

EXCERPTS FROM TRIAL TRANSCRIPTS

In Support of Defendants' Motion for Judgment Notwithstanding the Verdict

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

TERRY GENE BOLLEA, professionally
known as HULK HOGAN,

Plaintiff,

No. 12-012447-CI-011

vs.

GAWKER MEDIA, LLC, aka GAWKER
MEDIA, NICK DENTON; A.J. DAULERIO,

Defendants.
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TRIAL PROCEEDINGS BEFORE
THE HONORABLE PAMELA A.M. CAMPBELL
and a jury

DATE: March 7, 2016
TIME: 9:00 a.m. to 11:43 a.m.
PLACE: Pinellas County Courthouse
545 First Avenue North
Courtroom A
St. Petersburg, Florida

REPORTED BY: Susan C. Riesdorff, RPR, CRR
Notary Public, State of
Florida

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Pages 1220 - 1316

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1 So it got to the point where it was -- it had been
2 talked about over the phone, and even one time when I
3 met Heather at the racetrack and Bubba, they joked
4 about it in person where I actually thought it turned
5 into a joke. I thought -- I knew they had an open
6 marriage, because he talked about it on the radio. But
7 I thought with me, it was so many times that they
8 talked to me about it, that it kind of turned into a
9 joke, you know, make fun of the guy's bald head or
10 making fun of me because I used to be fat or was
11 teasing me about the sex thing. So I actually took it
12 as a joke for quite a while. Up to that point I was --

13 Q. Did it ultimately happen?

14 A. Yes, sir, it did.

15 Q. Tell the jury how it happened the first time
16 that you actually had sexual relations with Heather
17 Clem.

18 A. It was a situation where a lot things were
19 happening at the same time. I tried unsuccessfully to
20 get my wife to come back. And she verbally over and
21 over and over would say, "F you, F you. I'm not coming
22 back. You're too old. You're too slow. You don't
23 turn me on. I'm going to find somebody younger." And
24 it was constantly being said to me, and I was
25 constantly trying to get her to come back, because my

1 found this out? You must have been like, "Tape?
2 Huh?"

3 HULK HOGAN: Well, the whole thing sounded
4 crazy, for my best friend's wife to say, "I want
5 to have sex with you." For over two years I said,
6 This is crazy as it sounds, you know, even though
7 he was saying it's fine, you know, they both were,
8 We're cool about it.

9 So finally, like I said, at a low point when
10 my personal life was bottomed out, I said, "Okay,
11 sure, fine." And all of the sudden, I remember
12 saying, "You're not filming this, are you, with
13 security cameras?"

14 "I'm your best friend. I'd never do that."

15 And so all of the sudden, when the first
16 pictures leaked out, I asked my best friend. And
17 he went, "No, I didn't have anything to do with
18 it."

19 So it kind of went away.

20 A.J. HAMMER: So when those pictures first
21 leaked out, you had no warning they were coming
22 out?

23 HULK HOGAN: No, no, no, just out of nowhere.

24 A.J. HAMMER: They show up. What went
25 through your mind when that happened?

1 right?

2 A. Yes, sir.

3 Q. Godfather to his son?

4 A. Yes.

5 Q. All right. Let's shift our focus just
6 slightly. Now, Bubba, as we all know from the past few
7 days, is a radio personality in this community, isn't
8 he?

9 A. Bubba the Love Sponge, yes, sir.

10 Q. He is.

11 Now, before October of 2012, you used to
12 appear on Bubba's radio show, didn't you?

13 A. Yes, sir.

14 Q. All right. And you frequently were a guest
15 on the show. Sometimes you would appear in person,
16 right?

17 A. Yes, sir.

18 Q. But in fairness, the personal appearances --
19 well, it was about five. I think you said between five
20 and ten times in person?

21 A. Oh, yes, sir, in person, maybe five -- not
22 more than ten. I wouldn't think so.

23 Q. Okay. You also would appear on his show by
24 calling in, right?

25 A. Yes, sir.

1 Q. And in those instances, I think you told us
2 before, that there were between 50 and 100 times that
3 you called in on the radio, right?

4 A. More or less, yes, sir.

5 Q. Now, having you appear on Bubba's show helped
6 Bubba broaden his audience, didn't it?

7 A. In my opinion, having Hulk Hogan on the show,
8 I think, brought more of an awareness to his show,
9 especially when he changed from local radio to Sirius,
10 which is nationwide.

11 Q. Okay. And at the same time, in fairness, it
12 was good for your career to be on Bubba's show, wasn't
13 it?

14 A. At that time it was not a negative.

15 Q. Okay. Well, let's put it this way: Once
16 Bubba was on Sirius radio, hearing you on the radio
17 helped create awareness of Hulk Hogan beyond just the
18 wrestling world; is that fair to say?

19 A. In my opinion, I'm sure his Sirius radio show
20 reached some people that may not have watched
21 wrestling.

22 Q. Okay.

23 A. I'm pretty sure most of the people that heard
24 Sirius knew Hulk Hogan, but it could have drawn a
25 different demo, demographic in.

1 Q. All right. And by appearing on Bubba's radio
2 show, that also gave you a platform when you wanted to
3 speak out on some issue, correct?

4 A. It could be -- could be a platform, yes, sir.

5 Q. Okay. So, for example, when you were going
6 through kind of tough times with various issues; like
7 with your ex-wife, there was that episode where there
8 were too many animals, that thing in Belleair. He
9 allowed you to speak out on that, right?

10 A. Yes, sir, always as Hulk Hogan --

11 Q. Okay.

12 A. -- the character.

13 Q. Right.

14 And he would allow you to use his show to
15 voice your side of the story, wouldn't he?

16 A. Yes, sir.

17 Q. Okay. Now, when you and Bubba were friends,
18 he supported you, didn't he?

19 A. In what way are you talking about?

20 Q. Well, when you were going through the tough
21 times with your wife, Linda, he supported you there,
22 didn't he?

23 A. Yes, sir. He was a good support. He was on
24 my side, yes, sir.

25 Q. All right. When you were going through the

1 MR. SULLIVAN: All right. Okay. Tim, if you
2 could play the second clip.

3 (Whereupon, an audio clip was played in open
4 court as follows:)

5 HULK HOGAN: I even asked you, because I know
6 you had security cameras in your house, You're not
7 filming this, are you?

8 (Audio clip concluded.)

9 BY MR. SULLIVAN:

10 Q. Okay. Could you hear that?

11 A. Yes, sir.

12 Q. Okay. So you asked Bubba, I know you have
13 security cameras in your house; you're not filming
14 this, right?

15 A. Yes, sir.

16 Q. Okay. Let's look briefly at Defendants'
17 Exhibit 309, which, for the record, is another clip of
18 an appearance you made on the same day, October 10,
19 2012, on the Sirius XM Covino & Rich radio program.

20 Are you familiar with that program?

21 A. They're all the same.

22 Q. Okay.

23 A. Like I said before, once you get in that
24 Sirius building, there is probably 40 or 50 studios
25 with radio shows in each room. So they take you around

1 asked him that question. And if I didn't know, why
2 would I ask him that question?

3 Q. Right.

4 A. I don't understand.

5 Q. Okay. Now, let's look briefly at Defendants'
6 Exhibit 229. And this is a clip of that television
7 appearance you made on October 10, 2012, on Showbiz
8 Tonight. We saw a little bit of that earlier.

9 MR. SULLIVAN: Tim, if you could please play
10 the first clip.

11 (Whereupon, a video clip was played in open
12 court as follows:)

13 HULK HOGAN: And all of the sudden, I
14 remember saying, You're not filming this, are you?
15 I know you've got security cameras and all.

16 I'm your best friend. I never --

17 (The video clip concluded.)

18 BY MR. SULLIVAN:

19 Q. All right. So you did know there were
20 security cameras in Bubba's house, right?

21 A. Well, yeah, I know Bubba had cameras, but I
22 was never told or never was pointed out that there was
23 a security camera pointing at the bed. Or if there was
24 a camera in the bedroom, I had never heard of that.

25 Q. Right. But you knew he had cameras, security

1 cameras, in his home, correct?

2 A. Yes, sir.

3 Q. Okay. All right. Now, if we could shift our
4 focus yet again. When Gawker came out with the October
5 4, 2012 post, right, when they put that piece up there
6 on their website, you did not read the commentary on
7 the sex tape that Mr. Daulerio wrote, did you?

8 A. No, sir.

9 Q. Okay.

10 A. Never read it.

11 Q. All right. And you never read the commentary
12 until your deposition in this case in March of 2014,
13 correct?

14 A. I don't recall if I read it at the depo.

15 Q. All right. It doesn't -- you don't remember
16 that at all?

17 A. No, I don't.

18 Q. Okay. All right. Just so you -- you can
19 see, if you look at Volume 3, page 416, 21, through
20 420. Take a look at that.

21 A. Page 416?

22 Q. Yes, sir. 416, starting at line 21.

23 A. 416, 21. Just line 21?

24 Q. Yes.

25 A. Did you know when Gawker came out with the

1 (The video clip concluded.)

2 BY MR. SULLIVAN:

3 Q. Now, you see yourself there telling the host
4 Sway --

5 A. Uh-huh (Indicates affirmatively).

6 Q. -- that you actually watched a minute of the
7 Gawker tape, right?

8 A. Yes, sir.

9 Q. Okay. Now, when you said that to Sway and
10 his listeners out there that are watching that, viewing
11 that programming, were you being honest there? Did you
12 view a minute of the program?

13 A. No, I did not.

14 Q. Okay. So you just told folks that, right?

15 A. Pretty much I was on auto pilot. I had
16 information from my attorney, and that was just said.
17 I mean, I haven't seen the tape.

18 Q. All right. So did you think that that would
19 be a good thing, to say you had seen some of the
20 program when you hadn't? I just don't follow.

21 A. I don't understand why I said that, because I
22 haven't seen a minute of the tape.

23 Q. Okay. Fair enough.

24 Let us look at the Defendants' Exhibit 230.
25 Take a look at that. And you'll see this is a clip

1 Heather? Just a throw away, like another poke, you
2 know.

3 Q. Okay. Now, I think you touched on this in
4 your direct testimony, but Bubba had bragged about his
5 so-called swinging lifestyle, had he not?

6 A. Yes, sir.

7 Q. He made no secret of that, right?

8 A. No, sir. He even talked about it on the
9 radio.

10 Q. He and Heather had an open marriage, and
11 Bubba seemed proud of it, didn't he?

12 A. He did not seem embarrassed about it. I
13 don't know if proud was a word, but he was definitely
14 not embarrassed about it.

15 Q. Okay. And you had heard on the radio about
16 him having these parties and a Jacuzzi and friends and
17 folks, buddies of his. Doctors, lawyers in town would
18 come over to these parties in the Jacuzzi. You had
19 heard that on the radio, correct?

20 A. Yes.

21 Q. Okay. Now, you testified -- we asked you in
22 your deposition to tell us, When did this go from
23 talking about all this stuff, right, to actually having
24 sex with her? And you said you really couldn't
25 remember. Do you remember that?

1 7th of 2012. All right?

2 A. Okay.

3 Q. Do you recall in that interview you appeared
4 by phone and your attorney, David Houston, also
5 appeared by phone? Do you recall that?

6 A. Yes, sir.

7 Q. Now, just so we're clear, when you and I
8 discussed this at your deposition, there was some
9 confusion because you thought about another phone
10 interview which was that one that happened in New York.
11 Okay. That is not the one we're going to discuss first
12 thing this morning. We're back at the one that took
13 place on March 7th of 2012. All right?

14 Now, this may help you frame our discussion.
15 That was the one after the report TMZ first reported
16 publicly that there was a news -- news that there was a
17 Hulk Hogan sex tape out there circulating. So that's
18 the one we're going to talk about.

19 Now, let's take a look at that report.

20 MR. SULLIVAN: Tim, if you could play,
21 please, Defendants' Exhibit 214. It's clip, I
22 think, C, the introductory portion.

23 (Video clip published as follows:)

24 HARVEY LEVIN: So we're going to talk about
25 the tape. And the best person to talk to about

1 the tape is probably Hulk Hogan. And he joins us
2 now on TMZ Live.

3 Hulk, first of all, welcome.

4 HULK HOGAN: Yeah. First of all, guys, there
5 were several brunettes. Okay? Let's at least get
6 that part --

7 CHARLES LATIBEAUDIERE: Oh, there were
8 several. All right.

9 HULK HOGAN: No, there was -- between --
10 between the divorce from Linda and the time I met
11 Jennifer, I had about four and a half months that
12 I really went crazy. And I actually wrote about
13 it in my book about staying drunk and crazy and
14 all the bars. So I was really out of my mind for
15 a while.

16 (Video clip concluded.)

17 BY MR. SULLIVAN:

18 Q. Now, Mr. Bollea, do you recognize your voice
19 on that TMZ report?

20 A. Yes, sir.

21 Q. Okay. And when you said there -- I think you
22 said, first of all, guys, there were several brunettes.
23 Between the divorce from Linda and the time I met
24 Jennifer, I had about four and a half months that I
25 really went crazy. And I actually wrote about that in

1 my book, about staying drunk and crazy and hitting all
2 the bars.

3 Do you recall that?

4 A. Yes, sir.

5 Q. Okay. Now, tell us, was that a true
6 statement that you made to TMZ?

7 A. I was in character and I embellished a little
8 bit about the number of women.

9 Q. Okay. So when you made that statement to
10 TMZ, was that you Terry Bollea, or was that you
11 Hulk Hogan?

12 A. I was totally Hulk Hogan because I wasn't at
13 home in my private house.

14 Q. Okay. All right. Now, I take it when you
15 did that interview with TMZ, you felt comfortable at
16 that time sharing with the public that you had a lot of
17 women between your marriage to Linda ending and the
18 time that you got with your new wife, right?

19 A. Would you please repeat the question?

20 Q. Sure. Sure.

21 My question was, you felt comfortable sharing
22 publicly that you had a number of women between the
23 time your marriage to Linda ended and your relationship
24 with your new wife commenced. Is that fair to say?

25 A. I felt comfortable saying those words, yes,

1 because it was Hulk Hogan. And I was just embellishing
2 about instead of having a couple girls, a bunch of
3 girls. I was just being Hulk Hogan in character.

4 MR. SULLIVAN: I see. All right. Well,
5 let's do this.

6 If we could please hear the next clip.

7 (Video clip published as follows:)

8 HARVEY LEVIN: Can I crack one tiny joke
9 here?

10 HULK HOGAN: Sure, brother. Why not?

11 HARVEY LEVIN: Just because the one thing
12 that I just found so funny is that you are so
13 famous for your wrestling gear and apparently in
14 this video, there is a suntan line that would
15 reveal that whoever that person is --

16 MALE SPEAKER: Stop dancing around it.

17 MR. LEVIN: -- was wearing a thong.

18 HULK HOGAN: Let me put it to you this way,
19 brother. When you wrestle in the ring, you don't
20 want like -- like the girls with that panty line,
21 you know, with the underwear cutting into your
22 cheeks. So -- so basically when you wear these
23 so-called tights in the wrestling wring, most of
24 the guys wear a jock strap. I prefer a throng.
25 But at the end of the day, let me put it to you

1 this way. I used the throng like laying in a sun
2 bed, not out in public. But the main thing is,
3 thank God that what my -- my ex -- you know,
4 let's -- I don't even want to go there. But let's
5 just say thank God it wasn't a guy.

6 MR. HOUSTON: Yeah. Well, that was the only
7 thing we thought could be worse, if it was a young
8 male. So we were grateful.

9 HULK HOGAN: You're brutal, David.

10 MALE SPEAKER: That's your lawyer?

11 HARVEY LEVIN: And that's your lawyer?

12 (Video clip concluded.)

13 BY MR. SULLIVAN:

14 Q. Mr. Bollea, the voices that came on there at
15 the end, the part about saying thank God it wasn't a
16 guy, that was your voice, right?

17 A. I'm not sure. In the beginning it sounded
18 like it was either me or David -- David Houston. I
19 couldn't hear real well.

20 Q. That was Mr. Houston --

21 A. Okay.

22 Q. -- sitting here at table with you, right?

23 A. I just didn't hear who said that verbiage
24 about thank God it was a boy -- not a boy.

25 Q. All right. Did you want to hear it again?

1 A. I may need -- I don't know what your question
2 would be.

3 Q. Okay. Did you recognize the voice of your
4 lawyer on that clip?

5 A. Yes, sir. It sounded like Mr. David Houston.

6 Q. Okay. And when TMZ shared publicly the
7 information about how the video -- the sex tape video
8 that they reviewed revealed you naked and showing your
9 tan line, did you consider that to be invasive of your
10 privacy?

11 A. Well, the -- you can tell it's -- first off,
12 TMZ said we're joking or we're going to make a joke.
13 So right away it tells you, you know, it's all a
14 character-driven show and it's all -- they're having
15 fun. They're trying to entertain you. So, you know,
16 as we're talking about this situation with my rear end,
17 they're saying, Hulk -- he actually said Hulk -- how do
18 you feel about it? And, you know, sometimes in the
19 ring when you're wrestling, such as when I wrestle Ric
20 Flair and he beats me up and he runs away, I kind of
21 like pull his pants down and his rear end hangs out and
22 he walks around the ring with his rear end hanging out.
23 So to me that kind of like was a joke and this is all
24 joking. But it's totally different than you coming
25 into Terry Bollea's house and taking a private video of

1 me.

2 So that really wasn't really that
3 embarrassing to me because the rear end and the butt in
4 the wrestling thing is kind of like all fun and all
5 joking around. And they were saying it in a very
6 joking matter, how do you feel about your rear end
7 hanging out, Hulk? So I -- you know, this kind of
8 reminds me of the wrestling. You know, it's a joke.

9 Q. Sure. So I take it if we boil that down, the
10 answer to my question is, no, I didn't consider that
11 invasive of my privacy, right?

12 A. Having Hulk Hogan's rear end up there, I
13 didn't think that was invasive of Terry Bollea's
14 privacy, right.

15 Q. All right. Fair enough.

16 Now, TMZ posted a report of the interview
17 that you and Mr. Houston did on its website, right?

18 A. I don't know what --

19 Q. Let's see if --

20 A. -- report you're --

21 Q. -- this helps you out.

22 A. -- talking about. I'm sorry.

23 Q. Let's see if this helps you. Directing your
24 attention to Defendants' Exhibit 160, which is a
25 March 7, 2012 post online, on TMZ online, titled, Hulk

1 opposed to a full-on --

2 HOWARD STERN: Affair?

3 ROBIN QUIVERS: Yeah. He wasn't in there
4 doing what he really does.

5 HOWARD STERN: What you're saying is, in
6 other words, your performance would have been way
7 more intense.

8 (Video clip concluded.)

9 BY MR. SULLIVAN:

10 Q. Now, having that passage in mind --

11 A. Yes, sir.

12 Q. -- you volunteered that topic, didn't you?

13 A. No, I didn't volunteer. He -- he started the
14 verbiage and I was talking about the topic he started.

15 Q. You began that talking about the manner in
16 which you engaged in sex with Heather by saying, quote,
17 I'm going to say something I will probably regret.

18 Then you said, I'm not trying to come off
19 like a pompous ass. And then you basically told a
20 story with the discussion with Howard and his
21 colleague, Robin, about how you weren't as aggressive
22 in this sex that is seen in that video as perhaps you
23 would be other times or otherwise, right?

24 A. Yes, I did say that.

25 Q. Okay. And you raised that. Howard didn't

1 raise that, did he?

2 A. No. He -- he started the topic of sex.

3 Q. Right.

4 Now, in that context, sitting there at that
5 time --

6 A. Yes, sir.

7 Q. -- you obviously thought that was a
8 legitimate thing to discuss on Howard's show, right?

9 A. I didn't have a problem discussing it. You
10 know, I was on his show entertaining in character. We
11 knew he was going to dig. Take the good with the bad.
12 And I was trying to move through the interview as best
13 I could. When you're under that type of heavy fire
14 from someone that pushes that hard on you, you just --
15 you know, you're praying that you can move on and get
16 to the next subject and eventually accomplish what
17 you're there for, to talk about the show, TNA.

18 Q. All right. Fair enough.

19 Let us look -- let us look at the final of
20 these clips.

21 MR. SULLIVAN: Tim, if you can please pull up
22 D 302F.

23 (Video clip published as follows:)

24 HOWARD STERN: Look. Let me understand
25 what's going on.

1 HULK HOGAN: Yeah.

2 HOWARD STERN: Last time you were here --
3 let's backtrack -- you said -- you looked me in
4 the eye point blank and you said, man code, I
5 would never break the man code. I would never
6 bang another guy's wife.

7 ROBIN QUIVERS: A buddy's wife.

8 HOWARD STERN: A buddy's wife. You want me
9 to play the clip?

10 HULK HOGAN: Yeah, please.

11 HOWARD STERN: Just so you know I'm not
12 making this up. Here we go.

13 (Clip published.)

14 HOWARD STERN: Would you ever fuck Heather?

15 HULK HOGAN: No. Man law, bro.

16 Even if they were divorced for ten years.

17 HOWARD STERN: You would never fuck Heather?

18 HULK HOGAN: Or if I met your ex-wife simply
19 because she's --

20 HOWARD STERN: You wouldn't fuck my ex-wife?

21 HULK HOGAN: No way.

22 HOWARD STERN: I love that you won't do that.

23 HULK HOGAN: That's man law breaking, man.

24 HOWARD STERN: I love that you understand
25 that.

1 Q. And when TMZ called, you said, well, I'll fit
2 that in, right?

3 A. I don't know if I said I'll fit them in. I
4 just took the call --

5 Q. Okay.

6 A. -- because David told me to get on the phone.

7 Q. You made yourself available?

8 A. Yes, sir.

9 Q. Okay. Fair enough.

10 Now, you talked about -- you mentioned your
11 reaction to this. You took this pretty hard, right?

12 A. Yes, I did.

13 MR. SULLIVAN: Okay. Let's play a brief
14 clip.

15 Tim, if you could please play D 270C.

16 (Video clip published as follows:)

17 HULK HOGAN: If that is true, then I'm -- I'm
18 sick to my stomach right now.

19 (Video clip concluded.)

20 BY MR. SULLIVAN:

21 Q. And that -- I take it that was the truth,
22 right?

23 A. If what is true?

24 Q. That you were sick to your stomach. When you
25 said if that is true, just so you know, this follows

1 the revelation that Bubba made these comments about if
2 we ever wanted to retire --

3 A. Oh, yes, sir. Yeah, when I heard that, it
4 made me sick. Because then it made me realize he
5 actually was in on this camera that was put up there
6 because they said he was turning it off when he said
7 that. So I got sick immediately.

8 Q. And I believe you've explained previously
9 that you had a very strong reaction. You started
10 shaking violently.

11 A. Yes, sir. My attorney had to call me and
12 talk me down. It took him about five minutes to calm
13 me down.

14 Q. And you thought that you were going to have a
15 heart attack at the time, right?

16 A. Yeah. It caught me off guard. I never would
17 have expected that from someone I loved and trusted.

18 Q. In fact, you physically almost had a
19 breakdown when you learned that Bubba had betrayed you,
20 right?

21 A. Yeah. I had a tough time with the whole
22 situation until I figured out who he really was. And
23 then once I figured out who he really was, it didn't
24 bother me the same because I knew he wasn't my friend
25 and he never was. So I kind of like had to shift gears

1 and realize, you know, man up over this Bubba thing and
2 it is what it is. Now at least I knew who he was and I
3 rationalized it so it didn't upset me anymore.

4 Q. I see. But I'm focused back on the time --
5 you know, I've tried to do this chronologically -- back
6 on October 9 when you learned this from TMZ that Bubba
7 had betrayed you. At that point, that was one of the
8 toughest things you ever had to deal with, wasn't it?

9 A. In that moment with everything that was going
10 on, I was very stressed out. And when I found out that
11 he was the last person left after my personal situation
12 with my family and everything else, when I found out
13 that he was the last person left, thinking he was still
14 my friend, to hear that news, yeah, it hit me pretty
15 hard in that darn moment.

16 Q. Okay. Now we're going to return ever so
17 briefly to the program we looked at yesterday.
18 Remember the program Sway, Sway In The Morning? We
19 looked at some of those clips.

20 A. Yeah. We looked at a bunch of stuff, but it
21 seems very familiar.

22 MR. SULLIVAN: Okay. Tim, if you can please
23 play D 231C.

24 (Video clip published as follows:)

25 HULK HOGAN: I've never had a day in my life

1 like yesterday. And I've been (inaudible), my
2 marriage, lawsuits. I've had people tell me I was
3 never going to walk again after back surgery. I
4 had all that stuff laid on me. And this -- that
5 yesterday in finding that out was probably the
6 toughest and the most traumatic and just turned my
7 world upside down more than anything ever has.

8 (Video clip concluded.)

9 BY MR. SULLIVAN:

10 Q. When you made that statement to Sway and his
11 viewers, were you being honest?

12 A. Yes, sir, I was. In that moment, it -- it
13 flipped my world upside down.

14 Q. You were being truthful then?

15 A. On top of everything that was going on, that
16 was the icing on the cake. It pushed me over the edge
17 that day.

18 Q. In fact, Bubba's betrayal was indeed one of
19 the worst experiences of your life, wasn't it?

20 A. It was one of them, yes, sir.

21 Q. And Bubba's betrayal was one of the toughest
22 things you've ever had to deal with, wasn't it?

23 A. Yes, sir.

24 Q. One of the hardest things you've ever had to
25 deal with, wasn't it?

1 A. That was a tough day. I had to really figure
2 out who he was fast to get over that one.

3 Q. All right. Now, before we move on from these
4 TMZ discussions about the sex tape, one last quick
5 thing.

6 You never saw TMZ's copy of the video that
7 showed Bubba making that statement, did you, the
8 statement, if we ever wanted to retire, all we'd have
9 to do is use this footage? You never saw that, did
10 you?

11 A. No, sir.

12 Q. That rocked your world, didn't it?

13 A. Yes, sir.

14 Q. And you never asked TMZ to show you the tape
15 that they had, did you?

16 A. No, sir.

17 Q. All right. Now, at this time, all these
18 events are going on. There's all this focus on this
19 sex tape and all this talk about this. You didn't take
20 the position that you could not talk about the sex tape
21 publicly, did you?

22 A. Excuse me? Please repeat that.

23 Q. Yes, sir. I'm trying to get you to focus.

24 Now we're in the aftermath. The post has come out.

25 You've been on the New York media tour. Life is moving

1 Q. All right. Now -- so when you slept with
2 Heather, you're at an all-time low. This is one of the
3 worst periods in your life, right?

4 A. Yes, sir.

5 Q. That's why you finally gave in to her
6 persistent pressure, correct?

7 A. Yes, sir, you can say that.

8 Q. Wasn't the kind of thing you would normally
9 do, right?

10 A. No, sir, never.

11 Q. Okay. Now, let me ask you this. Was that
12 true each time you had sexual relations with Heather?

13 A. That was a tough period there. I had a real,
14 real rough period there where I didn't think I was
15 going to pull the nose up on it. So I would say when I
16 was in that time of my life during that period, I was
17 at an all-time low, and that would include those times
18 I had sex with Heather.

19 Q. I see. Now, you had sex, I think it was by
20 your account, four times, right?

21 A. Three or four, as I said.

22 Q. Three or four, okay. And what you're telling
23 us is that you were at an all-time low each time?

24 A. I was pretty much bottomed out during that
25 period, yes, sir.

1 to answer as Hulk Hogan, correct?

2 A. Yes, sir.

3 Q. Okay. Now, let's talk a bit -- you talked to
4 us yesterday about emotional distress that you
5 experienced. Do you recall that?

6 A. Yes.

7 Q. Now, you did not seek any medical treatment
8 in connection with the emotional distress you
9 experienced, did you?

10 A. No, sir.

11 Q. You didn't see a doctor in connection with
12 your emotional distress, did you?

13 A. No, sir.

14 Q. You didn't seek psychological counseling in
15 connection with your emotional distress, correct?

16 A. No, sir.

17 Q. You never went to a psychiatrist in
18 connection with your emotional distress, correct?

19 A. No, sir.

20 Q. All right. Now, you also talked to us
21 yesterday about professional wrestling.

22 Do you recall that testimony?

23 A. Yes, sir.

24 Q. All right. And you explained to us that
25 wrestling isn't fake. It's not fake, right, it's

1 seeing someone take care of my daughter that way. She
2 was just so positive and caring. She was 34, but she
3 and Brooke became really close, almost like best
4 friends in a way.

5 Do you see that?

6 A. Yes, sir.

7 Q. Now, if we continue on, you see the passage
8 starting, next thing I know -- this is the last
9 paragraph on 187. Okay. There. If you can direct
10 your attention there and if you could look at that.

11 The next thing I know, the two of us started
12 kissing. Not to sound perverted or anything, but it
13 was fantastic. Here I am in my mid fifties -- here I
14 am in my fifties now and this was a really attractive
15 34-year-old woman with dark hair and a curvacious body.
16 And just to have some affection, genuine caring mixed
17 in with that physical attraction, it felt good. It was
18 such an emotional and physical release. We didn't have
19 sex that night, but it opened the door. Over the
20 course of the next two months, we did have sex maybe
21 five different times. That was it.

22 Do you see that?

23 A. Yes, sir, I do see that.

24 Q. Now, I take it you felt comfortable at the
25 time you did your book sharing that with the public,

1 right?

2 A. Yes, sir.

3 Q. And I take it this is kind of part of the
4 interesting stuff that you hoped -- interesting stuff
5 going on in your life that you hoped folks would find
6 worth reading about, right?

7 A. It was part of the stuff going on in my life,
8 yes, sir.

9 Q. Okay. Now, as events were to unfold, it
10 looks like you were right about that, as you report in
11 your book. If we could look, please, at page 253,
12 three paragraphs up from the bottom, you'll see the
13 passage there, so on February 28.

14 A. Okay.

15 Q. If you would, read starting there, please.
16 So on February 28, my affair with Christiane Plante
17 became national news. I don't think there's a blog or
18 entertainment show in America that didn't run with the
19 story of Hulk Hogan cheating on his wife.

20 Do you see that?

21 A. Yes, sir.

22 Q. Now, that was true, wasn't it?

23 A. What was true?

24 Q. The whole thing about the business with the
25 affair with Christiane Plante, that became big news,

1 Q. He refers -- I believe he refers to you as
2 Hooty, right?

3 A. Yes, sir.

4 Q. Was that one of his nicknames for you?

5 A. Yeah, when he was teasing me. That was the
6 name of his dog. He called me Hooty just to rile me
7 up. Or I'd say it to him to rile him up.

8 MR. SULLIVAN: Tim, if you could play the
9 next clip, which is D 242A.

10 (Video clip published as follows:)

11 BUBBA CLEM: All right. How about -- how
12 about people have e-mailed how big is your penis?

13 HULK HOGAN: Man, you guys are brez. You
14 guys are brezers.

15 MALE SPEAKER: You guys are brez.

16 BUBBA CLEM: I mean, is it over --

17 HULK HOGAN: You tell them -- you tell all
18 your fans right now keep Brooke at number one
19 while her record release is sold Tuesday all
20 through the week, and I'll tell you how big the
21 Loch Ness monster is.

22 BUBBA CLEM: How big your cock is?

23 MATT LOYD: So that's the fans' motivation.

24 BUBBA CLEM: Yeah. Jimmy, we gotta get
25 voting and we got to buy this record.

1 HULK HOGAN: That's fine, Bubba. Let's see
2 you talk smack to your -- your cult followers.

3 BUBBA CLEM: Hogan, I talk so much smack to
4 them. Look what I've done.

5 HULK HOGAN: Well, if you want to see how big
6 the Loch Ness monster is, you better talk some
7 (inaudible).

8 BUBBA CLEM: I've seen it before. I know how
9 big it is.

10 HULK HOGAN: Shoot, everybody at VH1's seen
11 it, too.

12 BUBBA CLEM: Yeah, exactly.

13 HULK HOGAN: They called me King Triton.

14 BUBBA CLEM: Exactly. I would say hard,
15 you're probably seven and a half or eight inches.

16 HULK HOGAN: Shit.

17 BUBBA CLEM: No. That's what I'm saying.

18 HULK HOGAN: Dude, I got size 15 feet. I
19 wear size 15 ring -- on my wedding ring. Figure
20 it out.

21 BUBBA CLEM: Well, you ain't got a 15-inch
22 cock, Hogan.

23 HULK HOGAN: It's about two-thirds the size
24 of your feet and your hands, jack-off.

25 BUBBA CLEM: Well, what's 66 percent of 15

1 Brent?

2 NED: Ten.

3 HULK HOGAN: What the fuck? What is -- what
4 is -- what's five times three?

5 BUBBA CLEM: So you're saying -- now, Ned
6 said you're right at ten.

7 HULK HOGAN: Ned should know. I
8 (inaudible) --

9 NED: It felt like ten.

10 BUBBA CLEM: So, Hogan, you're claiming --
11 you're claiming to maybe have a ten-inch cock.

12 HULK HOGAN: I'm not claiming. Those are the
13 facts, Jack.

14 (Clip concluded.)

15 THE WITNESS: Yes, sir?

16 BY MR. SULLIVAN:

17 Q. Having listened to that, I take it that is
18 you telling Bubba's radio audience that if they will
19 keep your daughter Brooke, if they will keep Brooke's
20 record at No. 1, you would tell them exactly how big
21 your penis is, right?

22 A. I didn't hear that part. I heard a lot of
23 stuff, but some of it I couldn't really hear.

24 Q. You didn't hear that?

25 A. No. I was trying to understand the words,

1 under it.

2 HOWARD STERN: Do you get nervous performing
3 or have you been doing it so much --

4 BROOKE BOLLEA: My heart's actually beating a
5 little bit because I'm performing in front of
6 Howard Stern right now.

7 HOWARD STERN: Let me tell you something.

8 NICK BOLLEA: Your future husband.

9 HOWARD STERN: That's right.

10 BROOKE BOLLEA: It's like Marilyn Monroe
11 performing in front of the president. Happy
12 Birthday to you.

13 HOWARD STERN: I would love to take your
14 virginity.

15 NICK BOLLEA: Wow.

16 HOWARD STERN: I would. I mean, I've never
17 had a -- I've never been with a virgin.

18 NICK BOLLEA: Wow.

19 LINDA BOLLEA: He wants to (inaudible) her.

20 HULK HOGAN: Howard, she's the right height.

21 (Video clip concluded.)

22 BY MR. SULLIVAN:

23 Q. Mr. Bollea, did you consider that to be
24 something appropriate for public discussion?

25 A. It's part of the Howard Stern show. So, yes,

1 it goes along with the territory.

2 Q. Okay. And what did you mean when you said,
3 referring to your daughter -- Howard said he would like
4 to take her virginity, and you said referring to Brooke
5 that she is the right height.

6 MR. TURKEL: Objection, Judge, relevance.

7 May we approach?

8 THE COURT: Yes.

9 (At the bench)

10 THE COURT: How much longer do you intend to
11 go anyway?

12 MR. SULLIVAN: About -- I think I've got one
13 more video clip. And I'll just give you a heads
14 up. It's another Howard Stern, so it's video.
15 It's just for its appearance and to hear her talk
16 about that.

17 MR. VOGT: Our issue is more that they had
18 you issue a curative instruction yesterday to tell
19 this jury he couldn't seek to testify about
20 damages associated with his family. And they just
21 opened this door wide open. They've just played
22 clips of his family that have absolutely no
23 relevance to this man's privacy in this case. And
24 you can't turn around and instruct the jury that
25 they're not to consider him being upset over his

1 And then when this sex tape hit, my whole
2 world went upside down and everything changed from my
3 personal life to life on the street. And it just -- I
4 thought I had my act together again. I was moving
5 forward, and this tape totally sabotaged me again. It
6 derailed me.

7 Q. Let me ask you. Mr. Sullivan asked you to
8 tell the jury whether you went to see any doctors or
9 counselors or sought treatment for physical ailments.
10 But did it affect you physically?

11 A. Yes, sir, it did.

12 Q. Could you tell them how?

13 A. Well, I mean, not being able to eat, not
14 being able to sleep, constantly thinking about it 24
15 hours a day. It's not something you can walk away
16 from. It's something that sticks with you. And just
17 my demeanor, I just felt like I was turned inside.
18 That's the only thing I can really describe it, is it
19 felt like I was turned inside.

20 So if I was meeting a fan or meeting a kid or
21 whatever, I felt like -- I was so used to protecting
22 these kids and being honest with them and telling them
23 to do good and, you know, be cool and eat fruit or
24 train so your proteins, your vitamins, such a positive
25 thought, that I felt like if I tried to talk to

1 that"?

2 A. I said I don't do that.

3 Q. But his indication to you in the context of
4 making that statement was he didn't want to talk about
5 the sex tape at all; is that right?

6 A. That he said he did not want to talk about
7 it.

8 Q. And one of the things you mentioned, that
9 when he does his interviews, he's in character. Is
10 that right? For the Hogan --

11 A. For the Hulk Hogan character, yes. He's
12 usually not -- he's referred to as Hulk Hogan on the
13 screen and when they introduce him. So he's Hulk Hogan
14 when he's doing interviews.

15 Q. You mentioned with respect to the Kathie Lee
16 and Hoda appearance, that there was an emotional
17 moment. What was that emotional moment?

18 A. After -- when we got off set, he went to the
19 bathroom and was crying. And him and Kathie Lee were
20 having a moment talking about how their life has been
21 an open book, the public.

22 Q. Mr. Hogan was crying?

23 A. Teared up. I wouldn't say bawling crying.

24 Q. And that was in the context of talking about
25 the sex tape?

1 A. Talking about how life hits you, I guess,
2 sometimes.

3 Q. Was Kathie Lee crying?

4 A. She always cries.

5 Q. But was she crying at that time?

6 A. No, not really.

7 Q. So it was just him crying?

8 A. (Nods affirmatively).

9 Q. Yes?

10 A. Oh, I'm sorry. Yes. It wasn't like he was
11 crying. He went to the restroom to compose himself, so
12 it wouldn't be like boo-hooing. He was just emotional.

13 Q. Had you ever seen him do anything like that
14 before?

15 A. No, sir.

16 Q. During the moment with Kathie Lee, where were
17 you standing? Did you hear --

18 A. In the hallway. I didn't hear every word,
19 but I was in the hall.

20 Q. And have you -- did you tell Mr. Vogt
21 everything you recall about that conversation?

22 A. I don't really recall all the exact words. I
23 just remember where there was an emotional exchange and
24 she -- and Kathie Lee was hugging him and saying, you
25 know, I understand when your private life gets played

1 was this something that you were excited about
2 publishing?

3 A. This particular story?

4 Q. Uh-huh.

5 A. The original story?

6 Q. Yes.

7 A. I was very enthusiastic about writing about
8 it, yes.

9 Q. And why was that?

10 A. I enjoyed watching the video.

11 Q. And the reason you enjoyed it?

12 A. Because I found it very amusing.

13 Q. Any other reason?

14 A. I thought it was newsworthy and it was
15 something that was worth discussing and putting up on
16 the site.

17 Q. Did you believe that publishing the video
18 would generate traffic to the site?

19 A. I believed that it would be somewhat popular,
20 yes.

21 Q. Did you give any consideration, prior to
22 October 4, 2012, as to whether publishing the
23 Hulk Hogan sex tape would distress Hulk Hogan?

24 A. No.

25 Q. You didn't care really, did you?

1 A. No.

2 MR. BERLIN: Objection.

3 THE WITNESS: No.

4 Q. Had you known that Hulk Hogan would be
5 emotionally distressed by this publication, you would
6 have still published it, correct?

7 A. Sure, yes.

8 Q. So it's fair to say whether he suffered
9 emotional distress or not, that played no part in your
10 decision about whether and what to publish?

11 A. Correct.

12 Q. Let's go back to the story, if you would,
13 Exhibit 7, again, page 819. Let me ask you this
14 initially.

15 The first two paragraphs of your story,
16 Mr. Daulerio, speak about the greater context, if I can
17 put it that way, of sex tapes and the public's interest
18 in sex tapes.

19 Would you agree that that's a fair
20 characterization?

21 A. Yes.

22 Q. Okay. The balance of the story, all of the
23 remaining paragraphs as I read it are simply a
24 recapitulation of what you viewed on the videotape or
25 on the DVD.

1 Do you see that?

2 A. Oh, I see that, sir. Yes.

3 Q. Okay. Now, no one at Gawker was involved in
4 filming Mr. Bollea and Ms. Clem's sexual encounter,
5 right?

6 A. True. The inclusion comes from the posting.

7 Q. My question is more --

8 A. Intrusion.

9 Q. My question is more precise. I want to be
10 sure what the areas of dispute are.

11 No one at Gawker was involved in filming
12 Mr. Bollea and Ms. Clem's sexual encounter, right?

13 A. Not that I know of.

14 Q. Okay. I mean, we can agree that your client
15 isn't claiming that, right?

16 A. No, sir, not that I know of.

17 Q. Okay. Of all the things he's claiming, that
18 at least is not among them; is that correct?

19 A. Well, I would say it's not among them. I
20 wouldn't say at least, but it's not among them.

21 Q. All right. And then I'm going to skip No. 3.
22 See No. 3 there?

23 A. I do.

24 Q. "No false light publicity claim may be
25 maintained."

1 earlier today that the DVD came to him anonymously. Do
2 you recall that?

3 A. I did hear that.

4 Q. Now, let's pull up Exhibit Defense 269,
5 please.

6 This is the October 9, 2012, response letter
7 that came from Cameron Stracher on behalf of Gawker in
8 response to your cease-and-desist letter, Mr. Houston.

9 And if you could, please, highlight -- wait.
10 Please go back to it. Cameron Stracher, Stracher.
11 Right.

12 Please highlight the second sentence that
13 says, "You asked that Gawker disclose the identity of
14 the person who provided the video." And then below
15 that, "We respectfully decline your request."

16 You received that letter from Mr. Stracher?

17 A. Yes, sir.

18 Q. Mr. Stracher didn't say, "We don't know the
19 identity of the person who sent us the video." It just
20 says "We decline your request."

21 A. Correct.

22 Q. Did you ever speak to Mr. Stracher where he
23 elaborated?

24 A. No, sir.

25 Q. Let's go to the same exhibit, but further

1 those?

2 A. We have eight major sites currently. And
3 over the last ten years we have probably launched 18.
4 We tend to cull properties. We either -- try to be
5 ruthless about culling properties. So ones that work,
6 we invest in; the ones that don't, we fold or fold into
7 one of the larger more successful entities.

8 Q. With respect to Gawker.com, what supervisory
9 role do you currently hold?

10 A. Well, I am the president of Gawker Media. I
11 appoint the editors of each site under our control and
12 I will terminate them. I determine their salary
13 levels, the budget for the sites.

14 Q. And you were, in that capacity, made aware of
15 the Hulk Hogan story, the sex tape story before it was
16 published, correct?

17 A. Yes.

18 Q. When you invest in an entity, how do you
19 determine whether it is working or not?

20 A. Usually the audience is the measure that I
21 look at first.

22 Q. And how do you measure audience?

23 A. Currently through a service called Quantcast,
24 formerly through a service called Site Meter.

25 Q. Now, Quantcast provides a number of metrics?

1 said?

2 A. My recollection is hazy, and I would have to
3 tell you how I believed it all went down based on how
4 it usually goes down.

5 Q. Okay.

6 A. Which is that -- well, I can't say this with
7 absolute certainty, but I think I had a conversation
8 with A.J. Daulerio on the fire escape outside the
9 fourth floor of the Gawker office. That's where we
10 normally have these kind of conversations.

11 Q. All right. So tell me about the conversation
12 you had on the fire escape.

13 A. I have a vague recollection of a degree of
14 excitement on his part, and excitement about the story.

15 Q. Did he tell you what the nature of the story
16 was?

17 A. I don't think he went into any great detail.

18 Q. Did he talk to you about having obtained the
19 sex tape, the DVD?

20 A. I presume so, but I can't remember any
21 distinct conversation.

22 Q. Did you review the sex tape video, either in
23 whole or in part, prior to the publication of
24 Mr. Daulerio's story?

25 A. No. I actually still haven't seen it.

1 Q. Okay. And what did you, as best you recall,
2 say to him in response to his excitement?

3 A. I actually can't tell you specifically. I
4 can tell you what I was likely to have said to him,
5 based on other stories.

6 Q. All right.

7 A. I would have encouraged him to avoid
8 gratuitous -- a gratuitous representation of the tape.
9 By which I mean, for instance, putting out the whole
10 tape without making a point. I don't like that. And I
11 would have advised him to consult with our counsel.

12 Q. Okay. When you say -- when you use the word
13 "gratuitous," do you mean anything other than what
14 you've just said in terms of having the entire tape
15 included, or is there something else? Is there some --
16 do you have some other meaning to "gratuitous"?

17 A. I can tell you what my -- my personal feeling
18 is about these kind of stories. And it is, to some
19 extent, reflected in our general story policy.

20 Q. Okay.

21 A. Which is that I believe we all -- well, I
22 hope we all have sex and that celebrities are humans
23 and that -- that if we're going to make a point, we
24 need to include as much detail as gives the story kind
25 of color and meaning but not so much that we're simply

1 reveling in someone else's embarrassment.

2 I don't like it when anyone stands in
3 judgment over -- over others for behavior that they are
4 likely to have pursued themselves. That seems
5 hypocritical to me. Our enemy is hypocrisy, so we have
6 to be particular, on the lookout for it ourselves.
7 Does that make sense?

8 Q. Yes, it does. And my question then following
9 on that is whether you think that the excerpts of the
10 video or the narrative that Mr. Daulerio wrote that
11 accompany the video cross any lines of -- with respect
12 to how you perceive the way in which matters like this
13 should be treated.

14 A. It was, I understand, a relatively short
15 excerpt of the video. As I said, I haven't seen it.
16 The text actually I read for the first time last week,
17 and I read it last week. I thought its tone was sweet.

18 Q. The --

19 A. "Sweet" as in sympathetic. I didn't feel it
20 was gratuitous. I was not embarrassed by it.

21 Q. The narrative went into some great detail
22 about what was depicted on the entirety of the
23 30-minute videotape, correct? Is that -- is that your
24 recollection or understanding?

25 A. It was a well-written story with as much

1 Q. Can you explain to us why it was not
2 important for you to know who the anonymous sender was?

3 A. Because the tape had already been discussed
4 in the public sphere and I was told it was going to
5 have something to do with that tape in particular. The
6 person who sent it was really of no interest to me. I
7 was going to watch it and perhaps write about it, but I
8 was not getting any sort of pressure from anyone
9 outside to write about it or use it.

10 Q. All right. Let me ask you this. Was
11 there -- as you sat there back in October 2012, was
12 there any doubt in your mind that the plaintiff,
13 Mr. Hogan, was the person who appeared on that sex
14 tape?

15 A. There was no doubt.

16 Q. As you sat there and prepared your piece, you
17 didn't think, holy cow, this could be ginned up, right?

18 A. I did not think that, no.

19 Q. Did you fear for a minute that perhaps it was
20 not Mr. Hogan but that it were of some body double?
21 Did you have any thought of that whatsoever?

22 A. No.

23 Q. Okay. Now, when you viewed the tape, did you
24 recognize -- certain things we've already talked about.
25 You obviously recognized Mr. Hogan, right?

1 Q. No. Now, why -- why not?

2 A. They had already commented on the tape in
3 question on TMZ. And I was very satisfied with
4 everything that I had seen on the footage. I needed no
5 clarification from them.

6 Q. Okay. You were satisfied by what you had
7 seen that this was in fact the sex tape that had been
8 foretold back in March?

9 A. That's true.

10 Q. All right. Now, I want you to focus on your
11 deposition. You testified in the past in your
12 deposition and explained that you did not consider the
13 impact of this post on Mr. Hogan prior to the time you
14 published it, right?

15 A. That's correct.

16 Q. Okay. Now, as you sit there with us today,
17 do you -- you're aware, I take it, that that strikes
18 some folks as rather harsh.

19 A. Yeah.

20 Q. Okay. How do you explain that? How do you
21 explain as a journalist that you cannot be focused on
22 whether the person is going to be upset? Can you
23 explain that to folks?

24 A. Yeah. Sometimes when you put information out
25 there to the public that is not something that the

1 right to be let alone, say, even in their own homes?

2 A. I think it's limited at this point. But, you
3 know, public figures live a different life.

4 Q. Okay. Was Mr. Bollea in his own home as far
5 as you understand it?

6 A. No, he was not.

7 Q. All right. Did you think -- could you tell
8 from watching the tape whether they knew they were
9 being recorded?

10 A. I couldn't tell, but I was skeptical.

11 Q. And why would you say you were skeptical?
12 Why were you skeptical?

13 A. Well, in talking about celebrity sex tapes in
14 general, a lot of people who market celebrity sex tapes
15 usually claim that they were stolen or leaked, along
16 those lines. And that was my impression when Mr. Hogan
17 and Mr. Houston spoke on TMZ, that this was a way of
18 getting publicity for the sex tape.

19 Q. Okay. And if we can go back to Plaintiff's
20 Exhibit 2, do you recall we looked at those little red
21 hyperlinks?

22 MR. SULLIVAN: Tim, I think it's below that.

23 There you go.

24 BY MR. SULLIVAN:

25 Q. That's the sentence you were telling us about

1 transcript.

2 A. 206?

3 Q. Yes. Let's start at line 6. So there was
4 not a question, then, as of October 2012 that a sex
5 tape existed, correct?

6 Your answer was, correct.

7 And so the existence of the tape, then, was
8 not news as of that date?

9 And what was your answer?

10 A. I'm sorry. Can you point me to it?

11 Q. Sure. We started at line 6.

12 A. Line 6.

13 Q. On page 206.

14 A. Okay.

15 Q. So there was not a question, then, as of
16 October 2012 that a sex tape existed, correct?

17 Your answer, correct.

18 And so the existence of the tape, then, was
19 not news as of that date.

20 And your answer was, correct, right?

21 A. Correct.

22 Q. And, in fact, Mr. Bollea had actually
23 verified the existence of the tape before you posted
24 it, hadn't he?

25 A. He had verified the existence of a tape?

1 Q. Yes.

2 A. Yes, he had.

3 Q. So really, then, out of your points A and B,
4 the whole point of the story was to commentate on what
5 you witnessed on the tape, wasn't it?

6 A. Yeah, because it was newsworthy.

7 Q. And even if the existence was an issue, you
8 could have established that without actually showing
9 explicit footage, couldn't you?

10 A. I could have done that, sure.

11 Q. You could have edited out all of the explicit
12 footage, couldn't you?

13 A. I could have.

14 Q. But you didn't do that, right?

15 A. I did not.

16 Q. You believed that publishing the video
17 without censoring it was going to bring traffic to the
18 site, right?

19 A. Again, you know, the whole entire point of
20 publishing on Gawker.com is to bring traffic. So
21 whether or not this tape made traffic larger or
22 smaller, I mean, that was really not my concern. This
23 is the way I chose to present this story.

24 Q. When you edited this tape, you made sure that
25 readers saw Terry Bollea's penis, didn't you?

1 The bottom line for us is that this whole
2 situation is incredibly prejudicial. The
3 plaintiff has decided to go after us while
4 settling with the one person who apparently knows
5 the truth. And now that person is not going to
6 come in and testify as to those facts.

7 And we cited cases in our papers saying that
8 in parallel circumstances, Courts dismiss these
9 kind of cases. If you can't get at the truth
10 because of some implication of privilege, you
11 can't proceed.

12 There's three people who know. Mr. Bollea,
13 Ms. Clem, who will tell you the story that she's
14 going to tell you when you play her deposition,
15 but will also say, I'm intimidated by this man
16 sitting here, and then Mr. Clem, who is -- never
17 going to hear his story.

18 THE COURT: So --

19 MR. TURKEL: Just one point, Judge?

20 THE COURT: I don't think so. Thank you.

21 MR. TURKEL: Okay.

22 THE COURT: So, Mr. Berry, I will direct this
23 to you. So I am going to grant the motion to
24 quash based on the untrustworthiness of this.
25 However, I think that you should be entitled to

1 back in, do they need a short recess to deal with
2 this?

3 THE COURT: Okay.

4 MR. BERRY: Just to be clear on that point,
5 we don't need to resubpoena Mr. Clem? He's under
6 subpoena to come to whatever this sort of separate
7 proffer would be.

8 THE COURT: Yes. That would -- if the
9 defense wants to pursue that, yes. You can do it,
10 you don't need to resubpoena him.

11 MR. TURKEL: Yeah.

12 THE COURT: So the subpoena is really for --
13 or the ruling is primarily for testifying before
14 the jury.

15 MR. TURKEL: I think, would it be fair to
16 say --

17 THE COURT: I vote with Mr. O'Brien and tell
18 him --

19 MR. TURKEL: The trial subpoena is quashed,
20 but he has been ordered with his counsel here to
21 appear for a proffer. Is that fair?

22 THE COURT: Okay. That would be a fair
23 statement.

24 MR. TURKEL: Okay.

25 THE COURT: Mr. Berry, did you hear that? So

1 he said the trial subpoena would be quashed, but
2 to appear before with his counsel for the proffer
3 would be still on.

4 MR. BERRY: Okay.

5 MR. TURKEL: He is otherwise ordered by the
6 court to make himself available?

7 THE COURT: Yes.

8 MR. O'BRIEN: Understood.

9 THE COURT: Mr. O'Brien, you understand?

10 MR. O'BRIEN: Yes, Your Honor.

11 THE COURT: Okay. Great. Thank you, Mr.
12 O'Brien for coming back.

13 MR. O'BRIEN: May I be excused, Your Honor?

14 THE COURT: Thank you.

15 Okay. Anybody need a break before we
16 continue with Mr. Daulerio? Where is
17 Mr. Daulerio?

18 MR. BERRY: He's not in here. We kept him in
19 a secure location.

20 THE COURT: Okay. So why don't we take a
21 brief break, bring Mr. Daulerio back, then we'll
22 bring in the jury.

23 (A recess was taken at 2:02 p.m.)

24 (Court called to order at 2:04 p.m.)

25 THE COURT: Okay. You can bring the jury

1 ill will towards Hulk Hogan?

2 A. No, not at all.

3 Q. Now, as the managing editor, the news value,
4 what did you take the news value of Mr. Daulerio's
5 piece and the accompanying video? Did you think it was
6 newsworthy?

7 A. I did, yeah.

8 Q. All right.

9 A. I thought it was dealing with a public
10 figure, and it was a story that had been previously
11 reported on for months at that point. And once we had
12 the document itself, we felt we had the right to move
13 forward with publishing it.

14 Q. Okay. And were you concerned -- as the
15 managing editor, were you concerned about Gawker
16 relying on material that been provided by an anonymous
17 source?

18 A. I think normally that would be a concern,
19 certainly. I think in this case the document we
20 received in the mail was essentially
21 self-authenticating. And by that I mean it was exactly
22 what we were told it would be.

23 Q. Okay.

24 A. And we were comfortable with that.

25 Q. Just so we're clear, when you say "the

1 Q. All right. Let me ask you this. Did you
2 consider that Hulk Hogan might be upset by the
3 publication of these excerpts?

4 A. Yeah, I did.

5 Q. All right. And if you could, explain to us
6 like how you grappled with that in your position there
7 as a journalist.

8 A. Yeah. I think it's something journalists
9 grapple with frequently, maybe regularly on a
10 day-to-day basis. You consider the stories that you're
11 publishing and how they might affect the subjects that
12 you're writing about. It's also fair that when you're
13 writing about public figures, you're not often or
14 constantly writing kind of glowing profiles of them.
15 And it's true that in this case we knew we weren't
16 doing that either. And those are considerations you
17 make. And if you feel like you have the full story,
18 correct story, and you feel comfortable with what you
19 put together, you make the decision to publish.

20 Q. Do you find -- do you personally find that to
21 be difficult at times?

22 A. Yeah, I do.

23 Q. All right. Now, you, you left Gawker.com to
24 go back over to Deadspin shortly after the Hulk Hogan
25 post.

1 Q. All right. Let us now -- what we're going to
2 do is we're going to shift our focus and we're going to
3 talk specifically about the publication of the
4 October 4, 2012 post that Mr. Daulerio wrote.

5 Do you have your mind focused on that?

6 A. Yes, I do.

7 Q. Now, did you personally play a role in the
8 publication of that commentary?

9 A. No, I didn't.

10 Q. All right. And did you see it before it ran?

11 A. No, I didn't.

12 Q. Did you see the video excerpt before it ran?

13 A. No, I didn't.

14 Q. Okay. Can you explain to the folks why it
15 would be that you as a publisher did not see a story
16 like that before it was posted on its site?

17 A. Our properties are editorially independent
18 and it's -- putting up a story is a question of
19 editorial judgment. I was running four departments of
20 Gawker, basically the editorial and the three business
21 departments. And my role, again, in editorial was
22 really to judge the performance of the editors-in-chief
23 of the individual properties. So, you know, if the
24 story hadn't worked out, if it had proven to be false,
25 which it didn't, then I would have taken action. But

1 the Gawker.com site?

2 A. Yes. There were passages that made me
3 uncomfortable. But I think viewed as a whole, the
4 piece was newsworthy. It was of interest to our
5 readership. It advanced our understanding.

6 Q. Okay. Let's get to one of the -- kind of the
7 key issues that we're grappling with in this case. Why
8 not -- okay. People sitting there trying to follow
9 along with this ask themselves, well, why didn't you
10 just tell your readers, hey, we got this video, right,
11 describe what was in the video, but why publish an
12 excerpt from the video itself?

13 A. The Internet, it's a -- what they call a
14 multimedia environment. It's sort of a hybrid of
15 television and print and it's a mixture of words and
16 pictures. So the pictures accompany the words and the
17 words accompany the pictures. And in order for -- in
18 order particularly to communicate to a younger
19 audience, they -- they expect that. They expect that
20 there will be illustrations and accompanying video and
21 proof really of what the writer is saying.

22 Q. Let me -- let me come back to that in just a
23 moment.

24 But in your judgment as a publisher, is there
25 power to an image that words cannot convey? Despite

1 Q. Did he ever discuss on the air whether
2 you-all had an open relationship?

3 A. Not that I recall.

4 Q. Did you ever appear on the show?

5 A. Yes.

6 Q. When you were on the show, did you talk about
7 your relationship with Bubba?

8 A. Sometimes.

9 Q. Did you ever discuss your sex life with Bubba
10 on the air?

11 A. As it pertained to he and I, I think so.

12 Q. I want to ask a different question. Why
13 would you-all talk about your sex lives on the air?

14 A. He talked about everything. There was
15 nothing off limits.

16 Q. Did he ever say anything to you to indicate
17 that he thought your all's sex life would be of
18 interest to his listeners?

19 A. Not specifically.

20 Q. Why did you-all ultimately get divorced?

21 A. I was not happy.

22 Q. Was there any specific event that sparked the
23 divorce?

24 A. It was a culmination of many things, not one
25 specifically.

1 A. I don't know.

2 Q. Do you know whether he was aware of the fact
3 that you were recorded having sex with other men?

4 A. I don't know.

5 Q. Do you recall whether you and Mr. Bollea ever
6 had a sexual encounter at Bubba's radio station?

7 A. Yes.

8 Q. Did you?

9 A. An encounter.

10 Q. Relative to the -- in time to the other three
11 encounters that you had talked about with Charles
12 earlier, when was that?

13 A. I don't know in what order.

14 Q. Was anybody else at the radio station?

15 A. Bubba.

16 Q. Were there any other encounters, any other
17 sexual encounters with Mr. Bollea other than the radio
18 station, the one in Nashville, the one in Mr. Bollea's
19 house, and the you one you had mentioned at your house?

20 A. Not that I recall.

21 Q. Did these encounters occur over the span of
22 weeks, months, years?

23 A. I don't know.

24 Q. Did Mr. Bollea ever seem to be troubled by
25 having sex with you, like emotionally troubled?

1 you that Heather was responsible, did you try to
2 contact Heather?

3 A. No.

4 Q. I'm going to -- this is going to be part of
5 an exhibit which we're marking as Exhibit 105. It's
6 also from Bubba Clem's radio show from October 20,
7 2006, starting at 56 -- we have another clip from the
8 same show. This is the -- what is the time on this
9 one?

10 MR. SAFIER: 53:05 to 54:57.

11 (Whereupon, an audio clip was played as
12 follows:)

13 MR. CLEM: You know your old lady is not
14 listening right now. She's in New York City. She
15 doesn't have a portable Sirius unit.

16 What's the craziest shit you ever did,
17 cricket-wise?

18 HULK HOGAN: Cricket-wise?

19 MR. CLEM: Yeah. Before you were married,
20 obviously.

21 HULK HOGAN: Before I was married?

22 MR. CLEM: I was married --

23 MR. HOGAN: Made a girl put on her videos of
24 her competition tapes. I'm not going to say what
25 kind of competition tapes they were.

1 MR. CLEM: Right.

2 MR. HOGAN: While I was in the sack with her.

3 MR. CLEM: So she was a competition girl?

4 HULK HOGAN: Yeah.

5 MR. CLEM: And you made her put competition
6 tapes on?

7 HULK HOGAN: And if you put your thinking cap
8 on, you will know who that is.

9 MR. CLEM: I know exactly who it is. And I'm
10 not even going there, my friend.

11 HULK HOGAN: I know.

12 MR. CLEM: And so this person put their
13 competition tapes on and then you banged her while
14 she had her competition tapes on?

15 HULK HOGAN: Yeah.

16 MR. CLEM: Yeah.

17 HULK HOGAN: It was awesome.

18 (Audio clip concluded.)

19 Q. What does it mean to say competition tapes?
20 What does that mean to you?

21 A. Could you repeat that clip, please?

22 Q. Sure thing.

23 (Whereupon, an audio clip was played as
24 follows:)

25 MR. CLEM: You know your old lady is not

1 Defendants' Exhibit 877; Defendants' Exhibit 120;
2 Defendants' Exhibit 136, 137, 138;
3 Defendants' Exhibit 132; Defendants' Exhibit 124;
4 Defendants' Exhibit 125; Defendants' Exhibit 127;
5 Defendants' Exhibit 128; Defendants' Exhibit 130,
6 Defendants' Exhibit 541; Defendants' Exhibit 77;
7 Defendants' Exhibit 364; Defendants' Exhibit 365;
8 Defendants' Exhibit 565; Defendants' Exhibit 139;
9 Defendants' Exhibit 140; Defendants' Exhibit 141;
10 Defendants' Exhibit 874; Defendants' Exhibit 546;
11 Defendants' Exhibit 342; Defendants' Exhibit 362;
12 Defendants' Exhibit 153; Exhibit -- Defendants'
13 Exhibit 155; Defendants' Exhibit 88; Defendants'
14 Exhibit 90; Defendants' Exhibit 574; Defendants'
15 Exhibit 58; Defendants' Exhibit 59.

16 THE COURT: What was it, 59?

17 MR. BERRY: 58 and then 59.

18 Defendants' Exhibit 232A. And then there's
19 one other, Defendants Exhibit 829.

20 THE COURT: 829? 829?

21 MR. BERRY: Yes, Your Honor.

22 THE COURT: Thank you.

23 MR. BERRY: That's all the exhibits other
24 than what we discussed earlier.

25 THE COURT: All right. Thank you.

P R O C E E D I N G S

(Court called to order at 8:40 a.m.)

THE COURT: Good morning, everybody. So is everybody ready to take up the last defense composite exhibit?

MR. BERRY: Your Honor, we've redacted Composite Exhibit 829 as we discussed in court yesterday. I believe the plaintiff is comfortable with the redactions. We would move that into evidence.

THE COURT: Mr. Vogt?

MR. VOGT: That's correct, Your Honor.

THE COURT: All right. So the Court will receive Defendants' 829.

(Defendants' Exhibit 829 received in evidence.)

THE COURT: Anything else?

MR. SAFIER: Your Honor, we mentioned yesterday an order, a preservation order. Here is a copy of the order.

And the last little bit, we wanted to talk about the mechanics of directed verdict motions. As Mr. Turkel suggested, we're all just going to very quick --

THE COURT: They're all going to be very

1 Denton and Daulerio weren't decent because
2 basically they're just not. And they're proud of
3 it. They boast about it. They boast about
4 breaking rules and about doing indecent things
5 because, you know, the philosophy -- the place is
6 run by a guy who literally believes we don't have
7 privacy rights. I mean, he said that. And we're
8 going to go back through that evidence.

9 I want to talk to you about Mr. Bollea. You
10 know, this concept of the Hulk Hogan character and
11 Mr. Bollea and where that starts and ends, I know
12 you've heard a lot about it. And at times it must
13 have seemed strange to you or over the top and
14 other times it must have made a lot of sense to
15 you. It should make sense to you, because I want
16 you to imagine the fact that for 35 plus years, he
17 is essentially an actor, an entertainer who has
18 played the same role. I want you to apply that.
19 Think of all the movie stars you've ever heard of
20 and imagine if they were fortunate or unfortunate
21 enough to have one role they played for 35 plus
22 years. Think of Captain Kangaroo. Do you think
23 Captain Kangaroo -- I may be a little dated here.
24 I'm sorry. It's what popped into my mind anyway.

25 Do you think Captain Kangaroo -- anyone

1 article.

2 So we go into this idea that Gawker is the
3 reflection of its owner and founder, Nick Denton.
4 That's what they have chosen to be at Gawker. We
5 hear his signature, test the line. The test.

6 John, would you put up 375.

7 You know, this is another piece of evidence
8 that -- you know, you're in here for two weeks. I
9 don't know what you really pick up on and don't.
10 Part of closing is to try and talk with you all
11 about that. But this was his tweet, the line, the
12 test. The story should be true and it should be
13 interesting. And I said, there's nothing in there
14 about it should reflect privacy rights or do the
15 balancing test that Judge Campbell just read to
16 you, right? And we talked about that back in jury
17 selection. You know, there were questions -- I
18 don't know if you all remember -- kind of in the
19 dialogue about where does it start and where does
20 it end. The judge is going to tell you, you've
21 been told the story. Where does it start and
22 where does it end? I asked him that. And
23 remember he adds this thing in, and check with
24 legal.

25 Now, in his career, this is like his

1 newsworthy to do a story about a private
2 individual with their partner in the privacy of
3 their own home.

4 I don't know if you all remember that. I'm
5 sure one of you does because someone on the jury
6 asked the question. And he said, I don't think
7 that that's newsworthy. Right?

8 And I didn't know at the time if anybody
9 remembered this, which I had already put it in on
10 his cross. One of the legal issues, that reporter
11 asked, that's always coming up with Gawker again
12 and again and again is privacy issues. Do you
13 have a larger philosophy on privacy?

14 I think the world, he says, is coming around
15 to our presumption on privacy, which is that when
16 somebody becomes a publisher, as people do at
17 quite a young age on FaceBook, to the extent that
18 they are published and they are viewed, they
19 become some sort of public figure. That blurs the
20 line between public and private in a way that has
21 never been done before.

22 They ask him a question. You've been accused
23 of invading people's privacy from George Clooney
24 complaining about Gawker Stalker to the Hulk Hogan
25 sex tape.

1 Just once in a while, Denton said, I think
2 it's worthwhile to take stock and recognize that
3 this supposed invasion of privacy has incredibly
4 positive effects on society.

5 So when he answered that question from one of
6 the jurors and said, oh, no, private people,
7 that's not what he's telling the rest of the
8 world. Trust me. It's right up there. You go on
9 FaceBook, you're some sort of a public figure.
10 And he's said other things like that. Because of
11 social media, everybody is some sort of public
12 figure.

13 Privacy invasion has a positive effect on
14 society. Who thinks like that? What kind of
15 engineering is going on in the mind of somebody
16 who thinks it's a good thing to invade people's
17 privacy?

18 If we look -- No. 30, John.

19 I mean, this isn't just a casual thought. It
20 defines the whole reason why we're here. Because
21 it answers for you why he would do what he did to
22 Mr. Bollea. I mean, it's not -- this isn't just
23 like Nick Denton -- the guy likes to talk. I get
24 it. But he gets a direct question when he's
25 interviewed by Playboy. Is it possible you set a

1 Gawker and the throw off to the advertisers, the
2 value is exactly what Anderson talked to you
3 about. And that's how we get to that 15 million.

4 If you look at our second category of
5 damages -- if you can pull up 161, 162 and 217. I
6 thought we had them on one board, John. But we'll
7 do them one at a time. All right.

8 This was Shanti Shunn. What he did -- so the
9 five million that you get from Anderson are just
10 off Gawker. That's Gawker, the views on Gawker.
11 I don't know if you all got that. Then we bring
12 Shanti Shunn on to talk about -- there we go --
13 the other places they went because it got linked
14 to all these porn sites and stuff. So who else
15 saw it, right? Who else linked off of it?
16 Because these claims for using Mr. Bollea's
17 likeness and stuff have value. It's kind of a
18 hard thing to help figure out because we're here
19 and we're upset about this privacy issue. But
20 once it's out there, this is what the law tells
21 you --

22 THE COURT: Mr. Turkel, ten more. You've
23 been one hour.

24 MR. TURKEL: Thank you.

25 So I don't know if you all remember this, but

1 these are all the different websites, right? He
2 just did a gross count as much as he can -- he was
3 very open about this. He conceded the fact that
4 we caught what we could because he had the
5 screenshot. We'll live with this number. This is
6 everything they could catch off that data and what
7 he could get at the time. But YouTube counts of
8 99,000 and change. All these porn sites that took
9 it, 4.4 million and change. And then this -- I
10 think this was a Google Analytics thing with
11 another 2.5 million views right there. We add
12 these up and we get this number. Those are the
13 views.

14 Remember, Gawker views are over here, one
15 category, branding, the change in value to Gawker
16 from the views it got, the hits it got. Second
17 category of damages, 7 million hits outside of
18 that. All right?

19 Where does that lead? What do you do with
20 that 7 million number?

21 Could you bring up the Blatt on -- do you
22 have the full page? If we can't find it, I'll
23 just talk about it. You remember the fact that we
24 put this testimony up of this guy Kevin Blatt. I
25 keep having to walk around my board. He showed

1 you what the minimal cost would be on a celebrity
2 website to view this, right, celebrity.com or
3 something like that. I think it was 4.95. That's
4 what he could find for a four-day trial
5 membership. We have to use that to judge. It's
6 the best we can do because it was the only
7 evidence we could find of what somebody would have
8 to pay to see this on paid sites where somebody
9 actually has control of their image. Right? What
10 would they do? What barometer could we use to tie
11 into that 7 million we just had up there? Here we
12 go. Right there. Remember that? That's just a
13 way of tying up the number. When you go back
14 there, you can -- ultimately you have the right to
15 find less or more. I mean, the bottom line is
16 this is the only barometer that we could use, the
17 only measure of what it costs when somebody puts
18 something out there that they actually have
19 control of and they want it to be put up and they
20 want to make money off of it.

21 Listen, again, this is Mr. Bollea and us
22 basically playing the cards that they dealt us in
23 the sense that they put this out there and all
24 these porn sites got it for free. But he's
25 entitled to compensation for that. It's his

1 image.

2 The other thing I'm going to talk to you
3 about with respect to this video, talking about
4 Gawker and them driving traffic shows you the
5 benefit they got from it. That \$15 million is the
6 benefit Gawker got from this. Mr. Anderson was
7 very clear about it. Shanti Shunn, seven million
8 hits times 4.95 is what he was -- the opportunity
9 that was taken from him if he had been one of
10 these people who had chosen to actually sell this
11 thing out there on the market.

12 The last category you're going to see on the
13 verdict form, you're going to hear about emotional
14 distress. I'm going to tell you right now as we
15 go through the verdict form, you know, that's --
16 I'm not going to give you guidance. I'm going to
17 let you all consume the evidence that you've seen
18 and if you think my client is ultimately entitled
19 to emotional distress damages, you're going to
20 pick that number. I'm going to tell you to
21 reflect on this one thing. This icon, this
22 all-American character who surfs on tiger sharks
23 and has changed the industry was the same man that
24 Jules Wortman saw crying on Kathie Lee Gifford's
25 shoulder backstage when he found out about this.

1 thing with the guy standing and he read the guy's
2 answers. He told you that the camera was behind
3 this motion detector. We showed you a picture of
4 it hidden behind this motion detector.

5 Move on to the next one. That's 110. I'm
6 going to go over.

7 Did defendants prove they acted in good
8 faith? I mean, of course not. They told you they
9 didn't care and they told you they didn't call
10 anybody. They knew that Mr. Bollea had actually
11 claimed -- whether they believed it or not, it
12 doesn't matter. Daulerio puts it in his article.
13 He claims he was secretly recorded. They never
14 called anybody -- anybody on the video to ask
15 them. So that would be their failure. They've
16 admitted they didn't do that.

17 If we go to the next page on this, our
18 damages number, what you see here, \$50,378,342.95
19 combined the two numbers I just talked to you
20 about, the 15 million from Mr. Anderson which was
21 the change in value to Gawker and the 4.95 times
22 the other views that Mr. Shunn talked about. The
23 number is obviously a big number. When you
24 compare it to the world that this is in and these
25 numbers and the values of these companies --

1 remember Horan's testimony when Mr. Vogt asked him
2 on cross. He set a hundred million dollars on an
3 advertising campaign for I think About.com that
4 did not generate one view. I don't know if you
5 all remember that testimony. So when you see this
6 number and you compare it to the numbers that have
7 been thrown around in the big Internet business
8 world, it's really not that big of a number. It
9 seems big, but in their world, we're dealing with
10 200 million -- a hundred million dollar
11 advertising campaign that didn't generate a dime
12 of collateral revenue.

13 And so the 15 million I've walked you
14 through, this 4.95 is the only measure we really
15 have and that is, what do people pay to see this
16 kind of stuff? And so you see that number right
17 there.

18 And if you pull up the second category, John.
19 There you go.

20 I'm not putting a number up there. That's
21 for you all to determine at your discretion as
22 jurors. You can make it very similar if you want
23 to -- to anything. It's really your view on how
24 my client was distressed, on what this did to him.
25 It's your view of what it meant for a guy like

1 were published by The Dirty online, and that was
2 six months before Mr. Daulerio published his
3 commentary. Mr. Houston tells you that, well, we
4 sent them a cease and desist letter. But those
5 stills were still up when Mr. Daulerio posted his
6 commentary. You ask yourself, how do I know that?
7 How do I know that's the case? You know that
8 because you remember the other day when we went
9 through those links, those little red portions?
10 Okay? Those were working links. If you clicked
11 on them at the time, it would take you to this
12 piece that appeared in The Dirty. This news, news
13 that stills were surfacing from the Hulk Hogan sex
14 tape, was covered far and wide.

15 Now, look, please -- if you have any doubts
16 about this, we introduced Defendants' Exhibit 829,
17 which is this document here. What it was intended
18 to do is kind of provide for your convenience what
19 I would describe as one-stop shopping. If you
20 want to see the running coverage starting from
21 March 7, 2012, moving forward in time up through
22 the point that they did the Gawker post in
23 October, you can look here. You'll see a wide
24 range of stories reporting on this whole sex tape
25 business. You will see that the coverage was

1 sustained and the coverage was wide ranging. It
2 ranged from celebrity sites like VH1 and Access
3 and E! Online to sports sites. All right.
4 Wrestling sites, sites like The Bleacher Report to
5 mainstream news. You'll see in there stories on
6 this Hulk Hogan sex tape in outlets like the
7 International Business Times, Todayshow.com. So
8 this is out there. This is being picked up
9 widely. You heard Mr. Houston testify that he was
10 fielding daily calls from the media during
11 portions of this period.

12 Now, through all of this prior news coverage,
13 you have heard the story evolve. It started out
14 that the details about the Hulk Hogan sex tape
15 were fuzzy, Mr. Hogan claiming he didn't know who
16 his partner was. You heard that. All right. And
17 then when the photographs -- remember back in
18 April when these photographs started coming out
19 and they were not by any means the clearest,
20 people started scratching their head, saying, what
21 is the deal here? Where did this happen? People
22 were interested. So they started to figure out --
23 or some people, they started to figure out that
24 this looks like it's in Bubba The Love Sponge's
25 home.