as a person,
12 a celebrity.

13 You know, we have very distorted
14 views of celebrities, we have very distorted
15 views of their, of their importance as role
16 models. I think they are held up to a
17 ridiculous, a ridiculous standard, you know,
18 both of looks and morality. And I think the
19 general phenomena, not just on the internet
20 but it's something you can also see it in the
21 celebrity weekly, you know, they're people
22 like us, celebrities are just, they're just
23 like us.

24 You know, I think it's in Us Weekly
25 section. That's sort of the embodiment of

1 N. Denton
2 this kind of trend in media. The celebrities
3 have been, either we've been brought up to
4 the level of celebrities, everybody has
5 become a celebrity and everybody has become a
6 public figure through their Facebook pages or
7 they have been brought back down to a human,
8 a more human level.

9 I think generally that's, that's
10 been a very, very positive force for society.

11 Q. Appreciate the commentary. Is the
12 answer to my question no then, that you do
13 not believe that any portion of the posting
14 was unnecessary or gratuitous?

15 A. I'm proud of that piece.

16 Q. The other point that was made by
17 you and that Mr. Berlin correctly pointed out
18 is you mentioned the word prejudice. Is
19 there any aspect of the Hulk Hogan story that
20 reflects inappropriate prejudice in your
21 view?

22 A. You know, I'm actually more
23 sensitive to non-standard form, forms of
24 prejudice.

25 Q. Well, that's sort of what I was

1 N. Denton
2 paren, this month, closed paren, Hulk sex,
3 period.

4 Do you see that?

5 A. Yes.

6 Q. What did you mean by using the word
7 scored in that sentence?

8 A. That Gawker had published stories
9 which attracted a lot of attention and reader
10 interest.

11 Q. Did you mean to convey that they
12 also scored financially for Gawker?

13 A. No.

14 Q. Did you know at the time to what
15 extent any advertising revenues might have
16 been attributed to the publication of either
17 the Kate Middleton or Hulk Hogan stories?

18 A. Yes.

19 Q. What did you know?

20 A. None.

21 Q. When you say "none," you are
22 referring to the fact that both stories
23 appeared on their respective web pages
24 without any advertising?

25 A. That is the case. But above and

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N. Denton
beyond that, those stories in traffic terms,
those are what one calls spikes. And stories
typically, and these two stories weren't any
exception, they don't come along on any
predictable or any predictable fashion, in
any fashion that's subject to scheduling and
advertising deals are signed earlier with a
longer lead time and, therefore, the traffic
that comes from stories like this, even if
one was to have put advertising on it, would
not have resulted in any increase in revenue.

Q. Well, it is possible, is it not,
for one to click from a page that contains no
advertising to a page which does contain
advertising --

A. Yes.

Q. -- on the Gawker sites, correct?

A. Um-hm.

Q. And that click results in an
impression being created --

A. Yes.

Q. -- for advertiser purposes. And
have you attempted to quantify to what extent
those impressions clicked from the

1 N. Denton

2 non-advertising site to a site that had
3 advertising occurred?

4 A. The -- I haven't done that precise
5 calculation because I know what the answer
6 would be which is that, as I said, there are
7 two factors here, one is there's no
8 advertising on these stories because
9 advertisers don't want to be associated with
10 those stories and, secondly, any spike in
11 traffic is almost impossible -- I think
12 probably if you look at some of the press
13 coverage you'll see that this is a general
14 phenomenon and one that we have talked about
15 in the past -- that any spike in traffic
16 cannot be monetized at least until very
17 recently. This may change going forward, but
18 certainly at the time of these stories that
19 traffic could not be monetized because of
20 advertiser lead times and, therefore, even
21 any spillover traffic, even though the
22 spillover traffic is actually relatively
23 negligible, any spillover traffic would not
24 have had any, any commercial benefit.

25 Q. It would, however, have commercial

1 N. Denton
2 benefit in the sense that a greater number of
3 impressions were registered with respect to a
4 particular, could have been registered with
5 respect to a particular advertisement that
6 appeared on a, on a web page and that that
7 would then prospectively affect the
8 advertising rates that could be charged by
9 your company, correct?

10 MR. BERLIN: Objection.

11 You can answer the question.

12 A. The advertising buyers are based on
13 an impressions and impression guarantees and
14 any surplus impressions that are delivered to
15 an advertiser, even though that wasn't the
16 case here because the ads did not run, but
17 even in the event that ads had run or had run
18 on associated pages or pages that have
19 benefited from spillover traffic that that
20 would not have resulted in any extra revenue
21 to us because the guarantee had already been
22 reached and, therefore, any excess was
23 actually just simply cost associated with the
24 serving of those, of those ads.

25 Q. All right. But advertising rates

1 N. Denton
2 are set by you or are set by Gawker Media
3 based upon traffic, correct?

4 A. We would give impression
5 guarantees, yes.

6 Q. And so to the extent that a
7 particular Gawker Media site has greater
8 traffic, it can, it can as the markets
9 dictate charge greater rates for advertising
10 on those more heavily trafficked sites,
11 correct?

12 MR. BERLIN: Objection.

13 You can answer.

14 A. The -- you can charge for
15 advertising at the level of the guarantees
16 and the advertising is not so sophisticated
17 as to allow for some spot market in the
18 advertising and, therefore, the, the relevant
19 level is actually the minimum expected
20 weekly, or sorry, daily total for Monday,
21 Tuesday, Wednesday, Thursday, Friday for that
22 particular site.

23 A spike, a large story that brought
24 in a lot of new, new people, a spike that did
25 not result in any sustained increase in

1 N. Denton

2 readership would not have any impact on those
3 advertising rates.

4 Q. Have Gawker.com's advertising rates
5 remained static from October of 2012 to
6 today?

7 MR. BERLIN: Objection.

8 You can answer.

9 A. The -- I think we brought in new,
10 some new categories or packages and there's
11 always, there's always a certain amount of
12 innovation or change around that. But the
13 basic advertising rates are about \$10 percent
14 thousand impression have remained constant
15 for years.

16 Q. Have any new advertisers begun
17 advertising on Gawker.com during the period
18 from October of 2012 to the present?

19 A. I assume so, yes.

20 Q. Do you know how many?

21 A. No.

22 Q. Do you know who?

23 A. I couldn't name them offhand.

24 Q. Would Andrew Gorenstein be the one
25 who would be most familiar with that

1 N. Denton

2 the question.

3 MR. MIRELL: Okay.

4 MR. BERLIN: But I want to object
5 strongly to this line of questions.

6 A. He objects strongly so...

7 MR. BERLIN: But no, but you may
8 answer the question.

9 Q. He's not instructing you not to
10 answer.

11 MR. BERLIN: I'm not instructing
12 you not to answer. You are free to
13 answer the question.

14 A. If someone like Hulk Hogan had an
15 open relationship, or no relationship, and
16 had broadcasts on the radio that he had lots
17 of sex and there were lots of videos of him
18 having sex, that would reduce the interest in
19 the video itself.

20 Q. Okay. So depending upon the
21 circumstances under that hypothetical it
22 might or might not be newsworthy?

23 A. It would be less newsworthy if he
24 was more honest, yes.

25 Q. Okay. Let's -- what about a

1 N. Denton
2 celebrity sex tape that featured a sexual
3 encounter between Hulk Hogan and his wife
4 while the two of them were married?

5 MR. BERLIN: Same objection.
6 You can answer.

7 Q. Would that be newsworthy?

8 MR. BERLIN: Same objection.
9 You can answer.

10 A. It would be less newsworthy than a
11 tape of him having sex with a woman who was
12 not his wife.

13 Q. Okay. But it would still -- so the
14 cheating aspect of this isn't necessarily
15 what makes this newsworthy, celebrities
16 having sex is newsworthy in and of itself; is
17 that what you are saying?

18 MR. BERLIN: Objection.
19 You can answer.

20 A. I assume that most, I hope most
21 celebrities have sex because otherwise what
22 would the point of being a celebrity be. But
23 I don't think the fact of somebody having sex
24 alone is that interesting to me. I know
25 everyone has voyeuristic impulses, but

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2 we -- I don't particularly, and I hope that
3 that's reflected in the company's editorial
4 policy.

5 Q. Okay. Let me just try a couple of
6 other hypotheticals with you. Would it be
7 newsworthy to you if you were provided a sex
8 tape of Miley Cyrus having sex with a current
9 boyfriend?

10 MR. BERLIN: Objection, same, same
11 objection. You can answer.

12 A. Given the gossip that's going
13 around about her there would be another tape
14 that I would be more interested in.

15 Q. How about that one?

16 A. What?

17 Q. How about the one I just described?

18 A. Oh, that one. Her performance at
19 the -- it was the VMAs, wasn't it, I think.
20 Her performance at the VMAs was pretty sexual
21 and as a result of that I would assume, this
22 would be my best guess, there's no kind of
23 current, there's no kind of current story,
24 but I would guess that there would be more
25 interest in her sex life as a result.

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2 are described were published anywhere else?

3 A. That, I don't know.

4 Q. Okay. At one point earlier today
5 you mentioned the term "public figure," do
6 you have -- what is your understanding of
7 what a public figure is?

8 MR. BERLIN: Objection. There's a
9 legal term, terminology that that phrase
10 represents. To the extent the witness
11 wants to testify about his own
12 understanding that's fine.

13 MR. MIRELL: That's all I'm asking.

14 A. I think to a larger extent whether
15 somebody's public or not depends on their,
16 their own choice, you know, choice they make.

17 Matt Damon by marrying a civilian,
18 somebody who is not in the acting profession,
19 and by living until at least recently in
20 Miami actually rather than Los Angeles
21 managed to protect himself from some of the
22 attention that his friend Ben Affleck
23 suffered by virtue of his relationship with
24 J. Lo.

25 And on a smaller scale, college

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N. Denton
students who publish every aspect of their
life on Facebook or Twitter or Instagram
become public by their own doing and choice.
But it is possible still to live a private
life if you don't record yourself, have
pictures taken of yourself, don't disseminate
them in social media or in groups of people.

Q. By the way, your last comment by
Miami versus Los Angeles, I have to ask a
proprietary question here. Are you
suggesting that Los Angeles is a free fire
zone?

A. I'm suggesting Los Angeles is
heavily populated by paparazzi and TMZ and
tabloid journalists, those that make
celebrity, but those that also can expose
those celebrities to intrusions they don't
find appealing.

Q. All right. Using your definition
of a public figure, do you believe that
Hulk Hogan was such a public figure at the
time that Mr. Daulerio's piece was posted?

MR. BERLIN: Same objection.

You can answer the question.

1 N. Denton

2 A. Yes. Certainly by virtue the fact
3 that even I knew his name despite my lack of
4 interest in his chosen field that, yes, he
5 was a public figure.

6 Q. And do you think that by being a
7 public figure he waived his privacy rights?

8 MR. BERLIN: Objection.

9 You can answer.

10 A. No, I don't believe he waived his
11 privacy rights. But by virtue of being a
12 public figure he makes a choice to live less
13 privately than others.

14 Q. Well, Mr. -- like Mr. Damon
15 Mr. Hogan lives in Florida, right?

16 A. Yes.

17 Q. Does that say anything to you about
18 the extent to which he wishes to maintain a
19 private life?

20 A. You know, I suppose if he was in,
21 if he was in L.A. going to clubs on the strip
22 that he would probably be more in the public
23 eye, yes, and a story like this might have
24 gotten out sooner.

25 Q. Do you think there's anything

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C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, Toni Allegrucci, a Notary Public within and for the State of New York, do hereby certify:

That NICK DENTON, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by the witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of October, 2013.



TONI ALLEGRUCCI