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Exhibit 6.pdf



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EXHIBIT “6”

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1 Do you see that?

2 A. I do.

3 Q. Now, if we click on that, where does that
4 take us?

5 A. That takes you back to the TMZ phone
6 interview that was between Harvey Levin, Hulk Hogan,
7 and David Houston.

8 Q. So that's the one supporting that -- that's
9 when he said -- he being Mr. Houston -- said it was
10 secretly filmed, right?

11 A. That's correct.

12 Q. Okay. Now, the last one there, a little
13 below where we were just looking, last week -- you see
14 the link to Heather Clem?

15 A. Yes.

16 Q. And where does that -- where would that take
17 a reader?

18 A. I believe there was another page that was
19 discussing whether or not the woman in the video was
20 Bubba The Love Sponge's wife, Heather Clem.

21 Q. All right. If we could now go back up to the
22 top. Okay. You see there a headline appears. Even
23 For a Minute, Watching Hulk Hogan Have Sex in a Canopy
24 Bed is Not Safe For Work, But Watch It Anyway.

25 Do you see that?

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1 A. I do.

2 Q. Okay. Were you the person at Gawker.com who
3 wrote that headline?

4 A. I was.

5 Q. What did you seek to communicate to your
6 readers when you wrote that posting, that it was not
7 safe for work, but watch it anyway?

8 A. It was to talk about -- making reference to
9 the commentary that I was making that a lot of these
10 celebrity sex tapes are things that most people say
11 they don't want to actually see, but most watch them
12 anyway. And I was kind of making reference to myself
13 that I was guilty of the same thing at this point.

14 Q. Okay. Were you being somewhat facetious?

15 A. Yes, definitely.

16 Q. So the headline was an encapsulation or a
17 shorthand effort to kind of summarize the point you
18 were making in your commentary?

19 A. That's true.

20 Q. And you indicated that it's kind of a -- it's
21 kind of an observation about human nature, right?

22 A. Yes.

23 Q. Is it like when you tell somebody, don't peak
24 or don't look? Is it that kind of thing?

25 A. Yes.

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1 Q. All right. Now, did you think that your
2 readers -- despite the fact that it bears the NSFW
3 advisory, did you think your readers would in fact go
4 ahead and read your piece and at least some of them
5 click on the link and go see the video excerpt?

6 A. I thought that would be a possibility.

7 Q. All right. Did you -- did you speak to
8 anyone at Gawker prior to publishing on October 4,
9 2012? What I mean by that is -- that's not a good
10 question.

11 Let's try it this way. You already told us
12 about the folks you talked to in preparing this piece.
13 You had a conversation with Emma. She said, I've seen
14 it; I've reviewed it. You had her review the piece
15 when it was all done. Leah Beckmann also reviewed the
16 piece. You worked with Kate. You've told us about all
17 of those conversations. And you gave heads up to the
18 advertising folks, right?

19 A. That's right.

20 Q. So now we're ready. The piece is done. As
21 you sit here today with us, do you recall speaking with
22 anyone else at Gawker before you saw that this was
23 published on the site?

24 A. No.

25 Q. Did you speak with Nick Denton before it was

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1 published on the site?

2 A. No, I didn't.

3 Q. Now, he is your boss -- or was your boss at
4 the time, right?

5 A. That's correct.

6 Q. Okay. In your position as editor-in-chief of
7 Gawker.com, did that give you the editorial authority
8 to post a story that was NSFW without consulting the
9 publisher?

10 A. Yeah, I believe it did.

11 Q. Okay. And how does that work in publishing,
12 the editor-in-chief has that power?

13 A. Yeah. Most of the time, you know, the
14 editor-in-chief decides what goes up on the site and
15 what does not.

16 Q. Okay. Does the publisher review everything
17 that is published on a site like Gawker.com?

18 A. No.

19 Q. Now, what were you -- if you could explain to
20 us, when you post this on the site October 4, 2012,
21 what was it that you were looking to share with your
22 readers?

23 A. Can you be more specific?

24 Q. Yes. You got the piece ready. You're trying
25 to communicate something. What did you hope folks

<p>Page 2768</p> <p>1 exclusives, right? Do you remember this memo that's</p> <p>2 referenced in this article that Mr. Denton wrote?</p> <p>3 A. Yeah, I remember the memo.</p> <p>4 Q. And he wanted exclusives because some page</p> <p>5 views are worth more than others; is that right?</p> <p>6 A. That appears to be true, yes.</p> <p>7 Q. And in particular, he asks for writers to be</p> <p>8 more provocative, right?</p> <p>9 A. Where is that line?</p> <p>10 Q. Do you see that last paragraph?</p> <p>11 A. Yes.</p> <p>12 Q. So Mr. Denton asks for people to focus their</p> <p>13 energies on stories that had the potential to break out</p> <p>14 on Twitter and FaceBook, right?</p> <p>15 A. Yeah.</p> <p>16 Q. And the reason for that is because of</p> <p>17 traffic, right?</p> <p>18 A. Readership, sure, yeah.</p> <p>19 Q. Mr. Denton is a rule breaker, isn't he?</p> <p>20 A. In what capacity?</p> <p>21 Q. Well, look at page 108 of your deposition,</p> <p>22 lines 11 through 13.</p> <p>23 A. Okay.</p> <p>24 Q. Your testimony was that Mr. Denton enjoys</p> <p>25 being a rule breaker, right?</p>	<p>Page 2770</p> <p>1 Q. All right. So tell me about the conversation</p> <p>2 you had on the fire escape.</p> <p>3 A. I have a recollection of a degree of</p> <p>4 excitement on his part, excitement about the story.</p> <p>5 Q. Did he tell you what the nature of the story</p> <p>6 was?</p> <p>7 A. I don't think he went into any kind of great</p> <p>8 detail.</p> <p>9 Q. Did he talk to you about having obtained the</p> <p>10 sex tape DVD?</p> <p>11 A. I presume so, but I can't remember any</p> <p>12 distinct --</p> <p>13 (Video clip concluded.)</p> <p>14 BY MR. VOGT:</p> <p>15 Q. Did you forget about that conversation?</p> <p>16 A. The conversation never happened.</p> <p>17 Q. You're saying that Mr. Denton testified under</p> <p>18 oath at his deposition falsely about that conversation</p> <p>19 on the fire escape?</p> <p>20 A. He said he believed that may have been the</p> <p>21 context of when we discussed this, but we did not.</p> <p>22 Q. And that he remembered a degree of excitement</p> <p>23 on your part about publishing the story, that's a --</p> <p>24 A. Again, the conversation --</p> <p>25 Q. -- pretty specific detail --</p>
<p>Page 2769</p> <p>1 A. Yes.</p> <p>2 Q. But you not so much, right?</p> <p>3 A. Yeah.</p> <p>4 Q. So you were asked to break rules by</p> <p>5 Mr. Denton, right?</p> <p>6 A. No, not necessarily.</p> <p>7 Q. Let me ask you. One of the things that</p> <p>8 Mr. Sullivan asked you about, you testified that you</p> <p>9 didn't speak with anyone at Gawker before publishing</p> <p>10 this story; is that correct?</p> <p>11 A. That's correct.</p> <p>12 MR. VOGT: Can you play clip 6?</p> <p>13 (Whereupon, excerpts of the videotaped</p> <p>14 deposition of Nick Denton were played in open</p> <p>15 court as follows:)</p> <p>16 Q. Who spoke to you about this story, what was</p> <p>17 said?</p> <p>18 A. My recollection is hazy and I -- well, I</p> <p>19 would have to tell you how I believed it all went down</p> <p>20 based on how it usually goes down, which is that -- I</p> <p>21 can't say this with absolutely certainty, but I think</p> <p>22 that I had a conversation with A.J. Daulerio on the</p> <p>23 fire escape outside the fourth floor of the Gawker</p> <p>24 office. Well, that's where we would normally have</p> <p>25 these kind of conversations.</p>	<p>Page 2771</p> <p>1 A. -- never happened.</p> <p>2 Q. -- if it never occurred. Wouldn't you agree?</p> <p>3 A. I think he was confusing two different</p> <p>4 conversations.</p> <p>5 Q. Let's also look at that last -- very last one</p> <p>6 clip.</p> <p>7 (Whereupon, excerpts of the videotaped</p> <p>8 deposition of A.J. Daulerio were played in open</p> <p>9 court as follows:)</p> <p>10 Q. In editing the tape down from three minutes</p> <p>11 to a minute, 41 seconds, you could have edited out all</p> <p>12 of the explicit footage, could you not?</p> <p>13 A. Yes.</p> <p>14 Q. And the decision not to do that, was that</p> <p>15 your decision solely?</p> <p>16 A. Yes, it was my decision, but I mean, I did</p> <p>17 have discussions with Gawker's legal team.</p> <p>18 EXAMINING ATTORNEY: And any question I would</p> <p>19 ask the witness about what was said by the legal</p> <p>20 team to him or that he said to that legal team,</p> <p>21 you would object to and instruct him?</p> <p>22 MR. BERLIN: Yes.</p> <p>23 Q. And you would take that instruction?</p> <p>24 A. Yes.</p> <p>25 (Video excerpt concluded.)</p>

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1 And we invested in that.
 2 Q. And was that site successful?
 3 A. That was successful, yes.
 4 Q. And what became of it?
 5 A. It was acquired by Vox Media and we received
 6 a return on that investment.
 7 Q. So when you say you received a return, I take
 8 it it came to a happy conclusion?
 9 A. It did, yes.
 10 Q. Did your investment in Mr. Daulerio's venture
 11 have anything to do with this case?
 12 A. No, it didn't.
 13 Q. Anything whatsoever?
 14 A. None.
 15 MR. SULLIVAN: Okay. Fair enough. Thank you
 16 so much for your attention.
 17 THE WITNESS: Thank you.
 18 THE COURT: Mr. Turkel. Now we'll have
 19 cross-examination by Mr. Turkel.
 20 CROSS-EXAMINATION
 21 BY MR. TURKEL:
 22 Q. Good morning, Mr. Denton.
 23 A. Good morning, Mr. Turkel.
 24 Q. Let's start with this concept of whether you
 25 knew about the Hulk Hogan story and video before it was

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1 published. You told the jury -- I think you told the
 2 jury earlier that your recollection of a discussion
 3 with Mr. Daulerio was hazy and it may have happened
 4 after the actual story was published, right?
 5 A. I was aware of a story coming out. I'm not
 6 sure exactly how.
 7 Q. But let's be very clear. You were aware
 8 before the story was published that it was being
 9 published, right?
 10 A. I was aware that there was a story of
 11 Hulk Hogan to be published, yes.
 12 Q. Well, to be quite precise, the one thing you
 13 remember is that you advised Mr. Daulerio to consult
 14 with counsel, right?
 15 A. I remember a few things, but I can't remember
 16 exactly when I spoke to Mr. Daulerio, whether it was
 17 before or after.
 18 Q. Now, you remember -- you've been in court the
 19 whole time, right?
 20 A. I have, yes.
 21 Q. You've seen numerous witnesses shown their
 22 depositions to show them the testimony they gave under
 23 oath, sometimes on video, right?
 24 A. Yes.
 25 Q. You had your deposition taken, right?

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1 A. I did.
 2 Q. You took an oath?
 3 A. I did.
 4 Q. You're an intelligent man. You certainly
 5 know that that oath bound you to tell the truth as much
 6 as the oath you took before this jury in this trial,
 7 right?
 8 A. Yes, I do.
 9 MR. TURKEL: If you could, John --
 10 Oh, here. If I can approach, Judge, I want
 11 to give the witness a copy of his deposition.
 12 I want you to cue up 100, that clip. I want
 13 to ask him a question before we play it.
 14 BY MR. TURKEL:
 15 Q. The other thing that I heard you talk to the
 16 jury about is this new term that they've heard that
 17 you're a publisher, right? That's what Mr. Sullivan
 18 kept calling you, publisher, right?
 19 A. That was the title that I used, yes.
 20 Q. Right. But in your capacity as president of
 21 Gawker, you spoke to A.J. Daulerio before he put that
 22 story up, didn't you, Mr. Denton?
 23 A. I don't recollect whether I spoke to him
 24 before or after.
 25 MR. TURKEL: All right. Cue the clip, John,

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1 100.
 2 Line 13 for your benefit, Mr. Denton.
 3 (Whereupon, excerpts from the video
 4 deposition of Nick Denton were played in open
 5 court as follows:)
 6 Q. With respect to Gawker.com, what supervisory
 7 role do you currently hold?
 8 A. Well, I am the president of Gawker Media. I
 9 appoint the editors of each site under our control and
 10 I would terminate them. I determine their salary
 11 levels, the budgets for the sites.
 12 Q. And you were in that capacity made aware of
 13 the Hulk Hogan story, the sex tape story, before it was
 14 published, correct?
 15 A. Yes.
 16 (Video deposition excerpt concluded.)
 17 BY MR. TURKEL:
 18 Q. Now, you were the president of Gawker Media
 19 and acting in that capacity when you heard of the
 20 Hulk Hogan story being published, right?
 21 A. I was, yes.
 22 Q. According to your deposition testimony which
 23 you gave us under oath, that was before it was
 24 published, correct?
 25 A. I believe I was aware that the story was

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1 coming, yes.
 2 Q. No, no, no. It doesn't work like that.
 3 Actually what you said in your deposition was in
 4 response to the question --
 5 A. Excuse me. Which page are we looking?
 6 Q. Sure. Page 100 -- we just saw it -- line 22.
 7 A. Let me just look.
 8 Q. I'm going to read your question and answer
 9 again without the video to make sure I'm reading it
 10 correctly and you follow it correctly.
 11 We're at line 13. Okay? You there?
 12 A. Of page 100?
 13 Q. Yes, sir.
 14 A. Yes, I am.
 15 Q. All right. Question: Did you anticipate --
 16 well, let me ask you this. With respect to Gawker.com,
 17 what supervisory role do you currently hold?
 18 This is in October of 2013, right?
 19 A. That's right.
 20 Q. Your answer under oath: Well, I am the
 21 president of Gawker Media. I appoint the editors of
 22 each site under our control, and I would terminate
 23 them. I determine their salary levels, the budgets for
 24 the site.
 25 Question: And you were in that capacity made

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1 aware of the Hulk Hogan sex story, the sex tape story,
 2 before it was published, correct?
 3 Your answer: Yes.
 4 A. I said that, yes.
 5 Q. All right. And the one thing that you do
 6 remember telling Mr. Daulerio is to go consult with
 7 counsel. Isn't that a fact?
 8 A. No. Actually what I said was that if I had
 9 spoken with Mr. Daulerio before, what I would normally
 10 say was, make sure you have a point, consult with
 11 counsel if you have any -- if you have any doubt, and
 12 don't be gratuitous in your use of the video material.
 13 Q. All right. We're clear now that that
 14 happened before the video was published, are we not?
 15 A. No, we're not.
 16 Q. Okay. So we're still not clear on that.
 17 MR. TURKEL: John, could you cue up 142,
 18 line 23.
 19 BY MR. TURKEL:
 20 Q. Is it your testimony that --
 21 MR. TURKEL: No, no. Just hold it.
 22 BY MR. TURKEL:
 23 Q. Is it your testimony --
 24 A. Which page?
 25 Q. Page 142, line 23, Mr. Daulerio --

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1 Mr. Denton.
 2 Are you there?
 3 A. Yes.
 4 Q. All right. So we're clear, we've just gone
 5 through your testimony. You just acknowledged before
 6 the jury that you spoke to Daulerio before the tape was
 7 published, right?
 8 A. No, I haven't.
 9 Q. So you were aware of the tape before it was
 10 published, right?
 11 A. I was aware of the tape before it was
 12 published.
 13 Q. All right. You don't remember how you became
 14 aware of it?
 15 A. No, I don't.
 16 Q. But you do remember telling Mr. Daulerio to
 17 go to counsel and consult with counsel.
 18 A. No. Actually what I said was that if I had
 19 spoken to him before, I would have told him my usual
 20 mantra in these cases.
 21 Q. Isn't it a fact that the only thing you
 22 remember is that you told him to consult with counsel?
 23 A. No, it's not.
 24 MR. TURKEL: Okay. John, if you could -- I'm
 25 going to go back again without going through the

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1 whole drill. You knew you were under oath when
 2 you made the following statement in response to
 3 the following questions at your depo.
 4 John, please cue it.
 5 (Whereupon, excerpts from the video
 6 deposition of Nick Denton were played in open
 7 court as follows:)
 8 Q. With respect to Gawker.com, what supervisory
 9 role --
 10 MR. TURKEL: Wrong one. 142. You just
 11 replayed the 100.
 12 Your page 142, line 23.
 13 (Whereupon, excerpts from the video
 14 deposition of Nick Denton were played in open
 15 court as follows:)
 16 Q. Did you ask Mr. Daulerio when you had your
 17 conversation with him about this video whether he knew
 18 if the tape had been recorded with the permission of
 19 Hulk Hogan?
 20 A. I advised him to consult with our counsel,
 21 and I don't remember anything beyond that.
 22 (Video deposition excerpt concluded.)
 23 BY MR. TURKEL:
 24 Q. That was your testimony under oath, was it
 25 not, Mr. Denton?