

EXHIBIT A

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

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

vs.)

Case No.:)
12012447 CI-011)

HEATHER CLEM, GAWKER MEDIA, LLC)
AKA GAWKER MEDIA; GAWKER MEDIA)
GROUP, INC., AKA GAWKER MEDIA, et al.,)
)
Defendants.)

VIDEOTAPED DEPOSITION OF PETER HORAN

April 23, 2015

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<p>1 BE IT REMEMBERED THAT, the videotaped deposition of</p> <p>2 PETER HORAN was reported by Bridget Montero, CSR No.</p> <p>3 08-0408, on Thursday, April 23, 2015, commencing at the</p> <p>4 hour of 9:33 a.m., the proceedings being reported at</p> <p>5 Stoel Rives LLP, 900 SW Fifth Avenue, Suite 2600,</p> <p>6 Portland, Oregon.</p> <p>7 APPEARANCES</p> <p>8 BAJO CAVA COHEN TURKEL</p> <p>9 By Mr. Shane B. Vogt</p> <p>10 100 North Tampa Street, Suite 1900</p> <p>11 Tampa, Florida 33602</p> <p>12 and</p> <p>13 HARDER MIRELL & ABRAMS LLP</p> <p>14 By Mr. Charles J. Harder</p> <p>15 1925 Century Park East, Suite 800</p> <p>16 Los Angeles, California 90067</p> <p>17 Appearing for Plaintiff</p> <p>18</p> <p>19 LEVINE SULLIVAN KOCH & SCHULTZ, LLP</p> <p>20 By Mr. Michael Berry</p> <p>21 1760 Market Street, Suite 1001</p> <p>22 Philadelphia, Pennsylvania 19103</p> <p>23 Appearing for Defendants</p> <p>24</p> <p>25 Also Present: Mick Irwin - Videographer</p>	<p>1 EXHIBIT INDEX</p> <p>2</p> <table border="0"> <tr> <td>3 Exhibit No.</td> <td>Item</td> <td>Page</td> </tr> <tr> <td>4 309</td> <td>International Business Times</td> <td>178</td> </tr> <tr> <td>5</td> <td>BOLLEA004415 - 16</td> <td></td> </tr> <tr> <td>6 310</td> <td>Gawker Media Group, Inc. and Subsidiaries</td> <td>181</td> </tr> <tr> <td>7</td> <td>Consolidated Financial Statements</td> <td></td> </tr> <tr> <td>8</td> <td>Years Ended December 31, 2011</td> <td></td> </tr> <tr> <td>9</td> <td>YAC000001 - 44 CONFIDENTIAL</td> <td></td> </tr> <tr> <td>10 311</td> <td>FaceBook Gawker Post BOLLEA005164 - 65</td> <td>187</td> </tr> <tr> <td>11 312</td> <td>comScore Document BOLLEA006844 - 49</td> <td>196</td> </tr> <tr> <td>12 313</td> <td>Buzzfeed, Inc. > Private Company Profile</td> <td>205</td> </tr> <tr> <td>13</td> <td>BOLLEA006837 - 38</td> <td></td> </tr> <tr> <td>14 314</td> <td>Bleacher Report, Inc. > Private Company</td> <td>207</td> </tr> <tr> <td>15</td> <td>Profile BOLLEA006835 - 36</td> <td></td> </tr> <tr> <td>16 315</td> <td>Grandparents.com, Inc. > Public Company</td> <td>208</td> </tr> <tr> <td>17</td> <td>Profile BOLLEA006839 - 40</td> <td></td> </tr> <tr> <td>18 316</td> <td>Yelp, Inc. > Public Company Profile</td> <td>209</td> </tr> <tr> <td>19</td> <td>BOLLEA006841 - 43</td> <td></td> </tr> <tr> <td>20 317</td> <td>THESTREET, INC. SEC Form 10-K</td> <td>212</td> </tr> <tr> <td>21</td> <td>BOLLEA006678 - 6833</td> <td></td> </tr> <tr> <td>22 318</td> <td>XO GROUP INC. SEC Form 10-K</td> <td>218</td> </tr> <tr> <td>23</td> <td>BOLLEA006446 - 6537</td> <td></td> </tr> <tr> <td>24 319</td> <td>Everyday Health, Inc. SEC Form 10-K</td> <td>226</td> </tr> <tr> <td>25</td> <td>BOLLEA006538 - 6677</td> <td></td> </tr> </table>	3 Exhibit No.	Item	Page	4 309	International Business Times	178	5	BOLLEA004415 - 16		6 310	Gawker Media Group, Inc. and Subsidiaries	181	7	Consolidated Financial Statements		8	Years Ended December 31, 2011		9	YAC000001 - 44 CONFIDENTIAL		10 311	FaceBook Gawker Post BOLLEA005164 - 65	187	11 312	comScore Document BOLLEA006844 - 49	196	12 313	Buzzfeed, Inc. > Private Company Profile	205	13	BOLLEA006837 - 38		14 314	Bleacher Report, Inc. > Private Company	207	15	Profile BOLLEA006835 - 36		16 315	Grandparents.com, Inc. > Public Company	208	17	Profile BOLLEA006839 - 40		18 316	Yelp, Inc. > Public Company Profile	209	19	BOLLEA006841 - 43		20 317	THESTREET, INC. SEC Form 10-K	212	21	BOLLEA006678 - 6833		22 318	XO GROUP INC. SEC Form 10-K	218	23	BOLLEA006446 - 6537		24 319	Everyday Health, Inc. SEC Form 10-K	226	25	BOLLEA006538 - 6677	
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1 PETER HORAN,
2 was thereupon produced as a witness and, after having
3 been first duly sworn on oath, was examined and
4 testified as follows:

6 EXAMINATION

7 BY MR. VOGT:

8 Q. Good morning.

9 A. Good morning.

10 Q. Can you please state your full legal name
11 for me?

12 A. Yes. Peter Claver Horan, H-O-R-A-N;
13 C-L-A-V-E-R.

14 Q. And what is your address?

15 A. 3503 Southwest Gale, G-A-L-E, Avenue,
16 Portland, Oregon.
17 Want a ZIP?

18 Q. Sure.

19 A. 97239.

20 Q. And what's your date of birth?

21 A. 2-4-55.

22 Q. Have you ever had your deposition taken
23 before?

24 A. A number of years ago.

25 Q. Do you remember what kind of case it was?

1 You understand that the testimony you're
2 giving today is given under oath?

3 A. Yes, sir.

4 Q. It's under penalty of perjury; same way as
5 if you were testifying in front of a jury in a
6 courtroom. Okay?

7 A. Yes.

8 Q. You understand that the videotape is
9 actually being taken of the deposition, as well,
10 today?

11 A. Yes.

12 Q. That may eventually be played in court, as
13 well, so just keep that in mind as we're going through
14 the deposition today.

15 You've been retained in this case to
16 testify as an expert on behalf of Gawker Media, LLC,
17 Nick Denton, and A.J. Daulerio. You understand that?

18 A. Yes.

19 Q. Have you ever spoken with Mr. Denton?

20 A. Yeah; once or twice.

21 Q. When was the last time you spoke with
22 Mr. Denton?

23 A. Probably ran into him at a conference a few
24 years -- four or five years ago.

25 Q. And what was the nature of the conference?

1 A. It was a contract case. We felt that
2 another firm owed us some money. They didn't think
3 they did, and --

4 Q. What was the company that was involved?

5 A. The company I was working for was Tycer
6 Fultz Bellick.

7 Q. And what kind of company is that?

8 A. Advertising agency.

9 Q. And who was the party on the other side?

10 A. I don't remember, to tell you the truth.

11 Q. Do you remember where the lawsuit took
12 place?

13 A. Santa Clara County, California.

14 Q. Do you remember how many years ago it was?

15 A. It's got to be 15, 20. It's a long time.

16 Q. And other than that, have you ever had your
17 deposition taken?

18 A. No.

19 Q. Have you ever testified in court before?

20 A. No. Been a juror, but that's about it.

21 Q. Well, I'm going to go through some of the
22 ground rules before we start.

23 A. Please.

24 Q. Make everything go a little faster and more
25 smoothly.

1 A. Probably -- I think it was the Online
2 Publishers Association conference; so a trade
3 association conference.

4 Q. Let me -- before we get too far into some
5 of those questions about those conversations with Mr.
6 Denton, everything we're saying is being taken down,
7 obviously, today, so it's important that you speak
8 clearly, give verbal responses, yes, no's,
9 explanations. No head nods or uh-huhs or huh-uh okay?

10 It's also important that you wait for me to
11 finish my questions before you answer because it's
12 hard to take everything down if we talk over each
13 other.

14 There will be points where Mike will
15 probably lodge some objections after I finish my
16 question, so another reason for you to wait until I
17 finish.

18 Unless he instructs you not to answer,
19 you're going to go ahead and answer my questions once
20 he finishes his objection. Okay?

21 A. Okay.

22 Q. If you don't understand a question that I
23 ask, for any reason, please let me know. I'm,
24 obviously, not an expert in your field. I may use
25 terms that don't make sense or that I'm using in the

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1 wrong way.
 2 What I'd like you to do is to agree to let
 3 me know if I say something that's confusing or wrong
 4 or misleading in any way, so that we fully understand
 5 each other through the course of the deposition.
 6 Okay?
 7 **A. Certainly.**
 8 Q. The conference that you spoke to Mr. Denton
 9 at, how long ago was that?
 10 **A. Like I said, I'm trying to remember. It**
 11 **was probably five, six years, and it was the Online**
 12 **Publishers Association.**
 13 Q. And do you remember how long you spoke with
 14 Mr. Denton?
 15 **A. A short time. Five minutes; something like**
 16 **that.**
 17 Q. Do you remember what you spoke about?
 18 **A. No. Just small talk.**
 19 Q. And do you recall any other occasions on
 20 which you've spoken with Mr. Denton?
 21 **A. I had breakfast with Nick Denton, gosh,**
 22 **2004; early days of Gawker. Just talking about what**
 23 **he was trying to do.**
 24 Q. What do you recall about that conversation?
 25 **A. I was -- at the time I was running**

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1 **About.com, and he was teasing me about how he had**
 2 **modeled a lot of what he was doing at that time on**
 3 **what I was doing at About and how he actually took my**
 4 **contract for the About guides and copied it and was**
 5 **using it for Gawker, including all the typos.**
 6 **But I wouldn't say we're close friends or**
 7 **spend a lot of time together.**
 8 Q. But would you consider yourself to be
 9 friends with Mr. Denton?
 10 **A. No.**
 11 Q. And are those the only two conversations
 12 that you can recall having with Mr. Denton?
 13 **A. Yes.**
 14 Q. Do y'all ever speak on the phone?
 15 **A. No.**
 16 Q. Do y'all ever send emails to each other?
 17 **A. No.**
 18 Q. Have you ever met Mr. Daulerio?
 19 **A. No.**
 20 Q. Have you ever spoken with him?
 21 **A. No.**
 22 Q. Have you ever spoken with anyone else at
 23 Gawker?
 24 **A. Currently, Heather Dietrick. We spoke when**
 25 **they were considering me as an --**

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1 MR. BERRY: Objection. Anything that is
 2 communications with Heather in connection with her
 3 role as general counsel at Gawker or any conversations
 4 that you've had with me or anybody at Levine Sullivan
 5 is privileged information. So the question would be
 6 yes, you've talked to her, but the substance of the
 7 conversations --
 8 MR. VOGT: Correct.
 9 MR. BERRY: -- is privileged.
 10 MR. VOGT: Right.
 11 BY MR. VOGT: (Continuing)
 12 Q. So that would be it?
 13 **A. Current management. I've spoken to other**
 14 **members of past management at Gawker.**
 15 Q. Okay. Who would that be?
 16 **A. Chris Batty, B-A-T-T-Y.**
 17 Q. And when did you speak with Chris?
 18 **A. Two -- maybe 2009 or '10. I believe he**
 19 **left the company prior to the period we're talking**
 20 **about. So it would -- you know, say, 2010-ish.**
 21 Q. And what did you speak to Chris Batty
 22 about?
 23 **A. At the time we talked about their**
 24 **monetization strategies, the business in general.**
 25 Q. And what was the context of that

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1 discussion? Were you reaching out to them to do
 2 business with Gawker or --
 3 **A. No. Chris -- I say Chris is someone I'm**
 4 **just generally friendly with, and we see each other**
 5 **occasionally. So it was just two guys in the same**
 6 **business, talking about business.**
 7 Q. And is -- this occasion when you spoke with
 8 Chris in 2009 or 2010 about monetization strategies,
 9 was that in person or on the phone?
 10 **A. In person.**
 11 Q. Where did it take place?
 12 **A. At -- it was in New York City, at the**
 13 **Halogen Network office, as I recall.**
 14 Q. And what is Halogen Network?
 15 **A. It was an ad network representing**
 16 **publishers.**
 17 Q. And did Gawker have a relationship with
 18 Halogen?
 19 **A. No.**
 20 Q. Did you have a relationship with Halogen?
 21 **A. Yes. I was executive chairman at the time.**
 22 Q. And what was the substance of your
 23 conversation with Mr. Batty about Gawker's
 24 monetization strategies?
 25 **A. We were talking about their decision to**

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1 **focus on ads they sold themselves, typically**
 2 **nonstandard ad units, and their decision not to work**
 3 **with third-party ad networks.**
 4 Q. And do you remember the substance of what
 5 you discussed about each of those topics?
 6 **A. Generally, that they believed that it was**
 7 **important for the reader experience to have a pretty**
 8 **tight control on the types of ads that appeared on the**
 9 **page, and that they were somewhat willing to forgo**
 10 **extra revenue in favor of a better reader experience.**
 11 Q. And you recall discussing that specifically
 12 with Mr. Batty?
 13 **A. Yes, I do.**
 14 Q. Do you recall anything else about your
 15 conversation with Mr. Batty in 2009, 2010?
 16 **A. I do not.**
 17 Q. Do you remember what his position was,
 18 Mr. Batty, at the time of that conversation?
 19 **A. Something like chief operating officer,**
 20 **chief revenue officer. He was the primary business**
 21 **side executive for Gawker during its earlier days.**
 22 Q. And you -- I think you referred to it as
 23 being a nonstandard advertising strategy.
 24 **A. Yes.**
 25 Q. Is that -- what do you mean by

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1 "nonstandard"?
 2 **A. Most Internet advertising operates in**
 3 **square or rectangular shapes placed by, you know, ad**
 4 **agencies on behalf of clients, and Gawker preferred to**
 5 **have programs that were more deeply integrated with**
 6 **the site, in a lot of cases programs that they created**
 7 **themselves on a custom basis for the advertisers.**
 8 Q. And what would the standard practice be
 9 within the industry at that time?
 10 **A. Again, creative -- standardized creative**
 11 **that runs in IAB standard ad units, in a lot of cases**
 12 **sold by third-party ad networks, in addition to the**
 13 **site's owns sales force.**
 14 Q. And just so we're clear for the record,
 15 because the jury, obviously, may not understand a lot
 16 of the terminology, what are third-party ad networks?
 17 **A. Aggregators is probably the best way to**
 18 **describe them. They buy ad inventory in bulk from**
 19 **content sites and sell it in bulk to advertisers,**
 20 **typically at a lower CPM than the site would sell**
 21 **itself.**
 22 Q. And I think one of the things you talked
 23 about in your report is that one of the consequences
 24 of not using those ad networks for Gawker was that
 25 they would have pages that didn't have ads on them; is

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1 that right?
 2 **A. A lot of the pages will have multiple ad**
 3 **units, and not all of the ad units will be filled with**
 4 **paying ads.**
 5 Q. You're talking about Gawker, correct?
 6 **A. Correct. Yes, sir.**
 7 Q. Now, do you know if -- the advertising
 8 strategy that Gawker had in place in 2009, 2010, when
 9 you spoke with Mr. Batty, has that since changed?
 10 **A. I believe it has changed, but I don't**
 11 **really have, like, substantive knowledge of the**
 12 **change.**
 13 Q. Other than your conversation with
 14 Mr. Batty, do you recall any other conversations that
 15 you've had with anyone at Gawker?
 16 **A. No. It's, like, I probably chatted with**
 17 **people from Gawker at conferences, but I couldn't even**
 18 **tell you the name of the person.**
 19 Q. Have you spoken with any of their current
 20 executives involved in the business side or revenue
 21 areas of the business?
 22 **A. No.**
 23 Q. When were you retained to serve as an
 24 expert for Gawker?
 25 **A. First part of the year, this year.**

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1 Q. So beginning of 2015?
 2 **A. Yes, sir.**
 3 Q. Who initially contacted you from Gawker?
 4 MR. BERRY: You can say who first contacted
 5 you.
 6 MR. VOGT: Right.
 7 THE WITNESS: Heather Dietrick.
 8 MR. BERRY: It's the substance of the
 9 conversation is what's privileged; the fact that you
 10 had a conversation is not.
 11 BY MR. VOGT: (Continuing)
 12 Q. Other than Heather Dietrick, have you
 13 spoken with anyone at Gawker about your expert
 14 services in this case?
 15 **A. No, I have not.**
 16 Q. Do you know how you were referred or how
 17 your name came up as a potential expert?
 18 **A. Yes.**
 19 Q. How did that happen?
 20 **A. They initially contacted my wife, Pam**
 21 **Horan, who at the time was president of the Online**
 22 **Publishers Association, and asked her who might be an**
 23 **appropriate expert witness. And she says, Well, gee,**
 24 **my husband knows the business pretty well.**
 25 **And so then Heather spoke to me and**

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1 referred me over to, you know, Levine Sullivan.
 2 Q. And what's the Online Publishers
 3 Association?
 4 A. It's a trade -- it's now referred to as
 5 Digital Content Next, so they have changed their name
 6 since the time we're talking about.
 7 It's a trade association for the digital
 8 arms of leading publishing companies like the New York
 9 Times, CNN, Time Magazine.
 10 Q. Is Gawker a member?
 11 A. Yes, it is.
 12 Q. Do you know how long Gawker has been a
 13 member?
 14 A. I don't. Actually, as I said that, I
 15 couldn't tell if you they're currently as a member or
 16 they have been a member.
 17 Q. Are any businesses that you're affiliated
 18 with members?
 19 A. Not --
 20 MR. BERRY: Objection. You can answer.
 21 Just objection to form.
 22 THE WITNESS: Okay. Not currently.
 23 BY MR. VOGT: (Continuing)
 24 Q. Have any businesses that you have been
 25 affiliated with in the past as either an executive, a

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1 board member, or an investor been associated with
 2 Digital contacts next --
 3 A. Yes.
 4 Q. -- Content Next?
 5 A. Yes; several.
 6 Q. Which ones?
 7 A. About.com, which actually predated my
 8 wife's involvement with it; AllBusiness was a member.
 9 I sold About to the New York Times. The New York
 10 Times was a founding member.
 11 Q. Prior to be retained as an expert witness,
 12 did you individually or through any companies with
 13 which you were involved as an investor, a board
 14 member, or an executive have any preexisting
 15 relationships with Gawker?
 16 A. No.
 17 Q. Did you either individually or through a
 18 business with which you're affiliated as an investor,
 19 a board member, or an executive have any preexisting
 20 business relationships with Kinja?
 21 A. No.
 22 Q. Do you know what Kinja is?
 23 A. I think it's their CMS, but don't know much
 24 about it.
 25 Q. And when you say "CMS," just we're clear

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1 for the --
 2 A. Content management system.
 3 Q. And what's a content management system?
 4 A. It's a piece of software by which a site
 5 takes words, pictures, ads and puts them onto a
 6 website, and it arranges what the page looks like,
 7 what articles appear where.
 8 Q. Do you understand the Kinja CMS to be
 9 proprietary to Gawker?
 10 A. Yes.
 11 Q. And let me correct it. Do you understand
 12 it to be proprietary to Gawker or to Kinja?
 13 MR. BERRY: Objection as to form.
 14 You can answer.
 15 Your question is does he know?
 16 MR. VOGT: Yes.
 17 THE WITNESS: I'm sorry. Just try it
 18 again, please.
 19 BY MR. VOGT: (Continuing)
 20 Q. Yeah. Do you understand -- you understood
 21 that the Kinja system was a CMS system, correct?
 22 A. Yes, sir.
 23 Q. Do you understand whether that system is
 24 proprietary to either Gawker or Kinja?
 25 MR. BERRY: Objection to form.

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1 THE WITNESS: All right. I believe it is
 2 proprietary to Gawker. It's a Gawker service, is my
 3 understanding.
 4 BY MR. VOGT: (Continuing)
 5 Q. When you were first contacted to be
 6 retained as an expert in this case, did you know
 7 anything about this lawsuit?
 8 A. No. Never heard of it.
 9 Q. Prior to this lawsuit, have you ever done
 10 any work with Mr. Berry's firm?
 11 A. No.
 12 (Discussion off the record.)
 13 MR. BERRY: What we've done, although
 14 there's been a little bit of confusion, to keep track
 15 of the different pieces of paper you're shown during
 16 the deposition -- we have had a lot of these
 17 depositions, and we've kind of just started with 1 and
 18 numbered the exhibits that way, to try to keep things
 19 squared.
 20 You may see things already marked or stuff
 21 marked new in your transcript. You're coming in the
 22 middle of this movie, so --
 23 MR. VOGT: Actually, coming in near the
 24 end.
 25 THE WITNESS: For all your sake, I hope I'm

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1 towards the end.
 2 (Exhibit 300 marked for identification.)
 3 BY MR. VOGT: (Continuing)
 4 Q. And for identification purposes, I just
 5 handed you what we are marking as Exhibit 300, and
 6 this is a copy of the Rebuttal Expert Witness
 7 Disclosure for Gawker Media, LLC, Nick Denton, and
 8 A.J. Daulerio.
 9 If you could just take a few minutes to
 10 look through this, and I'll ask you a few questions
 11 about it.
 12 **A. Okay. Got it.**
 13 Q. Have you ever seen this document before?
 14 **A. No.**
 15 Q. Okay. Exhibit A to this rebuttal
 16 disclosure, is that your résumé?
 17 **A. Effectively, yes. That's a -- that's a**
 18 **copy of my LinkedIn profile, an export of my LinkedIn**
 19 **profile, so yes, effectively, that's my résumé.**
 20 Q. Did you have an opportunity to look through
 21 it?
 22 **A. Yes.**
 23 Q. And is it accurate?
 24 **A. Yes.**
 25 Q. Are there any updates or changes to it,

Page 23

1 that you're aware of?
 2 **A. No.**
 3 Q. And if you go back to page 2 of
 4 Exhibit 3 -- of Exhibit 300, I'm sorry --
 5 MR. BERRY: Do you mean the LinkedIn
 6 profile or the actual --
 7 MR. VOGT: The actual -- the actual --
 8 starting from the beginning.
 9 MR. BERRY: Okay.
 10 THE WITNESS: Sure.
 11 BY MR. VOGT: (Continuing)
 12 Q. We'll start on the first page, actually.
 13 **A. Go back one page?**
 14 Q. Yes.
 15 It says that you will respond to the
 16 testimony and report of Mr. Jeff Anderson as
 17 identified as an expert witness by Plaintiff and will
 18 focus on the value Gawker received as a result of
 19 publishing the article and accompanying video excerpts
 20 that are the subject of this lawsuit.
 21 Does that accurately describe the scope of
 22 the services that you've been retained to perform in
 23 this case?
 24 **A. Yes, sir.**
 25 Q. And is that the full scope of the services

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1 that you've been hired to perform in this case?
 2 **A. Yes, sir.**
 3 MR. BERRY: Objection. You've got to wait
 4 for me to object.
 5 THE WITNESS: I'm sorry.
 6 MR. VOGT: That's fine. You can always --
 7 MR. BERRY: Right, right, right.
 8 Just give him time to ask the question and
 9 I can interject an objection, if necessary.
 10 BY MR. VOGT: (Continuing)
 11 Q. So subject to the objection, yes, was your
 12 answer?
 13 **A. Yes.**
 14 Q. On the second page it says that you have
 15 not previously served as an expert witness; is that
 16 correct?
 17 **A. Yes.**
 18 Q. And you're being compensated at a rate of
 19 \$400 per hour for both in-court and out-of-court time;
 20 is that correct?
 21 **A. Yes.**
 22 Q. How much time have you spent on this case
 23 to date?
 24 **A. Oh, gosh, 40, 50 hours, perhaps.**
 25 Q. And do you expect to perform any additional

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1 work after the deposition today?
 2 MR. BERRY: Objection.
 3 You can -- I mean, if you know.
 4 THE WITNESS: I believe if this goes to
 5 trial, I'll may go to -- you know, be a witness at the
 6 trial, but beyond that, don't know.
 7 BY MR. VOGT: (Continuing)
 8 Q. The 40 to 50 hours that you have spent on
 9 this -- this case, what types of things have you done,
 10 just generally?
 11 MR. BERRY: Objection. I thought that the
 12 understanding was that we weren't probing what work
 13 folks have done.
 14 MR. VOGT: I don't want to get into
 15 specifics.
 16 BY MR. VOGT: (Continuing)
 17 Q. I just want to know generally what -- have
 18 you reviewed documents? Have you spoken to people?
 19 You've done research? You know, just generally, is
 20 that.
 21 MR. HARDER: We're not getting into actual
 22 communications?
 23 MR. VOGT: Right.
 24 MR. BERRY: I thought that the
 25 understanding was that if it was something that's

1 reflected in the report that he relied on in coming up
 2 with his opinion, that that was fair game, but sort of
 3 the general, like, what have you done generally is
 4 not.
 5 MR. VOGT: Okay. I'll move on for now, and
 6 then I -- may come up in the context of stuff more
 7 appropriate.
 8 MR. BERRY: If you have specific kinds of
 9 questions --
 10 MR. VOGT: Yeah.
 11 BY MR. VOGT: (Continuing)
 12 Q. All right. Let's go into your -- I guess
 13 rather than a résumé, would it be more appropriate to
 14 call Exhibit A to this your LinkedIn profile?
 15 **A. I don't mind you calling it a résumé.**
 16 Q. Okay.
 17 **A. It just -- I'm trying to be as precise as I**
 18 **can be.**
 19 Q. Okay. Your educational background says
 20 that you attended Santa Clara University from 1972 to
 21 1976, correct?
 22 **A. That is correct.**
 23 Q. And you got your BA in English and in
 24 history?
 25 **A. Correct.**

1 Q. Back then?
 2 **A. This is a long time ago.**
 3 Q. Other than your education at the two
 4 schools that we discussed, have you attended any other
 5 higher education?
 6 **A. No.**
 7 Q. Do you hold any other degrees?
 8 **A. No.**
 9 Q. Have you taken any sources in finance?
 10 **A. As part of my MBA, yes.**
 11 Q. Have you taken any courses in the legal
 12 field?
 13 **A. No. Business law, as part of my MBA, but**
 14 **not otherwise.**
 15 Q. Have you taken any courses in accounting?
 16 **A. As part of my MBA, yes.**
 17 Q. Have you taken any courses in appraisal?
 18 **A. No.**
 19 Q. Have you taken any courses in business
 20 appraisal?
 21 **A. No.**
 22 Q. Have you taken any courses in economics?
 23 **A. Yes.**
 24 Q. What courses have you taken in economics?
 25 **A. Microeconomics, macroeconomics, both at the**

1 Q. And then you attended San Francisco State
 2 University from 1978 to 1991; is that correct?
 3 **A. 1981.**
 4 Q. '81. I'm sorry.
 5 **A. Yes.**
 6 Q. And you got your MBA there?
 7 **A. Correct.**
 8 Q. And it says that you got your MBA in U.S.
 9 Japanese trade relations and technology product
 10 management; is that right?
 11 **A. That is correct, yes.**
 12 Q. What's technology product management?
 13 **A. At that time technology companies were just**
 14 **starting to use consumer packaged goods techniques --**
 15 **at that time technology companies were just starting**
 16 **to use the techniques that a consumer package goods**
 17 **company like Proctor and Gamble would use to manage**
 18 **the products through its life cycle; from determining**
 19 **a need for a product through, you know, bringing it to**
 20 **market and distributing it. So I was exploring how**
 21 **those techniques could be used on behalf of technology**
 22 **products.**
 23 Q. Did that have any relationship to the
 24 Internet or --
 25 **A. I don't know that there was an Internet.**

1 **undergraduate and graduate level.**
 2 Q. So nothing post San Francisco State
 3 University?
 4 **A. No.**
 5 Q. Do you hold any professional licenses?
 6 **A. No.**
 7 Q. Do you hold any specialized degrees or
 8 training?
 9 **A. No.**
 10 Q. Are you board certified in any fields?
 11 **A. No.**
 12 Q. Do you hold any memberships in any
 13 professional societies or organizations?
 14 **A. No.**
 15 MR. BERRY: Can you ask the question again?
 16 BY MR. VOGT: (Continuing)
 17 Q. Do you hold any memberships in any
 18 professional societies or organizations?
 19 MR. BERRY: Do you understand the question?
 20 Are you asking he is a member of any
 21 professional organization?
 22 MR. VOGT: Yeah.
 23 THE WITNESS: I don't believe -- like I
 24 said, no.
 25 BY MR. VOGT: (Continuing)

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1 Q. Have you received any honors, awards, or
 2 acknowledgments in your profession?
 3 **A. I was selected as one of the top 50**
 4 **business graduates of San Francisco State, but no.**
 5 Q. What is your field of expertise?
 6 **A. Running and investing in Internet media**
 7 **companies and advertising companies.**
 8 Q. Are you an expert in any other fields?
 9 **A. No.**
 10 Q. Are you licensed in the securities
 11 industry?
 12 **A. No.**
 13 Q. If you go to your résumé, or your profile,
 14 the section on skills and expertise, I just wanted to
 15 clarify with respect to the last answer you gave me
 16 about the fields that you're an expert in.
 17 **A. Yeah.**
 18 Q. When you use "expertise" on this, you're
 19 not saying you're an expert in these fields, correct?
 20 **A. Well, actually, interestingly, these are**
 21 **skills and expertise that other people have**
 22 **acknowledged me for on LinkedIn, so I didn't --**
 23 Q. Okay.
 24 **A. -- say, Oh, I'm an expert in online**
 25 **marketing, but the way LinkedIn works is they ask: Is**

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1 **Peter an expert in online marketing, and a number**
 2 **folks have said, yeah, I'm an expert in these fields.**
 3 Q. Okay. So these aren't things that you
 4 listed these are what other people would have clicked
 5 on in reference to you?
 6 **A. Yes, sir.**
 7 Q. Do you hold yourself out as an expert in
 8 any of the items listed under skills and expertise?
 9 MR. BERRY: I guess I would just object to
 10 form, but you can answer.
 11 THE WITNESS: I'd say most of these, yeah.
 12 BY MR. VOGT: (Continuing)
 13 Q. Okay. Let's just go through some of them.
 14 **A. Certainly.**
 15 Q. What's online marketing?
 16 **A. A very broad phrase describing how**
 17 **companies bring products to market using the Internet,**
 18 **social media, E-commerce influence consumers.**
 19 Q. And are you an expert in that field?
 20 **A. Yes.**
 21 Q. And what qualifications do you have as an
 22 expert in that field?
 23 **A. Regularly speak at industry conferences.**
 24 **So I'm asked to speak at industry conferences on that**
 25 **topic. I write on that topic fairly often, and my**

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1 **articles are published.**
 2 Q. Are those included in the publications that
 3 are in your résumé?
 4 **A. Some of them, yeah.**
 5 MR. BERRY: I just want to -- I mean, you
 6 can continue on with this, but I just want to object
 7 generally to this line of questioning. To the extent
 8 that he's been retained, he's just been retained to be
 9 an expert with respect to the stuff he's testified --
 10 or written in his report, although, I mean, you're
 11 free to go down these roads. I just want a standing
 12 objection.
 13 MR. VOGT: That makes it easier.
 14 MR. BERRY: You can continue to answer. I
 15 just --
 16 BY MR. VOGT: (Continuing)
 17 Q. Yeah, given that qualification, there's
 18 just a few of these I just want to ask you what they
 19 are.
 20 **A. Certainly.**
 21 Q. They'll come up later on in some of the
 22 questioning.
 23 What is online advertising?
 24 **A. Trying to simplify this down to a**
 25 **digestible thing. It's the process of companies**

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1 **placing ads on websites that run across the Internet.**
 2 Q. Are there different types of online
 3 advertising?
 4 **A. Oh, certainly.**
 5 Q. What are some of the types?
 6 **A. There's online display. There's text**
 7 **product ads. There's video ads. There's native**
 8 **advertising, social media advertising.**
 9 Q. What's social media advertising?
 10 **A. Could be product ads that are displayed on**
 11 **Facebook. It could be sponsored posts on Twitter.**
 12 Q. What's a sponsored post?
 13 **A. A company or individual has a post in**
 14 **Twitter -- it's 140 characters -- often including a**
 15 **link that they want people to see, and in addition to**
 16 **placing that organically for free, they can pay**
 17 **Twitter to promote and display that post across the**
 18 **service.**
 19 Q. What are strategic partnerships?
 20 **A. Business development relationships between**
 21 **companies, typically.**
 22 Q. Can you give me some examples?
 23 **A. Sure. A site might retain a company such**
 24 **as Halogen Networks to sell their advertising. A**
 25 **content site might do a deal with a portal to**

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1 **distribute its content to grow traffic. A site might**
 2 **do a partnership with Amazon to derive lead gen.**
 3 **revenue.**
 4 Q. What's SEM?
 5 **A. SEM?**
 6 Q. Yes.
 7 **A. Search engine marketing. It's paying**
 8 **Google, Yahoo, Bing to show certain listings, and it's**
 9 **typically done on a cost-per-click or cost-per-action**
 10 **basis.**
 11 Q. When you say "certain listings," what do
 12 you mean by that?
 13 **A. It could be to promote an article. It**
 14 **could be to promote a product. So if you go on to a**
 15 **search engine and do a search for hotels in New York**
 16 **City, some of the things -- some of the listings that**
 17 **come up will be, quote/unquote, will be organic.**
 18 **Meaning it's not paid for. It's the search engine's**
 19 **estimate of what you want to see.**
 20 **Around that you'll see a lot of other**
 21 **listings, often with a shaded background, where a**
 22 **particular hotel or hotel chain has paid Google,**
 23 **Yahoo, Microsoft to display their results.**
 24 Q. And what is SEO?
 25 **A. Search engine optimization. And that's**

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1 **sort of the corollary to SEM, in that what you're**
 2 **trying to do there is promote your own content or**
 3 **services in the organic listings within the search**
 4 **engine.**
 5 Q. And how is that done, the promotion of
 6 one's own content or services in the search engine
 7 optimization area?
 8 **A. Trying to anticipate what people will**
 9 **search on, trying to write headlines and content that**
 10 **map to what people will search on, and potentially**
 11 **using words or phrases that will cause you to be**
 12 **higher in the search rankings. And then, lastly,**
 13 **getting links into your site from highly authoritative**
 14 **other sites that the search engine will believe gives**
 15 **your site credibility.**
 16 Q. Would "not safe for work" be an example of
 17 a word or a phrase that would be used in search engine
 18 optimization?
 19 MR. BERRY: Object as to form.
 20 THE WITNESS: I'm sorry. Unpack that a
 21 little bit, please. I'm not sure I understand that.
 22 BY MR. VOGT: (Continuing)
 23 Q. Are you familiar with not safe for work?
 24 **A. Yes, certainly.**
 25 Q. And it's often abbreviated NSFM?

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1 **A. NSFW.**
 2 Q. NSFW. And would that be an example of a
 3 term that could be utilized in search engine
 4 optimization to increase traffic to a website?
 5 MR. BERRY: Objection to form.
 6 THE WITNESS: It suppose it could be. That
 7 would not be a phrase we would typically associate
 8 with content, but it could be.
 9 BY MR. VOGT: (Continuing)
 10 Q. What's content strategy?
 11 **A. Broadly, it's trying to figure out what**
 12 **content you want to put on your website to attract the**
 13 **right -- you know, as many readers as possible and the**
 14 **right types of readers.**
 15 Q. What's PPC?
 16 **A. Paper click advertising. It goes back to**
 17 **the SEM -- primarily SEM discussion we had, but it**
 18 **could also be other types of advertising that is**
 19 **placed on a cost-per-action basis.**
 20 Q. What's the difference between a
 21 pay-per-click advertising and CPM advertising?
 22 **A. CPM advertising, the advertiser pays to**
 23 **have the ad displayed, typically on a thousand --**
 24 **per-thousand-impression basis, and they just pay for**
 25 **that ad to run.**

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1 **On a pay-per-click basis, they would pay**
 2 **probably a higher price, but only when somebody clicks**
 3 **or purchases something.**
 4 Q. And so with a CPM type of advertising,
 5 that's based on impressions, correct?
 6 **A. Yes, sir.**
 7 Q. And that advertising is based on the number
 8 of people who simply view a page with the advertising
 9 on it, correct?
 10 **A. Yes.**
 11 Q. And your current company is what?
 12 **A. Horan Media Tech Advisers.**
 13 Q. And you refer to that as being an umbrella
 14 for your investment and consulting activities.
 15 What do you mean by that?
 16 MR. BERRY: Object to form.
 17 THE WITNESS: Right now I advise four or
 18 five different companies on -- in the media and
 19 advertising and commerce space, and I also make direct
 20 personal investments in a bunch of different
 21 companies, and so I just wanted to have a single
 22 business card that I could use to tie it all together.
 23 BY MR. VOGT: (Continuing)
 24 Q. So are -- your personal investments, are
 25 those through yourself personally or are they through

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1 your company?
 2 MR. BERRY: Objection to form and also
 3 relevance.
 4 THE WITNESS: I'm investing my own money.
 5 BY MR. VOGT: (Continuing)
 6 Q. Okay. Who are the four to five companies
 7 that you advise?
 8 **A. Is that okay?**
 9 MR. BERRY: Yeah. Sorry. When I object,
 10 unless I tell you not to answer, I'm just doing it for
 11 the record for later. So you should -- unless I tell
 12 you not to, you should answer the question.
 13 The other thing I should tell you is Shane
 14 is asking you questions about some of your business.
 15 The case has a protective order to mark stuff as
 16 confidential. There's some stuff that you may talk
 17 about with respect to your own business or otherwise
 18 that you can deem confidential, and, you know,
 19 everything will be marked confidential for a period of
 20 time to allow you to review that. But if there are
 21 things that you want marked confidential as we go --
 22 THE WITNESS: I didn't understand what was,
 23 like, okay and not okay.
 24 MR. BERRY: Unless I tell you otherwise,
 25 you can answer.

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1 THE WITNESS: Sure. I'm on the boards of
 2 three companies: Lending Tree, which is the mortgage
 3 lead generation company; Viggle, which is the
 4 entertainment marketing platform company; and Purch,
 5 which is a large content site. And in the context of
 6 those three companies, I get both equity and cash
 7 compensation.
 8 I'm an adviser to Topics.com, which is a
 9 content site, and I'm paid for that, in addition to
 10 being on the board of directors. I'm advising
 11 TwelveFold Media where I'm also on the board of
 12 directors, which is an ad targeting site. I'm on the
 13 board of Net2TV, which is an over-the-top TV company
 14 where I'm paid a monthly fee.
 15 That's where I spend most of my time.
 16 BY MR. VOGT: (Continuing)
 17 Q. And I think those are all listed in here.
 18 **A. Yes, sir.**
 19 Q. What's an ad targeting site?
 20 **A. It's an ad targeting service, not a site.**
 21 **What they -- what TwelveFold Media does is they**
 22 **actually read pages on the Internet that are buyable**
 23 **through realtime bidding and exchanges and helps to**
 24 **construct content targets for advertisers so they can**
 25 **better place their ads through programmatic ad**

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1 **services.**
 2 Q. Have you ever consulted -- other than for
 3 Topics, have you ever consulted for an online
 4 publisher?
 5 **A. Consulted for, no. Run, yes.**
 6 Q. What online publishers have you run?
 7 **A. First one was Computer World in the**
 8 **late '90s, early days of the Internet, which I was**
 9 **running all of Computer World, including our website.**
 10 **Then ran DevX, which was a content site for software**
 11 **developers from 2000 to 2003. Then I ran About.com**
 12 **from 2004 to 2005, which we ultimately sold to the New**
 13 **York Times. And I worked for the New York Times for a**
 14 **little while. Then I ran AllBusiness, which was a**
 15 **content site for small business owners.**
 16 **Then I went to IAC, and I ran the media and**
 17 **advertising group there, which was a fairly large**
 18 **group for a publicly traded company, which included**
 19 **Ask, which is a search engine, City Search, which is a**
 20 **content site.**
 21 **Most recently I was president and chief**
 22 **operating officer of Answers.com, which is another**
 23 **content site.**
 24 Q. Do you know whether IAC Media has ever
 25 worked with Gawker?

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1 **A. It has not, to the best of my knowledge.**
 2 **I'm sorry. I'm sorry. Let me say it had not, when I**
 3 **was working at IAC. They subsequently may have, but I**
 4 **have no knowledge of that.**
 5 Q. You have an entity listed that you did some
 6 work with called Publish This.
 7 **A. Oh, yes.**
 8 Q. What is that entity?
 9 **A. It's a content curation and aggregation**
 10 **service that works with publishers to manage and**
 11 **distribute content.**
 12 Q. What does that mean?
 13 **A. So for example, Fox News wants -- this is a**
 14 **real example. Fox News wants to do local sports**
 15 **newsletters for cities across America, and so they**
 16 **want to say to Mike in Philadelphia, Hey, we'll give**
 17 **you all the latest Philly sports news.**
 18 **What Publish This does is it scans the**
 19 **Internet, finds all the relevant headlines for Philly**
 20 **sports, and then would feed that into the email server**
 21 **for Fox News. And then they do that, like I said, 500**
 22 **at a crack.**
 23 Q. And then you mentioned Topics. What does
 24 Topics do?
 25 **A. Topics is a local news service owned by**

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1 **Tribune, Gannett, and McClatchy; big newspaper chains.**
 2 Q. And is it a community news editing
 3 platform?
 4 **A. They have a -- they don't offer it as a**
 5 **platform service. They're a news site.**
 6 Q. Do users submit comment on that site?
 7 **A. They comment, yes.**
 8 Q. Is it primarily focused in smaller towns
 9 across the country?
 10 **A. They get a lot of their traffic in smaller**
 11 **towns. I wouldn't say they're focused on smaller**
 12 **towns.**
 13 Q. Have there been lawsuits over comments
 14 posted on Topics? Are you aware of those?
 15 **A. There have been a couple, yes, sir.**
 16 Q. Was Topics forced to disclose IP addresses
 17 for some of the anonymous posters on its site?
 18 MR. BERRY: Objection as to form.
 19 THE WITNESS: I don't recall.
 20 BY MR. VOGT: (Continuing)
 21 Q. Was there a point in time when Topics was
 22 charging people to get expedited removal of negative
 23 posts about them?
 24 **A. Not that I recall.**
 25 Q. Do you know whether 30 state attorney

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1 generals protested against Topics charging people to
 2 have negative posts removed?
 3 MR. BERRY: Objection to form.
 4 THE WITNESS: Not -- not while I have been
 5 working with them.
 6 BY MR. VOGT: (Continuing)
 7 Q. When did you work for them?
 8 **A. I'm currently working with them. I've been**
 9 **there for a couple of years.**
 10 Q. What's your position?
 11 **A. I'm on the board of directors and I'm an**
 12 **adviser.**
 13 Q. Another one that you have listed in your
 14 résumé is Viral Heat.
 15 **A. Yes, sir.**
 16 Q. What does Viral Heat do?
 17 **A. Social media analytics, is probably the**
 18 **best way to describe it.**
 19 Q. And what is that? I'm going to ask you
 20 that question a lot today.
 21 **A. So I will do my best to explain some of**
 22 **these things in as plain English as I can come up**
 23 **with.**
 24 **What they do is they look at the fire hose**
 25 **of posts on Twitter, posts on Facebook, Instagram,**

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1 **Pinterest, things like that, and try to make sense on**
 2 **it on behalf of marketers.**
 3 **So a company might ask: Hey, are people**
 4 **talking about us? What do they care about? Is it**
 5 **positive or negative?**
 6 **And so Viral Heat provides analytics back**
 7 **to the brands.**
 8 Q. Why is that being done in the social media
 9 field?
 10 **A. Because brands understand that social media**
 11 **forum helps to form opinions about their brands, and**
 12 **they're trying to understand what people are saying,**
 13 **who the influential people are, and they're trying to**
 14 **work with social media to shape their own image.**
 15 Q. Are online media companies using social
 16 media as a form of advertisement?
 17 MR. BERRY: Object to form.
 18 THE WITNESS: Could you explain what you
 19 mean by "advertisement"?
 20 BY MR. VOGT: (Continuing)
 21 Q. Are -- online media companies, are you
 22 aware of them having their own Facebook pages?
 23 **A. Certainly.**
 24 Q. Are you aware of online media companies
 25 having their own Twitter accounts?

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1 **A. Of course, sure.**
 2 Q. In your experience, do online media
 3 companies use their Facebook pages and Twitter
 4 accounts to attract visitors to their sites?
 5 **A. Yes, they do.**
 6 Q. And how do they do that?
 7 MR. BERRY: Object to form.
 8 THE WITNESS: Two different ways. Again,
 9 this goes back to the notion of organic versus paid
 10 distribution. So they will certainly, through their
 11 Twitter account, promote each story that they do
 12 through a day, typically. More and more content
 13 companies are promoting stories with paid placements
 14 on Facebook in particular, sometimes on Twitter, to
 15 drive initial traffic.
 16 BY MR. VOGT: (Continuing)
 17 Q. This company, the name, Viral Heat -- what
 18 does viral mean, in the context of your industry?
 19 **A. Viral is users talking about a particular**
 20 **topic and sharing content voluntarily because they're**
 21 **excited about it and they want their friends to see**
 22 **it.**
 23 Q. Are you familiar with a concept known as
 24 viral marketing?
 25 **A. Yes.**

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1 Q. What is viral marketing?
 2 **A. It's trying to accelerate and encourage**
 3 **that process; trying to encourage users to talk about**
 4 **a brand, talk about a movie, talk about an article and**
 5 **share it with their friends.**
 6 Q. And I think that a gentleman that you had
 7 written an article with, Jeff Rayport --
 8 **A. Rayport, yes, sir.**
 9 Q. -- did he coin that phrase, viral
 10 marketing, or was he one of the people who did?
 11 **A. I don't know.**
 12 Q. You have heard that, though?
 13 **A. I have -- I know viral marketing. I didn't**
 14 **know Jeff took credit for it. He and Al Gore invented**
 15 **the Internet, perhaps.**
 16 **I will have to check that, though.**
 17 Q. Are videos sometimes used as a way of viral
 18 marketing?
 19 **A. Yes.**
 20 Q. Your résumé also notes that you've been a
 21 CEO and an independent director as part of eight
 22 profitable exits in the past ten years totaling almost
 23 \$1.8 million.
 24 **A. Yes, sir.**
 25 Q. Can you tell me -- just list the eight

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1 exits.
 2 **A. Sure. Try to do it roughly in terms of**
 3 **size.**
 4 **Answers we sold for just under a billion**
 5 **dollars, 985 million, last year. About.com we sold in**
 6 **four different chunks. The biggest was \$410 million**
 7 **to the New York Times, but we also sold to web hosting**
 8 **operations, Sprinx, and a Japanese operation**
 9 **separately. That was about \$500,000,000 all in.**
 10 **Three transactions, all on the 60,**
 11 **70 million range. Merchant Circle to Reply, Pluck to**
 12 **Demand Media, and AllBusiness to Dun & Bradstreet,**
 13 **DevX to JupiterMedia.**
 14 **I think that gets me my eight and**
 15 **\$1.8 billion.**
 16 Q. You said Merchant Circle, Pluck,
 17 AllBusiness, and DevX?
 18 **A. Yes.**
 19 Q. What were the range of those?
 20 **A. Merchant Circle, Pluck, and AllBusiness**
 21 **were all about 70 million each.**
 22 Q. And what years were those?
 23 **A. 2007 for Pluck and AllBusiness, and two**
 24 **thousand -- I can't remember if it was '11 or '12 for**
 25 **Merchant Circle.**

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1 Q. What about DevX, what was the --
 2 **A. That was -- that's probably 10 million.**
 3 **And it was 2003.**
 4 Q. You said Answers was close to 1 billion?
 5 **A. Yeah. 985 million.**
 6 Q. That was in 2014?
 7 **A. Yes.**
 8 Q. What was Answers revenue -- total yearly
 9 revenue at the time of that sale?
 10 **A. \$250 million.**
 11 Q. And you said About.com sold to New York
 12 Times for \$410 million?
 13 **A. Yes, sir.**
 14 Q. What year was that?
 15 **A. 2005.**
 16 Q. And what were its revenues at the time?
 17 **A. \$32 million in 2004 and 51 million in 2005.**
 18 Q. 51 million --
 19 **A. In 2005.**
 20 Q. -- was that at the time of the sale or
 21 after the sale?
 22 **A. Well, the sale happened in early 2005, so**
 23 **if you said the last -- the last full year was 2004,**
 24 **which was \$32 million; the year in which the sale**
 25 **happened was \$51 million.**

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1 Q. And then what was Merchant Circle's
 2 revenues at the time of its sale?
 3 **A. 14 million, roughly; 14, 15 million.**
 4 Q. And what were Pluck's revenues at the time
 5 of its sale?
 6 **A. 12 million.**
 7 Q. What were AllBusiness's revenues at the
 8 time of its sale?
 9 **A. 12, 13 million.**
 10 Q. And what were DevX's revenue at the time of
 11 its sale?
 12 **A. About 3 million.**
 13 Q. Other than those, have you been involved in
 14 any other exits or sales of Internet media companies?
 15 MR. BERRY: Objection to form. What do you
 16 mean?
 17 THE WITNESS: Other than? I thought that
 18 was pretty good.
 19 MR. BERRY: In what capacity?
 20 BY MR. VOGT: (Continuing)
 21 Q. That's my default question for making sure
 22 I know everything.
 23 **A. Yeah.**
 24 Q. So just so you know.
 25 MR. BERRY: In what capacity, I guess?

1 MR. VOGT: As a CEO, as a member of a
2 board.

3 THE WITNESS: Of the Internet media
4 companies, that's probably the list.

5 For example, we just sold Viral Heat to
6 Cision, but that's not really an Internet media
7 company.

8 BY MR. VOGT: (Continuing)

9 Q. When was Viral Heat sold?

10 **A. About two months ago.**

11 Q. What was the price?

12 **A. That was an asset sale. That was, like,
13 3 million bucks.**

14 Q. Asset sale only?

15 **A. Yeah.**

16 Q. One of the other things that your résumé
17 says is that you're investing in sectors that are
18 transforming media and advertising.

19 What does that mean?

20 **A. Well, hyperbole aside, I'm focused on
21 things like over-the-top television, which is Net2TV,
22 because I believe that there's going to be a
23 transformation from cable companies, like a Comcast,
24 to consumers buying programming over the Web, so
25 that's an area of interest.**

1 **A. Okay. Cookies actually don't -- cookies
2 are a little bit of Java script that sits on your
3 browser and actually stores data. So it might say --
4 you know, it might have your log in for a site so that
5 every time you go to Amazon, you don't have to log
6 back in.**

7 **It may track what articles you've read. It
8 might track what websites you've gone to, like you
9 shopped for a car on Toyota, and then when you go to
10 another site, they'll target an ad to you from Toyota
11 based on the fact that you visited Toyota.**

12 Q. So, for example, when you go to a website
13 and you visit a page, the page, pursuant to the terms
14 of use, permits the page to put a cookie on your hard
15 drive, correct?

16 **A. Yes.**

17 MR. BERRY: Object to form.

18 BY MR. VOGT: (Continuing)

19 Q. And then that cookie that's on your hard
20 drive will store data, even after you leave the
21 website that you got the cookie from?

22 MR. BERRY: Object to form.

23 BY MR. VOGT: (Continuing)

24 Q. Correct? Not all of them, but some?

25 **A. Yes.**

1 **Very interested in the ad targeting company
2 I mentioned, TwelveFold Media, because as people buy
3 more advertising through exchanges and realtime
4 bidding, they're trying to figure out what the right
5 places are to run those ads at scale, and TwelveFold
6 does that.**

7 **You know, a lot of stuff are on different
8 content models such as Skift, where I was the first
9 investor S-K-I-F-T.**

10 Q. Are there particular sectors that are
11 transforming advertising as it relates to Internet
12 media businesses?

13 **A. Content targeting; programmatics,
14 certainly; a lot stuff around user data; SocialWire,
15 which is another one of my companies, but the two
16 words kind of jammed together, which really has a lot
17 to do with how E-commerce companies merchandise
18 individual products to audiences.**

19 Q. When you say "user data," again, just so
20 we're clear for the jury, user data, is that data
21 that's obtained through cookies?

22 **A. It may be.**

23 Q. And explain to me how that process works,
24 how cookies are used to obtain user data, more so
25 persistent cookies.

1 Q. And then as you proceed to other places on
2 the Internet, look at other sites, the cookie will
3 track what you're doing on those sites, as well?

4 MR. BERRY: Objection.

5 THE WITNESS: I don't know if I would say
6 it would track what you're doing, but --

7 BY MR. VOGT: (Continuing)

8 Q. Would it -- would it store the data
9 indicating what websites you were visiting?

10 MR. BERRY: Object.

11 THE WITNESS: Not the cookie, per se.

12 BY MR. VOGT: (Continuing)

13 Q. Is there anything else that would do that?

14 **A. Your browser history, which will be on your
15 own computer, yes. And I'm trying to draw a
16 distinction between what cookies do and what, like,
17 your browser history would do.**

18 Q. Do you know what types of cookies Gawker
19 uses?

20 **A. I do not.**

21 Q. Do you know what types of cookies Gawker
22 was using in 2012?

23 **A. I do not.**

24 Q. Is user data in and of itself valuable?

25 **A. Not terribly.**

1 Q. What do companies do with user data?
 2 MR. BERRY: Object to form.
 3 THE WITNESS: What types of companies are
 4 you thinking of?
 5 BY MR. VOGT: (Continuing)
 6 Q. Like Internet media companies. They,
 7 obviously, track some user data through cookies,
 8 correct?
 9 **A. Yep.**
 10 Q. Why do they do that?
 11 MR. BERRY: Object to form. Also, just
 12 again, the same objection about the opinions being
 13 limited to what's in the report.
 14 MR. VOGT: Yeah, that's fine.
 15 THE WITNESS: Okay. A couple of things why
 16 you'd want to have cookies. Like I said, one is just
 17 improve the user experience by make -- by not having
 18 you have to remember your password every time you come
 19 to the site. Just log you in automatically.
 20 Like on my Wall Street Journal
 21 subscription, I've selected certain Topics of being of
 22 interest to me. Because those interests are recorded
 23 on the cookie, they show me the things I am most
 24 interested in and don't show me stuff I am not
 25 interested in.

1 with run.
 2 So the question I believe you're asking me
 3 sort of goes off in a lot of different directions
 4 based on kind of -- so if you want to kind of unpack
 5 that, I'll try to do my best to answer it.
 6 BY MR. VOGT: (Continuing)
 7 Q. I've got some questions later on where that
 8 may fit in a little bit better.
 9 **A. Sure.**
 10 Q. Just while we were on the topic of the
 11 transforming advertising that user data came up, I
 12 kind of got sidetracked.
 13 What's the intersection of the social web
 14 with media and advertising?
 15 **A. For example, Facebook now really believes**
 16 **it should be the front page of every newspaper. You**
 17 **know, their ambition is to sort of preempt that sort**
 18 **of first contact in the morning and say here are the**
 19 **most interesting stories. And they're going to media**
 20 **companies and saying, We want to be your major form of**
 21 **distribution in reaching your audience. That's a**
 22 **really specific example.**
 23 **As we talked about, in a lot of cases,**
 24 **people aren't waking up in the morning going to the**
 25 **front page of a newspaper. They'll go to their**

1 Cookies are also part of just the analytics
 2 and metric systems; how you see if somebody has been
 3 to the site before, perhaps how long they stayed.
 4 Then there's another use of cookies which
 5 is, like, what we call retargeting, which is where I
 6 was saying about going to Toyota or certain types of
 7 behaviors where they'll target ads against you based
 8 on what they see on your cookie.
 9 Q. And in terms of retargeting, do websites
 10 aggregate that type of data -- underlying data?
 11 MR. BERRY: Objection.
 12 THE WITNESS: Not typically, no.
 13 BY MR. VOGT: (Continuing)
 14 Q. Do they work with third parties to take the
 15 data that a website gets from cookies and then work
 16 with the third party to analyze the data and then
 17 allow them to target ads to users?
 18 MR. BERRY: Object.
 19 THE WITNESS: This is one of those
 20 questions I would like to answer, but it's sort of a
 21 big, complicated, messy kind of a question because you
 22 have first-party data, third-party data.
 23 In the Toyota example, it's actually Toyota
 24 that would own the data on that cookie, not Criteo,
 25 who might be retargeting, or the website that the ad

1 **Twitter feed or Facebook feed and see what stories**
 2 **their friends are talking about. So that's actually**
 3 **where a lot of media companies are actually getting a**
 4 **lot of traffic right now, is from social media.**
 5 Q. When you say "media companies," you mean
 6 media companies like Gawker?
 7 **A. Yes, gawker and most other media companies,**
 8 **sure.**
 9 Q. What are advanced ad targeting techniques?
 10 **A. That would include the things we're talking**
 11 **about with regard to cookies, but also, as I said,**
 12 **TwelveFold developing content targets based on, you**
 13 **know, semantic analysis of the pages.**
 14 Q. What is Purch? What does it do?
 15 **A. Purch is a collection of content sites,**
 16 **mostly around helping consumers make smarter decisions**
 17 **about buying consumer electronics, also small**
 18 **businesses. The underlying brands are top-ten**
 19 **reviews; Tom's Hardware, Buyers Own, also Space; the**
 20 **Imaginova titles.**
 21 Q. In the description in your resumé about
 22 TwelveFold, one of the things it says is that -- it
 23 talks about the intersection of big data, natural
 24 language processing, programmatic buying, predictive
 25 analytics, and dynamic creative and marketing

1 optimization.

2 **A. I think I missed a buzz word, but yeah.**

3 Q. Can you just tell me, generally, in

4 laymen's word, what's all that is?

5 **A. No, I cannot.**

6 **Like I said, what they do is -- it's**

7 **essentially they've got a search engine under the**

8 **hood. They actually read all the pages that are**

9 **buyable through programmatic, and they say, What's**

10 **this page about; is it positive or negative; and what**

11 **audience segment might want to read that page. They**

12 **then enable marketers to go out and buy ads on the fly**

13 **and put them into those pages.**

14 Q. And it also references that it embraces the

15 disruption of other company created black boxes to

16 hide from.

17 **A. Yep.**

18 Q. What does that mean when you're talking

19 about black boxes there?

20 **A. One of the issues now, particularly with**

21 **programmatic, is lack of transparency. Companies**

22 **don't know where their ads are running, and there's a**

23 **premise that all users are the same.**

24 **And so what TwelveFold does is it actually**

25 **tells companies what sites, what pages their ads are**

1 provides an influencer relationship management

2 platform for brands supported by smart, strategic

3 programs. What is that?

4 **A. Back to the notion of social marketing,**

5 **it's a customer relationship management type software**

6 **package that brands use to get employees and consumer**

7 **influencers to talk about their brand to their**

8 **friends.**

9 Q. When you say a consumer influencer, what

10 does that mean?

11 **A. I do a lot of stuff in the outdoors. I**

12 **like RailRiders clothing. RailRiders wants me to tell**

13 **my friends that these are the greatest pair of hiking**

14 **pants you can come up with. So what Social Chorus**

15 **does is it actually gives the brand the ability to**

16 **sort of distribute information to people they've**

17 **deemed as influencers and also track whether I**

18 **actually shared it, did anybody else respond.**

19 Q. And I think the way they do that is they've

20 essentially found out ways to track what people have

21 publicly posted, what they've talked about, things of

22 that nature, and then they analyze that data and can

23 figure out who is most likely to post information that

24 they can use to market their products?

25 **A. You're doing well.**

1 **running on, what types of users they're reaching.**

2 Q. One of the things you reference in your

3 résumé about Answers.com is that it's a top-ten media

4 property.

5 **A. Yes.**

6 Q. What do you mean by that?

7 **A. Depending on which month, top-ten U.S.**

8 **audience.**

9 Q. When you say "top-ten U.S. audience," are

10 you talking about monthly uniques?

11 **A. Monthly uniques. It might be top 25.**

12 **Occasionally top ten.**

13 Q. And how is that tracked? How is -- how

14 is -- the top ten or top 25 media property based on

15 monthly uniques, how is that tracked?

16 **A. Typically using one of a number of**

17 **syndicated services such as comScore, Alexa,**

18 **Quantcast.**

19 Q. Would it be publicly listed information,

20 when you say top ten --

21 **A. Typically, yes.**

22 Q. You're basing it on something else somebody

23 published?

24 **A. Yes, sir.**

25 Q. The description of Social Chorus is that it

1 MR. BERRY: Object to form.

2 MR. VOGT: You can't object to form. He

3 said I did well.

4 MR. BERRY: He doesn't know anything, but

5 apparently you did well.

6 BY MR. VOGT: (Continuing)

7 Q. In your résumé for the section on Reply.com

8 it says you led a B round investment in Merchant

9 Circle. Is that what we had talked about?

10 **A. Yes, sir. That's while I was at IAC.**

11 Q. And it talked about you also raising

12 venture funding in AllBusiness. Is what we had talked

13 about, as well?

14 **A. Yes.**

15 Q. I'm almost done with your background.

16 **A. I'm so old, if we go through this year by**

17 **year, we'll be here all day.**

18 Q. I'm trying to get through that, as a

19 natural breaking point.

20 Let's talk about your publications very

21 quickly.

22 **A. Sure.**

23 Q. I don't think that will take very long.

24 "How To Compete Against Industry Titans" is

25 the first publication that you have listed.

1 Just in general, what's that publication
 2 about?
 3 **A. I wrote two on that. Let me just -- okay.**
 4 **So that's actually a follow-on to the earlier -- the**
 5 **one just below that, "Who Rules the Web Now," that I**
 6 **wrote with Jeff Rayport.**
 7 **One of the things that I started to really**
 8 **think a lot about in the 2011 time frame is how**
 9 **Google, Apple, Amazon, and Facebook were aggregating**
 10 **customer data, a ton of cash, and low-friction**
 11 **logistics and were going to roll into a whole bunch of**
 12 **other businesses.**
 13 **Amazon went from selling books to selling**
 14 **space heaters and swim goggles. And, you know, apple**
 15 **and Google decided they were going to be in the cell**
 16 **phone business, and now they want to be in the TV**
 17 **business.**
 18 **And so what I was looking at in those two**
 19 **articles together was just, you know, how does an**
 20 **individual company compete against the big platform**
 21 **companies and what advantages did they have and what**
 22 **might be viable strategies to not get rolled over.**
 23 Q. Have you written or published any materials
 24 discussing how to value an Internet media business?
 25 MR. BERRY: Objection to form.

1 been -- published any materials, such as articles,
 2 journals, books, anything of that nature, in which you
 3 discussed how to value an Internet media business or a
 4 website?
 5 **A. No.**
 6 Q. Have you ever lectured or spoken about how
 7 to value a media business or website?
 8 **A. What venues are you thinking of, please?**
 9 Q. Just -- not, like, conversations with
 10 people, but, like, at any seminars, any college
 11 courses, any conferences; anything of that nature.
 12 **A. Not with that as a specific, exclusive**
 13 **topic.**
 14 Q. Have you ever talked or lectured as a
 15 professor?
 16 **A. Yes.**
 17 Q. Adjunct professor?
 18 **A. Yes. At San Francisco State and at Seattle**
 19 **University.**
 20 Q. Where was the second one? I'm sorry.
 21 **A. Seattle University.**
 22 Q. And in the course of your teaching at San
 23 Francisco State University and Seattle University,
 24 have you ever taught others on how to value an
 25 Internet media business or a website?

1 THE WITNESS: No.
 2 BY MR. VOGT: (Continuing)
 3 Q. Have you authored or published any written
 4 materials discussing how to value a website?
 5 MR. BERRY: Objection to form. Are you
 6 just asking -- for both of these things, you're asking
 7 about publications like these things listed?
 8 MR. VOGT: Any papers or publications.
 9 THE WITNESS: Not specifically, no.
 10 MR. BERRY: Sorry. But you're asking for
 11 publication to a wider -- I mean, not like internal
 12 business documents?
 13 MR. VOGT: No, no, no.
 14 BY MR. VOGT: (Continuing)
 15 Q. Articles -- when I say publications, I
 16 mean -- or written materials, I'm talking about
 17 articles, presentations that may have written
 18 materials that you've given, blogs; anything that
 19 you've disseminated publicly.
 20 **A. I have talked quite a bit about, I'll say,**
 21 **corporate strategy of how to be successful and**
 22 **increase value, but I have not talked about the**
 23 **specific metrics of valuation or written about**
 24 **specific metrics of valuation.**
 25 Q. So just so I'm clear, you would not have

1 **A. No. Those were -- I was teaching**
 2 **advertising and marketing.**
 3 Q. If we were to define what your actual
 4 profession is, what is your profession?
 5 **A. I think of it as being an investor and**
 6 **adviser to Internet media and advertising companies.**
 7 MR. VOGT: Okay. Why don't we take a break
 8 there.
 9 THE VIDEOGRAPHER: The time is 10:47.
 10 (Recess: 10:47 - 11:00 a.m.)
 11 THE VIDEOGRAPHER: The time is eleven
 12 o'clock. We are back on the record.
 13 (Exhibit 301 marked for identification.)
 14 BY MR. VOGT: (Continuing)
 15 Q. I'm going to hand you what we're going to
 16 mark as Exhibit 301 and ask you a couple of questions
 17 about this, and then I'm going to move on to your
 18 report.
 19 Have you ever seen this article before?
 20 **A. Yes, I have.**
 21 Q. Did there come a point -- I know we had
 22 talked about About was acquired by the New York Times
 23 for \$410 million; correct?
 24 **A. Yes.**
 25 Q. And then did there come a point in time

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1 when you were with Answer when Answer was trying to
 2 acquire About.com?
 3 **A. Yes.**
 4 Q. This article talks about the fact that the
 5 New York Times had to make an adjustment to the
 6 goodwill associated with About.com. Are you familiar
 7 with that?
 8 MR. BERRY: Objection to form.
 9 THE WITNESS: Loosely familiar.
 10 BY MR. VOGT: (Continuing)
 11 Q. Do you recall the New York Times adjusting
 12 the goodwill value of About.com because its unique
 13 numbers had dropped?
 14 MR. BERRY: Objection to form.
 15 THE WITNESS: No.
 16 BY MR. VOGT: (Continuing)
 17 Q. If you look on the second page of this
 18 article, the first paragraph, it says, comScore has
 19 tracked About.com traffic about eight months and
 20 recorded a drop from 61 million unique users in
 21 November of 2011 to 52 million unique users in June
 22 2012. This drop resulted in the New York Times having
 23 to adjust the value, make a goodwill write-down, of
 24 about About.com by 195 million.
 25 Do you know whether that happened?

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1 MR. BERRY: Objection to form.
 2 THE WITNESS: I believe they took the
 3 write-down. I do not know that the author's
 4 characterization of that was because of a drop in
 5 traffic was the root cause or not.
 6 BY MR. VOGT: (Continuing)
 7 Q. Have you ever heard of that happening, a
 8 company dropping or making a goodwill write-down
 9 because it's had a drop in traffic?
 10 **A. No.**
 11 **(Exhibit 302 marked for identification.)**
 12 BY MR. VOGT: (Continuing)
 13 Q. All right. And I'm going to hand you now
 14 Exhibit 302.
 15 MR. BERRY: You mean to give me this one
 16 that's marked?
 17 MR. VOGT: No.
 18 THE WITNESS: With all the trick questions.
 19 MR. VOGT: Now I can --
 20 BY MR. VOGT: (Continuing)
 21 Q. And Exhibit 302 is a copy of your report,
 22 correct?
 23 **A. Appears to be, yes.**
 24 Q. I'm going to go through some of the stuff
 25 with you in detail in here, but just initially, I

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1 wanted to ask you: Does this report accurately
 2 reflect all of the opinions you have reached in this
 3 case?
 4 **A. Yes.**
 5 Q. Starting on page 2, it says, The objective
 6 of this report is to analyze and respond to the report
 7 dated March 5th, 2015, prepared by Mr. Jeff Anderson
 8 of Consor, Intellectual Asset Management, with regard
 9 to the question of what, if any, revenue was derived
 10 or value was created for Gawker Media as a result of
 11 running a 101 second video of excerpts of a sex tape
 12 involving Mr. Terry Bollea, known professionally as
 13 Hulk Hogan.
 14 Does that accurately describe the scope of
 15 the services that you were retained to perform in this
 16 case?
 17 MR. BERRY: Objection as to form.
 18 THE WITNESS: Yes, sir.
 19 BY MR. VOGT: (Continuing)
 20 Q. When you say what revenue was derived or
 21 value was created, are revenue and value synonymous?
 22 **A. For a site such as Gawker, yes, they're**
 23 **largely synonymous. It's not 100 percent, but that's**
 24 **the best correlation.**
 25 Q. And what do you rely on? What authority do

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1 you have for the proposition with respect to a site
 2 like Gawker, revenue and value are largely synonymous?
 3 **A. Personal experience and market data. So,**
 4 **you know, some of the attachments are investment**
 5 **banking reports from leading Internet investment**
 6 **bankers.**
 7 **And as I believe I mentioned in the report,**
 8 **I talk to investment bankers just about every week,**
 9 **talking about what deals are happening, how they're**
 10 **being priced in value, what are the drivers of value.**
 11 **As we went through my background, I spent a**
 12 **lot of time in the middle of deals. I'm in the middle**
 13 **of one right now where one of my companies is out for**
 14 **a large financing, and we're talking to third-party**
 15 **investors on how it should be valued.**
 16 **So I've got, like I said, both sort of**
 17 **direct personal knowledge I'll say deal mechanics as**
 18 **well as I spend part of each week looking at, you**
 19 **know, what transactions are happening in the market.**
 20 Q. And when you referenced market data, is --
 21 all of the market data, at least documentation-wise
 22 that you reviewed in forming your opinions in this
 23 case, is it attached to your report?
 24 **A. Yes.**
 25 Q. So what was the actual specific definition

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1 of value that you used in performing your work in this
 2 case?
 3 **A. I was trying to estimate the impact on the**
 4 **enterprise value of Gawker Media that might or might**
 5 **not have occurred as a result of running that video.**
 6 Q. And what is enterprise value?
 7 **A. What's the company worth.**
 8 Q. In what context?
 9 **A. What an investor might pay to own a piece**
 10 **of the company or what another company might pay to**
 11 **acquire the company.**
 12 Q. What's the source of that definition?
 13 MR. BERRY: Objection as to form.
 14 THE WITNESS: I'll call it a working
 15 definition. But if you look at analysts' reports and
 16 things, they refer to EV, enterprise value.
 17 BY MR. VOGT: (Continuing)
 18 Q. When you say analysts' reports, are you
 19 talking about Exhibit 1 to your report, RBC --
 20 **A. RBC uses the phrase. Pacific Crest uses**
 21 **the phrase. But it's -- I'll call it a -- we call it**
 22 **a term of art, but it's a --**
 23 Q. Why is -- the definition of value that you
 24 just gave me that you used in your assignment in this
 25 case, why is it appropriate for this case?

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1 MR. BERRY: Objection as to form.
 2 THE WITNESS: Because, you know, as opposed
 3 to sort of theoretical expressions of value, what I'm
 4 trying to figure out is what would a real acquirer or
 5 investor pay for some or all of the ownership of
 6 Gawker.
 7 And so it's just, you know, what do
 8 people -- you know, I am by nature -- like I said,
 9 an -- an investor. I don't deal in abstractions. I
 10 write my own checks for a piece of these companies,
 11 and so it's what's the basis upon which we buy and
 12 sell.
 13 BY MR. VOGT: (Continuing)
 14 Q. In reaching your opinions, did you make any
 15 future traffic projections for Gawker?
 16 **A. I'm sorry. What do you mean by "future**
 17 **traffic projections"?**
 18 Q. Did you project any -- what you thought --
 19 what traffic numbers the websites that are a part of
 20 Gawker Media, LLC, would have in the future?
 21 **A. No.**
 22 Q. As part of reaching your opinions in this
 23 case, did you make any future revenue projections for
 24 Gawker Media, LLC?
 25 **A. No. But let me ask: What do you mean**

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1 **by -- what is "future" in this context?**
 2 Q. Just any. Did you look at anything other
 3 than advertising revenues in 2012?
 4 MR. BERRY: Objection as to form.
 5 THE WITNESS: I looked at the period of
 6 2012 and 2013, you know, which is a couple of years
 7 ago. So no, most of my -- I'm looking back a couple
 8 of years.
 9 BY MR. VOGT: (Continuing)
 10 Q. Did you didn't make any forward-looking
 11 projections as to revenue with respect to Gawker.com?
 12 **A. No.**
 13 MR. BERRY: Objection as to form.
 14 BY MR. VOGT: (Continuing)
 15 Q. In the summary of findings on page 2, you
 16 talk about Mr. Anderson's report, and the first point
 17 you have there is that the biographical information
 18 presented by Mr. Anderson suggests that his expertise
 19 is primarily in valuing intellectual property rather
 20 than ongoing media businesses.
 21 Are you rendering an opinion as to
 22 Mr. Anderson's qualifications as an expert?
 23 MR. BERRY: Objection as to form.
 24 THE WITNESS: I suppose I am, yes.
 25 BY MR. VOGT: (Continuing)

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1 Q. Are you an expert in the field of
 2 determining whether other experts are qualified?
 3 MR. BERRY: Objection as to form.
 4 THE WITNESS: Broadly, no. With regard to
 5 valuing Internet businesses, yes.
 6 BY MR. VOGT: (Continuing)
 7 Q. Do you consider Mr. Anderson to be
 8 qualified as an expert to value intellectual property?
 9 MR. BERRY: Objection as to form.
 10 THE WITNESS: That's not an area of my
 11 expertise.
 12 BY MR. VOGT: (Continuing)
 13 Q. So you have no opinion on that?
 14 **A. He seems to have a background in valuing**
 15 **intellectual property.**
 16 Q. What's your definition of intellectual
 17 property?
 18 **A. Typically, in the context of Internet**
 19 **businesses, intellectual property is most often**
 20 **something that can be patented. It might otherwise be**
 21 **called a trade secret. It's often technology based,**
 22 **may be process based, but it's something that is not**
 23 **commonly available in the market.**
 24 Q. Are websites intellectual property?
 25 MR. BERRY: Objection as to form.

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1 THE WITNESS: I'm sorry. Are you asking
 2 websites as a whole?
 3 BY MR. VOGT: (Continuing)
 4 Q. Yes.
 5 **A. No.**
 6 Q. Why not?
 7 **A. Because, as evidenced by the number of**
 8 **websites, anybody can have a website. There's no**
 9 **special sauce to having a website.**
 10 Q. Have you ever personally prepared any
 11 written valuation or appraisal of any website?
 12 **A. No.**
 13 Q. Have you ever personally prepared any
 14 written valuation or appraisal of any Internet media
 15 business?
 16 **A. I'm sorry. Are you asking, like, appraisal**
 17 **as a service for another business?**
 18 Q. Yes.
 19 **A. No.**
 20 Q. Have you ever personally prepared a
 21 valuation or an appraisal of an Internet media
 22 business for yourself?
 23 **A. I'm struggling with the form of that**
 24 **question because I regularly have been involved in**
 25 **discussions about what is this business worth, how**

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1 **much can we get for it, what price would I pay to**
 2 **invest in that business.**
 3 **So that's like an every-week conversation,**
 4 **but I'm not -- but not, Oh, let me write a report**
 5 **saying this business is worth \$20 million.**
 6 Q. In the context that you just told me about
 7 in having these discussions, do you work with other
 8 people that do research concerning the financials of
 9 Internet media businesses?
 10 **A. Certainly.**
 11 Q. Do you work with other people who examine
 12 things like risk factors in the Internet media
 13 business industry?
 14 **A. Yes. By the way, I'm on the board of**
 15 **several publicly traded companies, so we work with the**
 16 **auditors and review the 10-Ks and 10-Qs and --**
 17 Q. So when you -- when we talk about your
 18 personal background and experience in valuing Internet
 19 media businesses, that's actually a compilation of
 20 work that a number of other people have done that
 21 you've been involved in, as well, correct?
 22 MR. BERRY: Objection to form.
 23 THE WITNESS: I would disagree with that
 24 because people provide all sorts of data, and then
 25 either I make a personal investment decision or a

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1 personal decision to sell or don't sell, and then a
 2 deal happens or it doesn't happen, which says, Okay,
 3 we reached a market price or we didn't.
 4 BY MR. VOGT: (Continuing)
 5 Q. And when you say people provide data, what
 6 type of data do other people provide to you?
 7 **A. Investment banking reports, analysis of**
 8 **comparable deals, look at publicly available -- data**
 9 **available on public companies through -- via SEC**
 10 **filings.**
 11 Q. And when you say analysis of comparable
 12 deals -- so other people would actually conduct the
 13 analysis of comparable deals and then provide you with
 14 that information?
 15 **A. I might do it myself or someone else might**
 16 **do it.**
 17 Q. Can you give me any examples of where
 18 you've actually performed an analysis of comparable
 19 deals in connection with a transaction?
 20 **A. Tell me a little bit more about what you're**
 21 **asking, please.**
 22 Q. Yeah. I'd just like to know, in terms of
 23 your background in the industry in which you're
 24 testifying as an expert in this case, whether you can
 25 give me some examples of situations in which you have

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1 actually performed an analysis of comparable deals.
 2 **A. Okay. Currently -- and again, we're under**
 3 **confidentiality?**
 4 Q. Yes.
 5 **A. Okay. So Purch, we're in the market right**
 6 **now trying to do a financing of between 50 and**
 7 **\$100 million. We are going to probably wind up with**
 8 **some of the older investors selling out. And as a**
 9 **board -- and I'm part of the -- kind of the**
 10 **four-person committee to sort of manage that process**
 11 **and trying to figure out how should we value this**
 12 **company, what's a fair market price for it. And so I**
 13 **looked at a range of other comps, you know, to form my**
 14 **opinion of what's the -- you know, what price we**
 15 **should be looking for.**
 16 Q. And how did you go about doing that,
 17 looking at the range of comps?
 18 **A. Looked at information such as what was**
 19 **attached; investment banking reports. We -- for that**
 20 **particular process, we interviewed five different**
 21 **investment banks in December.**
 22 **Each of the five came in. Looked at a**
 23 **market landscape. Looked at all of their reports, as**
 24 **well as doing my own analysis of what other companies**
 25 **were in the market, what I thought were some of the**

1 **more relevant companies, what their growth prospects**
2 **were, what their profitability was, what market**
3 **multiples they were currently trading at.**

4 Q. And how did you make the determination as
5 to what companies you thought were comparable to
6 Purch?

7 **A. It's a little bit like when you sell your**
8 **house and you try to figure out what to list it for.**
9 **So you look at what houses in my neighborhood sold;**
10 **gee, that house is a bit bigger; that has a view.**

11 **So it's a little bit of that interpolation**
12 **process of looking at transactions and then trying to**
13 **say, okay, what's closest, because it's very rarely**
14 **exact comps, as many as you'd like.**

15 **So you say, All right. Well, this company**
16 **is selling for four times revenues, but it's growing**
17 **at 50 percent a year. This company is selling for two**
18 **times revenue, but it's growing 10 percent.**

19 **What's the scarcity. What's the -- you**
20 **know, the momentum of the business.**

21 Q. Is there anything else that you looked at
22 in terms of size of the businesses, the --

23 **A. Yes.**

24 Q. -- segment of the business they were
25 involved in --

1 Q. So the three comparables that you have
2 listed in your report XO, TheStreet, Everyday Health,
3 those were the only three comparables you looked at?

4 MR. BERRY: Objection to form.

5 THE WITNESS: I looked at, you know, a lot
6 of different companies. I felt those three were the
7 most relevant to Gawker at this point.

8 BY MR. VOGT: (Continuing)

9 Q. Why did you think those were the three most
10 relevant?

11 **A. Smaller, primarily content -- ad-supported**
12 **content Internet businesses.**

13 Q. What does that mean, primarily ad-supported
14 content?

15 **A. So a business at the extreme, Amazon is a**
16 **commerce company, it's huge, and it's totally**
17 **different. Google is a search engine, pretty totally**
18 **different. So I felt it was important to look at**
19 **publicly traded companies so we could get a fair**
20 **amount of data about them that the SEC has**
21 **acknowledged is -- is pretty accurate.**

22 **I was looking for -- you know, I try to**
23 **stay away from a company like a Yahoo, which we could**
24 **look at, but it's so much bigger that it was sort of a**
25 **different size range.**

1 **A. Yeah, sure. Yes.**

2 Q. -- things like that?

3 **A. Size matters a lot, particularly with**
4 **publicly traded companies.**

5 **The commercial appeal matters a lot. You**
6 **know, a business like Everyday Health, which is in**
7 **pharma, is attractive to advertisers because they're**
8 **all trying to reach people with certain medical**
9 **conditions.**

10 **Other businesses may be harder to monetize.**
11 **So yeah, you try to create a proxy as close to the**
12 **reality as possible.**

13 Q. The process that you engaged in with
14 respect to the potential Purch financing, did you
15 engage in that same process in this case?

16 **A. Yes. Very much so.**

17 Q. So you performed the same type of analysis
18 with respect to comparable companies?

19 **A. Yes.**

20 Q. Did you -- were there any companies that
21 you initially included in your search for comparables
22 that you excluded for some reason?

23 MR. BERRY: Objection as to form.

24 THE WITNESS: No.

25 BY MR. VOGT: (Continuing)

1 **So these were moderately sized, Internet**
2 **businesses, principally in the business of selling**
3 **advertising.**

4 Q. Did you look at any private companies in
5 connection with comparables?

6 **A. Not really, no.**

7 Q. Why not?

8 **A. Because the data we get on private**
9 **companies is at best anecdotal, and there's often a**
10 **pretty wide disparity between what people say when**
11 **they're private and talking to a reporter versus what**
12 **shows up in an S1 later on.**

13 Q. In connection with the Purch transaction
14 that you talked about, the investment banking reports
15 that are attached to your report as Exhibit 1, were
16 those prepared in connection with the Purch
17 transaction?

18 **A. Yes.**

19 Q. So those were all done in 2015?

20 **A. Yes. But they do have historic data, as**
21 **well, in most cases, going back.**

22 Q. Did you review that historic data?

23 **A. Yes.**

24 Q. What historic data did you review?

25 **A. I looked at growth rates, like pure growth**

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1 **rates, market multiples.**
 2 Q. What's a market multiple?
 3 **A. How the business is valued as a multiple of**
 4 **revenue or EBITDA, typically.**
 5 Q. And what were the sources of the growth
 6 rates and the market multiples that you used?
 7 **A. Investment banking reports that extracted**
 8 **public -- like, SEC filings, basically. So the**
 9 **underlying data is -- is, you know, public company SEC**
 10 **filings.**
 11 Q. Did you actually pull the SEC filings for
 12 the three comparables that you used?
 13 **A. Did not.**
 14 Q. Did you review any of the audited financial
 15 statements for any of the comparable companies that
 16 you used to form your opinions in this case?
 17 **A. I -- I looked at the -- the information**
 18 **that they published on Wall Street Journal and Yahoo**
 19 **Finance based on their audited financials.**
 20 Q. But you did not review their actual audited
 21 financials themselves?
 22 **A. Did not.**
 23 Q. So you didn't engage in any efforts to
 24 determine whether the information that you found on
 25 the Wall Street Journal -- and what was the other one?

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1 **A. Yahoo Finance.**
 2 Q. -- Yahoo Finance, you didn't engage in any
 3 independent investigation to determine whether the
 4 information on those sites was accurate?
 5 MR. BERRY: Objection to form.
 6 THE WITNESS: I did not in this case.
 7 However, I've always found it to be accurate. I have
 8 no reason to think it's not accurate.
 9 BY MR. VOGT: (Continuing)
 10 Q. On page 2 you talk about Mr. Anderson's
 11 approach -- this is item No. 2 -- so valuing
 12 Gawker.com based on unique visitors is outdated and
 13 completely outside the realm of current industry
 14 evaluation methods.
 15 So when you reference Gawker.com, there
 16 you're talking about the website itself?
 17 **A. Yes. But it also applies to Gawker Media,**
 18 **generally.**
 19 Q. Is -- the website itself, Gawker.com, is
 20 that an asset?
 21 **A. Yes.**
 22 Q. What are the current industry valuation
 23 methods for websites?
 24 **A. It really falls into two categories based**
 25 **on growth rate. For fast-growing businesses, they**

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1 **tend to be valued on a multiple of revenue. For**
 2 **businesses growing in the 20 percent or less category,**
 3 **tends to be valued at a multiple of EBITDA or profits.**
 4 Q. And what is your authority for those two
 5 methods? What's your source?
 6 MR. BERRY: Objection to form.
 7 THE WITNESS: Analyst opinions, broadly;
 8 the specific investment banking reports that are
 9 attached to this; and my own direct experience in
 10 participating in deals.
 11 BY MR. VOGT: (Continuing)
 12 Q. And are those the only two methods, that
 13 you're aware of, current industry methods for valuing
 14 websites?
 15 **A. Those are the -- I'll say the dominant**
 16 **methods, and then you get into nuances based on other**
 17 **factors, but those are the primary methods.**
 18 Q. And do those two methods -- or the first
 19 method you talked about, the multiple of revenue
 20 method, does that rely on one source of revenue from a
 21 website or all of the sources of revenue for a
 22 website?
 23 MR. BERRY: Objection as to form.
 24 THE WITNESS: Could you clarify that for
 25 me, please?

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1 BY MR. VOGT: (Continuing)
 2 Q. The -- the multiple of revenue method that
 3 you just described for me, does it have a name or a
 4 label or something? Do they call it anything?
 5 **A. Nothing other than revenue multiple.**
 6 Q. The revenue multiple method, are you aware
 7 of whether or not that method calls for valuing a
 8 website based solely on advertising revenue?
 9 MR. BERRY: Objection as to form.
 10 You can answer it. Then I have a question.
 11 THE WITNESS: Yeah. I would say not
 12 solely. It looks at all revenue. And quite often --
 13 back to, you know, what is -- is the multiple three
 14 times or five times to look at I'll say the quality of
 15 revenue, but that's -- but generally, it's all the
 16 revenue.
 17 MR. BERRY: Shane, when you're asking
 18 questions, do you mean a website or the company
 19 itself?
 20 MR. VOGT: I'll do it for both.
 21 MR. BERRY: Okay.
 22 BY MR. VOGT: (Continuing)
 23 Q. So with respect to the valuation method
 24 that we've identified as the revenue multiple, can you
 25 also use that to value a company itself?

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1 **A. Oh, sure.**
 2 Q. And when you use that method to value a
 3 company itself, do you typically use all sources of
 4 revenue or just advertising revenue?
 5 **A. It depends on the company and how much**
 6 **alternative -- other revenue sources it might have.**
 7 **Because what you may find is that if a business had,**
 8 **for example, software as a services revenue, different**
 9 **multiples are appropriate for that part of the**
 10 **business than for the ad-supported side of the**
 11 **revenue.**
 12 Q. Does the revenue multiple take into account
 13 potential sources of revenue for a website that the
 14 website may not be realizing yet?
 15 MR. BERRY: Objection as to form.
 16 THE WITNESS: I'm sorry. When you say
 17 "potential," what are you thinking?
 18 BY MR. VOGT: (Continuing)
 19 Q. We'll take Gawker, for example. I think
 20 you acknowledged in your report that Gawker was only
 21 generating advertising revenue from CPM advertising,
 22 correct?
 23 MR. BERRY: Objection to form.
 24 THE WITNESS: I believe that is correct,
 25 yes.

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1 BY MR. VOGT: (Continuing)
 2 Q. There are other sources of revenue for a
 3 website such as Gawker, correct?
 4 **A. Of course.**
 5 Q. There is programmatic advertising, correct?
 6 **A. Not so much. Again, back to time stamp the**
 7 **conversation: Now, yes; 2012, less so.**
 8 Q. My question kind of ties into that
 9 answer --
 10 **A. Sure.**
 11 Q. -- which is when you valued Gawker, did you
 12 take into account that potential source of revenue,
 13 programmatic advertising, in reaching your opinion as
 14 to the company's value?
 15 **A. Not programmatic, no.**
 16 Q. Did you take into account any potential
 17 future revenue sources in determining the value of
 18 Gawker.com?
 19 **A. No, because I don't believe that that's a**
 20 **valid measure, as either an investor or an acquirer.**
 21 Q. Why not?
 22 **A. The analogy I would use is, like, you're**
 23 **going to buy a house that's a fixer upper. You pay**
 24 **the house -- you pay the owner for the house as it is,**
 25 **and if you then put investment and sweat equity into**

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1 **making it better, you don't pay the last owner for the**
 2 **work you're going to do. You pay for what he has on**
 3 **the lot.**
 4 Q. So an investor does not consider potential
 5 future income of revenue sources when it's determining
 6 the value of a website?
 7 MR. BERRY: Objection as to form.
 8 THE WITNESS: An investor or acquirer
 9 doesn't give the present owner credit for work that
 10 the new owner or investor is going to do.
 11 I'm sorry. Did that answer your question?
 12 BY MR. VOGT: (Continuing)
 13 Q. Yes.
 14 So in this case, with respect to your
 15 assignment, which method did you use?
 16 **A. I looked at principally the business as it**
 17 **was run during 2012 and 2013 and its momentum and**
 18 **monetization during that period.**
 19 Q. Did you use the revenue multiple method?
 20 **A. Yes, I did.**
 21 Q. You did not use the second category that we
 22 had discussed?
 23 **A. No, because the business wasn't materially**
 24 **profitable during that period, so it would have been**
 25 **kind of a highly theoretical number.**

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1 Q. One of the things that you say on page 2 of
 2 your report is that, As with most assets, there's an
 3 established market for Internet media properties and
 4 accepted methodologies for valuing these businesses.
 5 What does "established market" mean?
 6 **A. If you actually look at the transactions**
 7 **that have happened, there's a -- there's a range of**
 8 **values that are paid. There's a range of multiples**
 9 **that are used.**
 10 **So, for example, when I sold About, that**
 11 **was 12 times revenue, which is still probably the high**
 12 **end of the range. Huffington Post sold to AOL ten**
 13 **times revenue. That was a notable transaction. In**
 14 **fact, most of the transactions happen in the three,**
 15 **four, five times range.**
 16 Q. How do you know Huffington Post sold for
 17 ten times revenue?
 18 **A. Because I just know that they sold for**
 19 **310 million, and they had revenue of 32 million.**
 20 Q. How do you know they had revenue of
 21 32 million?
 22 **A. Because the management of Huffington Post**
 23 **told me that at the time.**
 24 Q. In that section I just talked about, your
 25 quote was that, As with most assets, there's an

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1 established market for Internet media properties.
 2 What's an Internet media property?
 3 **A. I was talking specifically about content --**
 4 **ad-supported content websites such as Gawker.**
 5 Q. Now, is that the same thing as the company
 6 itself, an Internet media property?
 7 **A. I guess they would have some value for**
 8 **Kinja and services that are beyond that, but in this**
 9 **particular case, it's largely, you know, the value of**
 10 **the websites.**
 11 Q. What's the established market for
 12 Gawker.com?
 13 **A. It's really within that framework of the --**
 14 **I'll say the investment banking landscape that's**
 15 **attached. It's an online content company, like I**
 16 **said, ad supported, fairly slow growing, not terribly**
 17 **profitable.**
 18 Q. On page 2 you also say that the approach
 19 offered by Mr. Anderson bears little resemblance to
 20 valuation methods used in the normal course of
 21 business.
 22 What do you mean by "normal course of
 23 business"?
 24 **A. Pretty much in the last 15 years, I have**
 25 **not been part of a single conversation where unique**

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1 **visitors and audience was used as a real serious part**
 2 **of conversation about what a business was worth, you**
 3 **know, what you would invest, what you would pay for**
 4 **it.**
 5 Q. When you say the "normal course of
 6 business," what are you referring to there?
 7 **A. Investing and acquiring, buying and**
 8 **selling.**
 9 Q. On page 3 you say, A website, such as
 10 Gawker, is valued as a running business and competes
 11 for investment with other media businesses on the
 12 basis of its revenues, profits, and growth.
 13 What's your support for that statement?
 14 **A. That during the time in which Gawker has**
 15 **been around, which is 12, 13 years, there's been**
 16 **dozens of transactions, purchases, acquisitions,**
 17 **investments, and that is how they're valued.**
 18 **They're valued as running businesses, as,**
 19 **you know, how much revenue they generate, how much**
 20 **profit generate, how much they contribute to the**
 21 **acquiring party are they accretive.**
 22 Q. What are those dozens of transactions
 23 referring to? Can you tell me what they are?
 24 **A. All right. Huffington Post to AOL. If you**
 25 **go back to About being acquired by the New York Times,**

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1 **Market Watch being bought by Dow Jones, iVillage being**
 2 **bought by NBC. You know, do you really want to go**
 3 **through dozens? We could do dozens.**
 4 Q. Yeah. I need to.
 5 **A. Okay.**
 6 Q. I'm not trying to annoy you. I've got to
 7 find out what market that you were referring to.
 8 **A. Okay.**
 9 MR. BERRY: Object to the form.
 10 Answer as best can you.
 11 THE WITNESS: Yeah, yeah, yeah. I smell
 12 lunch.
 13 All right. I'll try to put this in a
 14 manageable form. All right. Purch, which I'm in the
 15 middle of right now, we are out -- you know, that deal
 16 will happen at two and a quarter times revenue. It's
 17 a hundred million dollar business with 10 million in
 18 profit.
 19 Like I said, the other extreme, Huffington
 20 Post, 32 million in revenue. Sold for about ten times
 21 revenue because AOL thought it filled a hole for them.
 22 Merchant Circle, which was a local, small
 23 business site, primarily UGC, was run fairly well, was
 24 sold for five and a half times revenue to Reply.
 25 Like I said, AllBusiness we sold for seven

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1 times, because Dun & Bradstreet wanted a media
 2 property targeting small businesses.
 3 Let's see. What else can we talk about?
 4 BY MR. VOGT: (Continuing)
 5 Q. What about Turner's acquisition of Bleacher
 6 Report, would that be included?
 7 **A. I'm sorry.**
 8 Q. Turner's acquisition of --
 9 **A. That, obviously, is in the market, but**
 10 **because it was an acquisition of a private company, we**
 11 **don't really know what their what the specifics were**
 12 **of that.**
 13 Q. What about iVillage, what were the
 14 specifics of iVillage?
 15 **A. iVillage was at the time a publicly traded**
 16 **company with about, I want to say, 80 to 100 million**
 17 **in revenue, and it was acquired by NBC for, I believe,**
 18 **\$400 million for about five times revenue.**
 19 **Yeah, that's public market data.**
 20 Q. What about -- would the market include
 21 situations in which there were post-money valuations
 22 done after funding was received?
 23 **A. Well, by definition, post-money valuation**
 24 **is after the funding was --**
 25 Q. Right.

1 **A. That is the thing.**
 2 **Yes. But I did not -- I didn't include**
 3 **private transactions in my analysis because we only**
 4 **have limited information.**
 5 Q. But would those private transactions be a
 6 part of the market?
 7 **A. Of course.**
 8 Q. To your knowledge, what other media
 9 businesses has Gawker.com competed for investment
 10 with?
 11 MR. BERRY: Objection as to form.
 12 THE WITNESS: I don't have information
 13 specifically about who they might have competed with
 14 for an investment.
 15 BY MR. VOGT: (Continuing)
 16 Q. Your quote in your report is, A website,
 17 such as Gawker, is valued as a running business and
 18 competes for investment with other media businesses.
 19 **A. Sure. All right. Well, and by that, what**
 20 **I mean is AOL could have purchased Gawker at the same**
 21 **time but did not. You know, Tim chose to go to**
 22 **Huffington Post and buy that for ten times revenue,**
 23 **and he pretty much walked right past Gawker in that**
 24 **decision.**
 25 **The folks that have invested in BuzzFeed**

1 Q. And define what you mean by "profits"?
 2 **A. As opposed to revenue, which is actually**
 3 **pretty straightforward -- it's just top-line, don't**
 4 **screw with it -- profits is either -- is looked at one**
 5 **of a couple of different ways.**
 6 **Most commonly, it's EBITDA, earnings before**
 7 **interest, tax, depreciation, amortization, which**
 8 **effectively an operating income measure and is**
 9 **relatively comparable across companies. It could also**
 10 **net profit number, which sort of includes a lot of**
 11 **other adjustments.**
 12 Q. Did you include profits in your analysis in
 13 this case?
 14 **A. I did not.**
 15 Q. Why not?
 16 **A. Because, as I mentioned earlier, Gawker,**
 17 **was right around breakeven, and so it would have been**
 18 **real hard to come up with a meaningful way to think**
 19 **about profits.**
 20 Q. And when you say on the basis of revenue,
 21 profits, and growth, define what you mean by "growth"?
 22 **A. Growth is principally revenue -- actually,**
 23 **it may be profit growth or revenue growth. So you**
 24 **could value it based on revenue growth or EBITDA**
 25 **growth, but to some extent, you get a higher multiple**

1 **\$850 million could have chosen to invest in Gawker and**
 2 **did not. So in a sense it's one of the**
 3 **dog-that-didn't-bark conversations because a number of**
 4 **other deals have happened around Gawker and Gawker**
 5 **didn't get those deals.**
 6 Q. Do you know whether Gawker was trying to
 7 get those deals at the time?
 8 **A. Not specifically. I don't specifically**
 9 **know that. I do have a high degree of confidence that**
 10 **if anybody had offered Nick \$850 million for the**
 11 **business, he would have sold.**
 12 Q. Is competing for investment the same thing
 13 as value?
 14 **A. Not explicitly, no.**
 15 Q. Does Gawker.com compete for investment
 16 solely on the base of revenues, profits, and growth?
 17 MR. BERRY: Objection as to form.
 18 THE WITNESS: Again, I wouldn't say solely,
 19 but I'd say primarily.
 20 BY MR. VOGT: (Continuing)
 21 Q. And when you say on the basis of revenue,
 22 profits, and growth in your report, define what you
 23 mean by "revenue"?
 24 **A. Revenue is basically all money coming into**
 25 **the business.**

1 **if you can -- if you've got a reasonable prospect that**
 2 **you're growing well.**
 3 Q. And how do you measure growth?
 4 **A. You're on your growth. And most likely**
 5 **what you're getting is close-in growth. You don't get**
 6 **credit for stuff you say you're going to do in five**
 7 **years. You know, that's when the miracle happens, is**
 8 **five years out, and there's a hockey stick.**
 9 **Most investors are looking at stuff that**
 10 **happened -- you know, what did you do last year, what**
 11 **are you doing this year, what can you reasonably**
 12 **promise me you're going to do a year after that.**
 13 Q. And did you consider growth in reaching
 14 your opinions in this case?
 15 **A. Yes, sir.**
 16 Q. And how did you consider it?
 17 **A. Again, because this happened several years**
 18 **ago, I could actually see what the growth rates were.**
 19 **We know what '12 was over '11, '13 was over '12.**
 20 Q. How did that factor in your calculation of
 21 what Gawker.com's value was?
 22 MR. BERRY: Objection as to form.
 23 Shane, he didn't value Gawker.com. He
 24 valued Gawker Media.
 25 MR. VOGT: Okay. Thank you.

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1 BY MR. VOGT: (Continuing)
 2 Q. So how did that factor into your
 3 calculation of Gawker Media --
 4 **A. Okay.**
 5 Q. -- its growth?
 6 **A. The company was growing below kind of other**
 7 **companies in the market, so it was a relatively slow**
 8 **growing, not terribly profitable company, which is**
 9 **kind of a bad place to be. It's okay to be growing**
 10 **50 percent a year and not making any money. It's okay**
 11 **to be making 40 percent profit margin and growing real**
 12 **slowly. But it's kind of tough to be slow growing and**
 13 **not very profitable.**
 14 Q. Do you take growth into consideration when
 15 you are using the revenue multiple method?
 16 **A. Yes, sir.**
 17 Q. Okay. And how does it play into that
 18 method?
 19 **A. It's what multiple -- it's like what the**
 20 **multiple actually is, is in most cases driven by**
 21 **growth. There's a really, really strong correlation**
 22 **between enterprise value and growth rate for Internet**
 23 **businesses.**
 24 Q. on page 3 you state that the focus is not
 25 on the value of the intellectual property owned by an

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1 online business.
 2 **A. I'm sorry. Just help me where you see**
 3 **that, please.**
 4 Q. Got it?
 5 MR. BERRY: Right there.
 6 THE WITNESS: Okay. Got it.
 7 BY MR. VOGT: (Continuing)
 8 Q. The middle of that first paragraph --
 9 **A. Yes, sir.**
 10 Q. -- it says, The focus is not on the value
 11 of intellectual property owned by an online news
 12 business. What are you referring to when you say
 13 "intellectual property" there?
 14 **A. Again, patented technology, sort of unique**
 15 **methods. News businesses are valued based on their**
 16 **ability to grow revenue and profit; you know, have**
 17 **happy users.**
 18 Q. How many online news businesses have you
 19 been involved in?
 20 MR. BERRY: Objection as to form.
 21 THE WITNESS: Topics is an online news
 22 business. Publish This is an online news business.
 23 About and AllBusiness had components which were -- you
 24 know, they weren't principally news businesses, but
 25 they had components which were news businesses. Purch

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1 actually has several of its sites that are news
 2 businesses.
 3 BY MR. VOGT: (Continuing)
 4 Q. Would those types of businesses be
 5 comparable to Gawker?
 6 **A. I would think so, sure.**
 7 Q. How many online news businesses have you
 8 valued?
 9 **A. What do you mean when you say "valued"?**
 10 Q. Well, in terms of the opinions that you
 11 reached in this case about Gawker, the company's
 12 value --
 13 **A. Sure.**
 14 Q. -- how many other online news businesses
 15 have you valued in a similar way?
 16 **A. Okay. I don't have a sort of a fixed**
 17 **number sort of at the tip of my tongue, but I can tell**
 18 **you that, as I said, we just did a conversation --**
 19 **okay, Topics right now, we've retained an investment**
 20 **banker and we try to figure out the best way -- what's**
 21 **a far market value for Topics as a news business.**
 22 **It's more than just news, but I'm in the middle of a**
 23 **valuation conversation at this moment on Purch.**
 24 **I just, you know, was part of a negotiation**
 25 **to acquire a technology news business on behalf of Purch**

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1 **where just really on all these factors we're talking**
 2 **about, you know, we sort of made an offer they didn't**
 3 **like, but it was based on our valuation method versus**
 4 **theirs.**
 5 Q. What was their valuation method?
 6 **A. They wanted a revenue -- a multiple of**
 7 **revenue. We wanted a multiple of profit.**
 8 Q. Why did you want a multiple of profit?
 9 **A. Primarily because of how we believed our**
 10 **business would be valued ultimately. We believed --**
 11 **so Purch, like I said, growing about 20 percent a**
 12 **year. We believe that in a couple of years, when we**
 13 **sell that business, we'll be valued at -- you know,**
 14 **call it ten times EBITDA.**
 15 **And so we've got to make sure that if we**
 16 **acquire a business, that we're acquiring it in a way**
 17 **which will be accretive. And ideally you buy a**
 18 **business at four to six times EBITDA and you sell it**
 19 **at eight to ten times EBITDA. You know, that creates**
 20 **value in the company.**
 21 **But if we pay ten times revenue for a**
 22 **business with no profits and then we're valued on**
 23 **EBITDA, we basically lost value there. We didn't**
 24 **create value.**
 25 Q. Prior to Topics, Purch, this other

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1 acquisition that you were talking about, the tech news
 2 business, prior to that have you ever valued any
 3 Internet news businesses using the methods that you've
 4 used in this case?
 5 **A. Have I personally? Like I said,**
 6 **AllBusiness, which we did both investment and sale.**
 7 **Pluck, was a little bit -- it wasn't really a news**
 8 **business.**
 9 MR. BERRY: Shane, are you talking about in
 10 any context, like people approaching him about buying,
 11 people approaching him about selling, like in any --
 12 MR. VOGT: If he's --
 13 BY MR. VOGT: (Continuing)
 14 Q. Any context in which you performed an
 15 actual analysis of the value of a company that was
 16 engaged in the online news business.
 17 **A. I made an investment decision in -- I**
 18 **invested in Skift, S-K-I-F-T, which is now the leading**
 19 **travel news site based on, you know, what we expected**
 20 **the revenue to be and revenue growth create. Did**
 21 **that -- actually several investments over the last two**
 22 **or three years.**
 23 Q. Any others?
 24 **A. I'll stop there.**
 25 Q. Okay.

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1 **A. And I will point out for the record that**
 2 **I'm writing -- this is not free-floating opinions.**
 3 **I'm writing my own checks based on this, so I'm**
 4 **putting my money where my mouth is.**
 5 Q. The next part of that sentence that we were
 6 looking at, The focus is not on the value of the
 7 intellectual property owned by an online news business
 8 but on the ability of that business to leverage that
 9 content into revenues, profits, and growth, what does
 10 "leverage" mean?
 11 **A. And I think this is probably the crux of my**
 12 **disagreement with Mr. Anderson's approach because he**
 13 **talks about sort of the potential -- the audience's**
 14 **potential. Sure, everybody's got potential. The real**
 15 **question is to what extent is that potential realized.**
 16 **And so in the very early days of the**
 17 **Internet, before we had history, it was all about**
 18 **eyeballs and growth and got a lot of users.**
 19 **And in the first crash, it was like that's**
 20 **a little bit too hypothetical. So now it's like**
 21 **having an audience is great, but the real measure is**
 22 **can you actually monetize that audience.**
 23 **And so that's what I mean by leverages.**
 24 **Can you translate traffic into revenues and profits.**
 25 Q. And I think you've already talked about

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1 this, but when you say "ability" in the context of
 2 that statement, you're talking about the business's
 3 current ability to leverage as opposed to its future
 4 ability to leverage, correct?
 5 **A. Primarily, yes.**
 6 Q. On page 3 you also say you regularly look
 7 at revenue models and valuation methods for Web media
 8 businesses.
 9 What revenue models do you regularly look
 10 at?
 11 **A. Right now, investors are largely skeptical**
 12 **of ad-driven models. They're out of favor. And so**
 13 **one of the conversations that's going on a lot right**
 14 **now is what are alternative revenue models, which**
 15 **might include commerce, lead gen., you know. And**
 16 **within advertising, it's what's directly sold versus**
 17 **sold through third-party aggregators. What's the**
 18 **quality of the revenue of a company.**
 19 Q. The model that you used in this case, was
 20 it an ad-driven model?
 21 **A. Yes.**
 22 Q. The one that you're saying currently
 23 investors are skeptical about?
 24 **A. Yes. Yes. I'm sorry. They're skeptical**
 25 **of the predictability of advertising revenue. They're**

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1 **not skeptical of valuing the business on revenue.**
 2 Q. And when you say the alternative models are
 3 taking things like E-commerce, lead generation, those
 4 things into consideration, your testimony, not in your
 5 report, what you just testified to, how are the
 6 models -- the alternative models taking those things
 7 into consideration?
 8 **A. Acquirers and investors are looking for**
 9 **predictability, and what they've learned over the ups**
 10 **and downs of the last ten, 15 years is that the ad**
 11 **market goes up and down quite a bit.**
 12 **What they'd like to believe is that -- and**
 13 **I'll add subscription revenue to that, like reader**
 14 **payment models, commerce. Things like that they**
 15 **believe are less volatile than ad-driven models.**
 16 **Investors would like to see more of a balance of**
 17 **revenue streams than just reliance on ad revenue.**
 18 Q. Do the alternative models take into account
 19 those potential sources of revenue; commerce, lead
 20 generation; things of that nature?
 21 **A. Sorry. Ask me again, please.**
 22 Q. The alternative models that you're talking
 23 about, did they take into consideration things like
 24 commerce, E-commerce, lead generation, programmatic
 25 advertising? Do they take those into consideration

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1 even if the business that they're being applied to
 2 isn't engaged in those areas?
 3 **A. Not typically, no, because, again, back to**
 4 **potential versus reality, saying, Oh, gee, we might be**
 5 **able to sell products or we might be able to sell**
 6 **subscriptions is interesting, but you don't know how**
 7 **much value to place on that.**
 8 **So, you know, valuations tend to be driven**
 9 **off of what's actually in the business at any given**
 10 **moment.**
 11 Q. Did you actually apply a revenue model in
 12 this case?
 13 **A. I'm sorry. When you say "a revenue**
 14 **model" --**
 15 Q. Well, you say in here that you regularly
 16 look at revenue models.
 17 **A. Yes. Okay.**
 18 Q. Did you apply a revenue model in this case?
 19 **A. I did not apply a revenue model. I looked**
 20 **at Gawker's revenue model. I looked at the mix of**
 21 **advertising, other revenue sources; things like that.**
 22 Q. And when you say in that quote that you
 23 regularly look at valuation methods, what valuation
 24 methods are you referring to?
 25 **A. This is back to the conversation about**

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1 **just, you know, how our deals -- like, on what basis**
 2 **are deals happening and being priced; is it**
 3 **principally on revenue; is it principally on EBITDA;**
 4 **is it principally on growth.**
 5 **And the reason I say "principally" is**
 6 **there's another class of factors which is strategic**
 7 **fit with the acquirer, perhaps the star power of**
 8 **somebody associated with the site.**
 9 Q. And you talk in there about how you
 10 regularly meet with investment bankers; weekly, that
 11 you meet with them.
 12 Have you ever met with Young American
 13 Capital?
 14 **A. No.**
 15 Q. Have any of the online -- the investment
 16 bankers that you meet with weekly, have they ever
 17 acquired an online news website?
 18 **A. Investment bankers don't --**
 19 Q. Or invest in?
 20 **A. What they -- investment bankers are sort of**
 21 **like, I'll say, real estate agents. They tend to**
 22 **bring in buyers and sellers together more than**
 23 **anything else, and yeah, they've worked in a number of**
 24 **deals.**
 25 Q. What deals?

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1 **A. I'll say it's like -- I've looked at their**
 2 **credentials, but I can't say, Oh, this guy did this**
 3 **deal or this guy did that deal, but --**
 4 Q. Can you give me any examples of the
 5 investors that you -- the investment bankers that you
 6 meet with weekly, can you give me any examples of them
 7 being involved in transactions involving an online
 8 news website?
 9 **A. Not off the top of my head at the moment.**
 10 Q. You also say in there that in your weekly
 11 meetings with investment bankers, you discuss the
 12 drivers of valuations of Internet media businesses.
 13 What are the drivers of valuations?
 14 **A. It's basically the things we're talking**
 15 **about. You know, what are acquirers and investors**
 16 **looking for right now; is that changing; what sources**
 17 **of capital are coming into the market, you know; what**
 18 **are the deal dynamics at a given moment, because they**
 19 **do change from time to time.**
 20 Q. Is unique users ever discussed as a driver
 21 of valuations of Internet businesses?
 22 **A. No. Actually, let me -- I don't want to be**
 23 **just black and white. It's a factor as expressed in**
 24 **revenue profit growth.**
 25 **So if you said, you know, Gee, users are**

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1 **dropping. The question would be would revenue then**
 2 **drop afterwards. If it was increasing, would revenue**
 3 **increase.**
 4 **But the real thing you're looking at is**
 5 **revenue and profit, and growth of those two metrics.**
 6 **Users is a contributing factor, but it's not the key**
 7 **thing you'd look at.**
 8 Q. But unique users is a contributing factor?
 9 **A. Sure. And that's expressed in the model**
 10 **that I provided. It's one of the raw materials.**
 11 Q. And we discussed this a little bit earlier,
 12 but you served on the board of International
 13 Advertising Bureau and Online Publishers Association,
 14 which is now Digital Content --
 15 **A. Content Next.**
 16 Q. -- Content Next?
 17 And your wife is now the president?
 18 **A. She was. She is no longer.**
 19 Q. During the years when you were there, was
 20 Condé Nast a member?
 21 **A. Yes.**
 22 Q. Who -- did you work with them at all?
 23 **A. Define "work with." I'm sorry.**
 24 Q. Did you have any interaction with anyone?
 25 **A. Oh, sure.**

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1 Q. Who did you interact with?
 2 **A. Sarah Chubsavare.**
 3 Q. Do you remember the years that you would
 4 have been involved at the Online Publishers
 5 Association in which you worked with Condé Nast?
 6 MR. BERRY: Objection as to form.
 7 THE WITNESS: Again, it's like worked
 8 with -- like I said, I'm not a consultant to Condé
 9 Nast. I'm not an executive.
 10 BY MR. VOGT: (Continuing)
 11 Q. Right.
 12 **A. So I'm -- help me out here. What's the**
 13 **nature of the thing you're looking for?**
 14 Q. Do you know Andrew Gorenstein?
 15 **A. No.**
 16 Q. Do you know at one time he was affiliated
 17 with Condé Nast?
 18 **A. I didn't know that. It's possible but**
 19 **Condé Nast is quite a big company, so --**
 20 Q. On the bottom of page 3, on to page 4, you
 21 discuss the approach that Mr. Anderson took in valuing
 22 Gawker.com. One of the things you do there is you
 23 discuss the three potential methods for valuing a
 24 basis that Mr. Anderson discussed in his opinion,
 25 income, cost, and market. Do you see that?

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1 **A. I do.**
 2 Q. Did you use any of those three approaches?
 3 **A. Well, income is the closest to what I used,**
 4 **with a nod towards market cost -- as I acknowledge is**
 5 **probably not the most relevant method.**
 6 Q. When you say income is the closest to what
 7 you used, what do you mean by that?
 8 **A. Well, income is a -- I'll say is a -- like**
 9 **a blending of revenue and profit.**
 10 Q. Do you agree that those are the three
 11 generally recognized ways to value a business, the
 12 income, cost, and market approach?
 13 MR. BERRY: Objection as to form.
 14 THE WITNESS: Again, I'm talking
 15 specifically about Internet businesses, so I can't
 16 talk about, you know, how I value a steel mill.
 17 For Internet businesses, as I said, they're
 18 principally valued on what I guess Mr. Anderson would
 19 call the income method and a little bit of the market
 20 method.
 21 BY MR. VOGT: (Continuing)
 22 Q. And when you say "a little bit of the
 23 market method," what do you mean by that?
 24 **A. Well, I'm trying to cover a wide range of**
 25 **transactions, and, as I said, overwhelmingly, 80,**

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1 **90 percent, it's revenue, profit -- revenue and**
 2 **profit, growth.**
 3 **You know, there's a couple of outliers**
 4 **where, as I said, it may be -- you know, Oprah,**
 5 **because Oprah is a star gets a different valuation**
 6 **than Joe Schmo does.**
 7 **I believe part of AOL's interest in**
 8 **Huffington Post was Ariana Huffington, because she was**
 9 **on TV all the time.**
 10 **And so a site with similar economics that**
 11 **didn't have the name or the title probably doesn't get**
 12 **the same price, so I'm trying to leave a little bit of**
 13 **room for sort of not strictly economic factors.**
 14 Q. But did -- any of those non-economic
 15 factors, did you take any of those into account in
 16 forming your opinions in this case?
 17 **A. There were no non-economic factors that**
 18 **certainly affected this positively.**
 19 Q. What do you mean by that?
 20 **A. I've probably used the phrase advertising**
 21 **friendly environments. So one of the things that**
 22 **makes a site attractive is it is a category that**
 23 **advertisers like; it's food; it's travel; it's home.**
 24 **And is the type of page where an advertiser wants to**
 25 **be on the page.**

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1 **In this particular case, particularly with**
 2 **Gawker.com versus Gizmodo or Jalopnik, Gawker.com is**
 3 **not an advertiser-friendly environment. It's not a**
 4 **topic that advertisers particularly seek out.**
 5 **And, you know, as evidenced by the policy**
 6 **on NSFW content, a lot of advertisers say, Don't put**
 7 **my ads on those pages.**
 8 **And so it's not a particularly commercially**
 9 **attractive -- Gawker.com narrowly, within the broader**
 10 **context of Gawker Media, is not a particularly**
 11 **attractive property from an ad perspective.**
 12 Q. So other than that, you didn't take the
 13 market approach into consideration in forming your
 14 opinions?
 15 **A. I'll say market in the context, like I**
 16 **said -- sort of like I said, what is the basis upon**
 17 **which deals are happening, yes, I used that market.**
 18 **I believe my sense of Mr. Anderson's**
 19 **approach was that to some extent, the market approach**
 20 **almost exempts you from some of the basic, you know,**
 21 **income-based methods.**
 22 **And so when I say I didn't really use the**
 23 **market approach, what I'm saying is there's no**
 24 **compelling reason to sort of step out of the normal,**
 25 **you know, revenue and profit metrics here.**

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1 Q. So you thought an income approach was best
 2 suited within the industry to valuing Gawker Media?
 3 **A. Yes, I did.**
 4 MR. VOGT: Why don't we take a break here?
 5 THE VIDEOGRAPHER: The time is 12:04.
 6 We're off the record.
 7 (Luncheon Recess: 12:04 - 12:44 p.m.)
 8 THE VIDEOGRAPHER: The time is 12:44. We
 9 are back on the record.
 10 BY MR. VOGT: (Continuing)
 11 Q. Okay. So I just wanted to clarify the
 12 economic income variable that you used in this case
 13 was net revenue; is that correct?
 14 **A. It was revenue.**
 15 Q. Revenue. You did not use a discounted cash
 16 flow method?
 17 **A. Did not.**
 18 Q. And you did not use a capitalized cash flow
 19 method?
 20 **A. Did not.**
 21 Q. And you did not project any net revenue
 22 that was discounted or capitalized?
 23 **A. Did not, in this case.**
 24 Q. And you didn't make any forecasts or
 25 projections in this case?

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1 **A. Not beyond the period in question, no.**
 2 Q. You did not estimate any kind of a growth
 3 rate?
 4 MR. BERRY: Objection.
 5 THE WITNESS: Did not -- no, I did not
 6 estimate a growth rate. I looked at growth rate
 7 within the period we're talking about.
 8 BY MR. VOGT: (Continuing)
 9 Q. Did you include any premiums or discounts
 10 in your valuation?
 11 **A. Not per se. I had to decide which -- you
 12 know, there's a range of multiples. I had to decide
 13 where within the range, you know, to put them.**
 14 Q. How did you decide where within the range
 15 to put them -- when you say "them," you're talking
 16 about --
 17 **A. Gawker.**
 18 Q. -- Gawker company?
 19 **A. Yes, Gawker Media.**
 20 **I looked at, you know, the full range of
 21 particularly revenue multiples, and I chose to go with
 22 a median number, which to some extent is perhaps a
 23 little bit better than what they would otherwise
 24 command, but it seemed like a fair midpoint to use.**
 25 Q. And what was the number that you used?

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1 **A. 3.6. I can check, but it's either 3.6 or
 2 3.7.**
 3 Q. Did anyone assist you in preparing your
 4 report?
 5 **A. No. I did it myself.**
 6 Q. Did you use any forms or materials to help
 7 draft it?
 8 MR. BERRY: Objection as to form.
 9 THE WITNESS: I'm sorry. What do you --
 10 what would --
 11 BY MR. VOGT: (Continuing)
 12 Q. Like any articles. Did you have any kind
 13 of a presentation or something you had done in the
 14 past that you cut and pasted from; anything like that?
 15 **A. No.**
 16 Q. Did you take into account any risk factors
 17 in Gawker's business or its industry?
 18 **A. Not explicitly.**
 19 Q. When you say "not explicitly," what do you
 20 mean?
 21 **A. That's all factored into the market
 22 multiples. It's already baked into the numbers.**
 23 Q. I'm skipping over a few things because
 24 you've already answered them.
 25 You talk in your report about the correct

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1 way to evaluate the possible impact on revenue and
 2 enterprise valuation.
 3 What's enterprise valuation?
 4 MR. BERRY: Object to form.
 5 THE WITNESS: Just so I'm answering the
 6 right -- point me to a page, if you would. Or just
 7 where are you referencing?
 8 BY MR. VOGT: (Continuing)
 9 Q. If you look at page 4, the end of the top
 10 paragraph --
 11 **A. Okay. I'll suggest the correct way to
 12 evaluate the possible impact on revenue and
 13 presentation valuation?**
 14 Q. Yes.
 15 **A. Okay. Yeah. All I was saying there was
 16 that I would attempt to estimate how much revenue
 17 would have been derived by this video both on
 18 Gawker.com and the rest of the Gawker network, and
 19 then in turn using kind of market multiples, how that
 20 might have affected the overall valuation of Gawker
 21 Media.**
 22 Q. Did you make an enterprise valuation for
 23 Gawker Media?
 24 **A. I did not make an enterprise valuation
 25 overall. I just looked at -- again, it's a little bit**

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1 **artificial to say, oh, this one article generated**
 2 **10,000 in revenue and contributed 40,000 of enterprise**
 3 **value, because you can't buy one article's worth of**
 4 **enterprise value, but I estimated the change in**
 5 **enterprise value based on running that article.**
 6 Q. Is there a -- what's the definition of
 7 "total enterprise value"?
 8 **A. It's what somebody would pay or -- you**
 9 **know, for all or a piece of the business; you know,**
 10 **the top -- you know, the total value of the overall**
 11 **enterprise.**
 12 Q. And is there a way to calculate total
 13 enterprise value?
 14 **A. Again, until there's an actual transaction,**
 15 **it's an estimate, but you would estimate it using the**
 16 **types of multiples that we were discussing.**
 17 Q. Typically, isn't total enterprise value the
 18 market cap plus the debt minority interest and
 19 preferred shares less the total cash and cash
 20 equivalents?
 21 MR. BERRY: Objection as to form.
 22 THE WITNESS: That sounds -- yeah, that
 23 sounds about right.
 24 BY MR. VOGT: (Continuing)
 25 Q. Did you make a determination based on that

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1 formula of the total enterprise value of Gawker Media?
 2 **A. That was not -- I was not specifically**
 3 **asked to value the business as a whole, so I did not.**
 4 Q. Is there a difference between fair market
 5 value and investment value?
 6 **A. Not typically. Actually, yeah, no. Not**
 7 **typically.**
 8 Q. On page 4 you say, Achieving a significant
 9 base of users is now viewed as necessary but not --
 10 not a sufficient condition for achieving a premium
 11 valuation of an Internet media business.
 12 So the first thing I just want to know is:
 13 Do you agree that an Internet media business, to
 14 achieve a premium valuation, must have a significant
 15 base of users?
 16 MR. BERRY: Objection as to form.
 17 THE WITNESS: As I say here -- again,
 18 that's like a raw material, so you have to have users
 19 in order to monetize, so sure, it's necessary, but
 20 it's not enough all by itself.
 21 BY MR. VOGT: (Continuing)
 22 Q. When you use the term premium valuation,
 23 what do you mean by "premium valuation"?
 24 **A. A multiple of revenue or profit that is the**
 25 **high end of the range versus the midpoint or low end**

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1 **of the range.**
 2 Q. What would be the high point of the range
 3 that you used in this case?
 4 **A. The high point of the range is ten to 12X,**
 5 **at the theoretical limit, but most of the businesses**
 6 **aren't really trading at that; they're trading more in**
 7 **the three, four, five times range.**
 8 Q. And when you say "trading," you're talking
 9 about trading on the stock markets?
 10 **A. Yes.**
 11 Q. If you look at page 17 of your report --
 12 **A. Okay. Got it.**
 13 Q. I'll hand you what we're going to mark as
 14 Exhibit 303. Make sure we're on the same page on
 15 where these numbers come from.
 16 (Exhibit 303 marked for identification.)
 17 BY MR. VOGT: (Continuing)
 18 Q. In doing your calculations in this case,
 19 you looked at Gawker Media's 2012 and 2013 advertising
 20 revenues; is that correct?
 21 **A. Yes.**
 22 Q. And is Exhibit 303 the source of where you
 23 got the figures that are listed on page 17 of your
 24 report?
 25 **A. I've seen different versions of their**

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1 **income statement, so I can't say it's the exact**
 2 **version I used, but it looks familiar to me.**
 3 Q. In you look at the top of the report, the
 4 advertising line for income for 2012 has \$22,823,620?
 5 **A. Yes.**
 6 Q. And that's the number that's in your
 7 report?
 8 **A. It is, yes.**
 9 Q. And then the 2013 amount for advertising
 10 income is 25,950,997?
 11 **A. Yes.**
 12 Q. That's the number in your report, as well?
 13 **A. Yes, yes.**
 14 Q. Why didn't you include the line item here
 15 for other revenue for the years 2012 and 2013?
 16 **A. Because the video ran on a page on the site**
 17 **attracted audience that was monetized via advertising,**
 18 **and so I thought that advertising was the most**
 19 **directly relevant revenue stream related to the Gawker**
 20 **decision to run the video.**
 21 Q. Are there any other reasons?
 22 **A. No.**
 23 Q. In performing valuations of Internet media
 24 companies using the revenue multiple, do you typically
 25 exclude sources of revenue that the company may have

Page 122

1 other than advertising revenue?
 2 **A. This -- well, let's talk about this**
 3 **specific exercise. So for this specific exercise I**
 4 **was asked to look at the impact that running that**
 5 **video had on Gawker as a business, and so, in my**
 6 **opinion, the primary impact -- the benefit they**
 7 **received was deriving ad revenue, not alternative**
 8 **revenue streams. It's a little bit of apples and**
 9 **oranges, different use cases.**
 10 Q. That was a decision you made to exclude the
 11 other sources of revenue and only include advertising?
 12 **A. Yes.**
 13 Q. Do you know what the other sources of
 14 revenue are listed in Exhibit 303 in the years 2012,
 15 2013?
 16 **A. Not in detail, no.**
 17 Q. If you don't know what the other sources of
 18 revenue are, how could you make the determination to
 19 exclude them from your calculations?
 20 **A. Because they're not advertising.**
 21 Q. How do you know that?
 22 **A. Because it would be classified as**
 23 **advertising if they were advertising.**
 24 Q. Do you know with whether the other revenue
 25 sources listed in 2012, 2013 on Exhibit 303 include

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1 E-commerce?
 2 **A. I do not.**
 3 Q. Do you know whether the other sources of
 4 revenue listed in 2012 and 2013 on Exhibit 303 include
 5 revenue generated from Amazon?
 6 **A. That would be E-commerce.**
 7 Q. Do you know whether -- so --
 8 **A. I'm sorry. So it's a no.**
 9 Q. No. Do you know whether the other sources
 10 of revenue listed in Exhibit 303 for 2012, 2013
 11 include any programmatic advertising?
 12 **A. It would -- first of all, the -- as I said**
 13 **earlier, programmatic was not really in the market in**
 14 **2012, in particular, so it really wouldn't have been a**
 15 **factor at all. But had there been any programmatic,**
 16 **that would have been in the advertising revenue line.**
 17 Q. And you're assuming it would have been
 18 included in the advertising revenue line, correct?
 19 **A. Because it's advertising.**
 20 Q. But you didn't actually talk to anyone at
 21 Gawker or review any underlying documents to see
 22 whether possibly there was advertising revenue that
 23 was classified as other revenue in their financial
 24 statements, correct?
 25 **A. Correct.**

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1 Q. So if that assumption that you made was
 2 wrong, there could be advertising revenue within other
 3 revenue that's not included in your calculation?
 4 MR. BERRY: Object to the form.
 5 THE WITNESS: I'd say theoretically, sure,
 6 but it would -- you know involve miscategorizing
 7 advertising.
 8 BY MR. VOGT: (Continuing)
 9 Q. In forming your opinions in this case, how
 10 did you determine whether visitors who came to the
 11 Gawker website as a result of the Hogan sex tape being
 12 posted did not result in revenue to Gawker from other
 13 sources?
 14 MR. BERRY: Objection as to form.
 15 THE WITNESS: I'm sorry. Could you, like
 16 unpack, that question a little bit, please? I'm not
 17 sure I'm totally tracking it.
 18 BY MR. VOGT: (Continuing)
 19 Q. So you limited your review in this case, in
 20 terms of your opinions, as to potential advertising
 21 revenue that resulted from people who came to Gawker's
 22 website to see the Hogan sex tape; is that correct?
 23 **A. Yes.**
 24 Q. How did you determine whether Gawker
 25 derived revenue from sources other than advertising

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1 potentially from people who came to the site to see
 2 the Hogan sex tape?
 3 MR. BERRY: Objection as to form.
 4 THE WITNESS: Okay. I made a decision to
 5 focus on advertising revenue. I guess I would say,
 6 for context, if we were to go from just the straight
 7 advertising revenue line to the total revenue line,
 8 it's about a 10 percent difference, and so, you know,
 9 it would go from 22 million to 25 million, for
 10 example, in 2012.
 11 And so, you know, is it -- you know, is
 12 there a little bit at the margin that could be
 13 different, sure, but the ad revenue is 90 percent of
 14 the total revenue, so it's not like it's a materially
 15 different conversation here.
 16 BY MR. VOGT: (Continuing)
 17 Q. Don't you, as an expert, though, want to be
 18 as accurate as possible in reaching your opinions?
 19 MR. BERRY: Objection to form.
 20 THE WITNESS: I want to be as accurate as
 21 the data allows me to be.
 22 BY MR. VOGT: (Continuing)
 23 Q. The data available to you in performing
 24 your expert services for Gawker would have included
 25 any of the financials that you wanted to review,

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1 correct?

2 MR. BERRY: Objection as to form.

3 THE WITNESS: Yes.

4 BY MR. VOGT: (Continuing)

5 Q. Gawker is your client in this case, right?

6 **A. Yes.**

7 Q. So if you wanted to go to Gawker and ask

8 for the underlying data supporting this income

9 statement, Exhibit 303, you could have done that?

10 **A. Yes.**

11 Q. But you didn't do that, correct?

12 **A. I did not.**

13 Q. And --

14 **A. Because I believed that the advertising**

15 **revenue line was sufficient for the purpose.**

16 Q. And I noticed that you talked about the

17 2012 difference between the other revenue and the

18 advertising revenue being about 10 percent.

19 What's the percentage in 2013?

20 **A. 25 percent.**

21 Q. Do you consider that to be significant?

22 **A. It's --**

23 MR. BERRY: Objection to form.

24 THE WITNESS: It's a little more

25 significant, certainly.

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1 BY MR. VOGT: (Continuing)

2 Q. If someone who came to the Gawker.com

3 website to view the Hogan sex tape then went on to

4 other pages within the Gawker family of websites, say,

5 Dead Spin, or any other sites, and clipped on an

6 affiliated link, would that lead to revenue?

7 MR. BERRY: Objection.

8 THE WITNESS: Yes.

9 BY MR. VOGT: (Continuing)

10 Q. Did you consider that potential revenue in

11 rendering your opinions in this case?

12 **A. I focused on -- primarily on 2012 revenue**

13 **because there was almost no traffic to the Bollea post**

14 **after November 1st of 2012. It was up, but the**

15 **traffic disappeared after November 1st. So 2012 is**

16 **really the relevant period.**

17 **And, again, I looked at ad revenue across**

18 **the Gawker sites -- the Gawker Media sites, to the**

19 **best that I could estimate them.**

20 Q. Did you come to any conclusions as to how

21 many people that came to Gawker's website to view the

22 Hogan video became frequent users of the site?

23 MR. BERRY: Objection as to form.

24 THE WITNESS: I could not see any change in

25 the long-term traffic patterns of the site as a result

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1 of running this video.

2 BY MR. VOGT: (Continuing)

3 Q. But did you review any data or any

4 information to determine whether specifically people

5 who went to Gawker.com to view the Hogan sex tape in

6 fact became frequent visitors of the site?

7 **A. I didn't find any data -- I could not find**

8 **any data that I thought was useful around that**

9 **question.**

10 Q. So you're making an assumption, then, in

11 your opinions that the people who came to the

12 Gawker.com website to view the Hogan sex tape did not

13 come back later on?

14 MR. BERRY: Objection as to form.

15 THE WITNESS: Yeah, I would disagree with

16 the characterization of it being an assumption. Based

17 on an awful lot of experience looking at traffic

18 data -- I looked at the traffic patterns of the site,

19 and if there was in fact a sudden influx of frequent

20 visitors, the traffic patterns would have changed.

21 In fact, the traffic patterns were down

22 immediately after, and they -- there was no change in

23 traffic patterns on the site after the video ran.

24 BY MR. VOGT: (Continuing)

25 Q. How long of a time period did you review

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1 for traffic patterns?

2 **A. Through 2013. And that's included within**

3 **the report.**

4 Q. And when did the time period that your

5 review for traffic patterns start?

6 **A. In the beginning of '12.**

7 Q. So did you analyze the traffic patterns for

8 Gawker.com from 2010 through 2015?

9 **A. I did not look at '14 and '15. I looked a**

10 **little bit at '11; primarily at '12 and '13.**

11 Q. So you -- as we sit here today, you can't

12 tell me whether over the course of 2010 to January of

13 2015 there was a steady increase in traffic at

14 Gawker.com?

15 **A. It's irrelevant, in my opinion, whether**

16 **there was an increase in traffic over that period of**

17 **time unless it was specifically attributable to this**

18 **video.**

19 **This video ran -- the track to the video**

20 **disappeared after November 1st of '12 pretty much, and**

21 **there was no suggestion that there was an increase in**

22 **traffic during the balance of '12 or '13. So anything**

23 **that happened after the end of '13 is completely**

24 **unrelated.**

25 Q. Do you have any way of knowing if someone

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1 who came to Gawker.com to review the Hogan sex tape in
 2 October of 2012 and maybe hadn't heard about the site
 3 before then came back two or three months later?
 4 **A. There's no good way to do that.**
 5 Q. So no, you don't know?
 6 **A. No, I don't know.**
 7 Q. Did you -- in reaching your opinions in
 8 this case, did you ever come up with a value of what
 9 you believe Gawker.com is worth?
 10 **A. No, I did not.**
 11 Q. In forming your opinions in this case, did
 12 you ever come up with a value for what you thought
 13 Gawker Media was worth?
 14 **A. No. As I mentioned earlier, that wasn't**
 15 **part of the scope.**
 16 Q. Can the revenue multiple method that you
 17 utilized in this case be used to determine a value for
 18 Gawker Media?
 19 **A. May I answer?**
 20 MR. BERRY: Oh, yeah.
 21 THE WITNESS: Yes.
 22 BY MR. VOGT: (Continuing)
 23 Q. How would you do that?
 24 **A. Basically, the same approach I used to**
 25 **figure out what the kind of market comps and market**

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1 **multiples are. Just apply it to the broader revenue**
 2 **numbers versus the narrow revenue derived from this**
 3 **video.**
 4 Q. So if we were actually to do that
 5 calculation, what would the market multiple be?
 6 MR. BERRY: Again, just objection on the
 7 scope of the report, but --
 8 THE WITNESS: Right.
 9 MR. BERRY: -- continue.
 10 THE WITNESS: Okay. If I said what do I
 11 think it would actually trade at, like, if it was
 12 being sold today, is that the question? What do I
 13 think it would sell for?
 14 BY MR. VOGT: (Continuing)
 15 Q. Yes.
 16 **A. Based on what I see now, probably closer to**
 17 **2.5 rather than the 3.6 that I used in analysis of the**
 18 **revenue.**
 19 Q. So in your report in analyzing revenue, you
 20 used a 3.6 revenue multiple?
 21 **A. Yes, sir.**
 22 Q. In terms of today's date, you would use a
 23 2.5 multiple?
 24 **A. Yeah. I might use a little bit lower**
 25 **number.**

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1 Q. And why -- can you explain why there would
 2 be a difference?
 3 **A. Well, as I kind of said, this is --**
 4 **obviously, it's an estimate. It's not a precise**
 5 **science. And whenever there was a question of, you**
 6 **know, a coin toss, I tried to basically give your side**
 7 **the benefit of the doubt.**
 8 **So we used the 5.3 million traffic number,**
 9 **which I think is too high. I used a 3.6 multiple**
 10 **instead of 2.5. Because I try, like I said, to err on**
 11 **the side of being fair on this thing.**
 12 **But if I said, you know, where do I think**
 13 **it would trade, it would probably be closer to two and**
 14 **a half times revenue.**
 15 Q. And when you say "revenue," if we go back
 16 to Exhibit 303, would that be advertising as well as
 17 other revenue?
 18 **A. For the purposes of valuing the entire**
 19 **business, it would be all revenue.**
 20 Q. So in 2012, if we used the 2.5 revenue
 21 multiple, it would be 2.5 times \$25,617,134?
 22 **A. I'm sorry. Do me a favor. Say that again,**
 23 **slowly so I can --**
 24 Q. If we were using your method of revenue
 25 multiples to value Gawker Media as a whole --

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1 **A. Yep.**
 2 Q. -- we would use 2.5 --
 3 **A. Yep.**
 4 Q. -- times the total revenue for 2012, which
 5 was --
 6 **A. 25 million.**
 7 Q. -- 25 million?
 8 **A. Yeah.**
 9 Q. So, roughly, what's the value?
 10 **A. Math quiz. 62 million.**
 11 Q. Would you have advised Mr. Denton to sell
 12 Gawker Media for \$62 million --
 13 MR. BERRY: Objection.
 14 BY MR. VOGT: (Continuing)
 15 Q. -- in 2012?
 16 MR. BERRY: Same objection.
 17 THE WITNESS: Well, this is -- obviously,
 18 you know, it's speculating based on a whole bunch of
 19 stuff, such as what's his motivation, what's the cash
 20 situation of the business.
 21 But let me maybe answer it a different way.
 22 If I was bidding on the business in 2012, yeah,
 23 that's -- I probably would have bid something like
 24 60 million bucks for the business.
 25 BY MR. VOGT: (Continuing)

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1 Q. So is there a different value for when you
 2 are bidding on a business as opposed to selling a
 3 business?
 4 **A. Sure. Just like if you're selling a house.
 5 It's like what you ask for your house and what I bid
 6 for your house could be two different numbers. Then
 7 we meet in the middle.**
 8 Q. If you were representing Gawker in 2012,
 9 would you have sold Gawker Media for \$62 million?
 10 MR. BERRY: Objection.
 11 THE WITNESS: Again, there's a lot of other
 12 information that is not on the table here that would
 13 affect that decision, so I -- it's -- I don't feel
 14 like I know enough about -- it's a moment in time.
 15 What else is going on.
 16 BY MR. VOGT: (Continuing)
 17 Q. Do you think that -- strike that.
 18 Have you ever asked Nick Denton what he
 19 thinks Gawker Media is worth?
 20 **A. No.**
 21 Q. Have you ever asked anyone at Gawker Media
 22 what they think the company is worth?
 23 **A. No.**
 24 Q. In forming your opinions in this case, were
 25 you made aware of any negotiations or discussions

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1 between Gawker and Young America Capital taking place?
 2 MR. BERRY: Objection as to form.
 3 And anything that we communicated to you is
 4 privileged, but if we didn't communicate anything to
 5 you, then that's also --
 6 THE WITNESS: I've never heard the name
 7 Young America Capital.
 8 BY MR. VOGT: (Continuing)
 9 Q. So you had no idea that earlier this year,
 10 Gawker was in discussions with an investment banker;
 11 is that right?
 12 MR. BERRY: Objection as to form.
 13 THE WITNESS: No. No.
 14 BY MR. VOGT: (Continuing)
 15 Q. Do you think that that information would
 16 have been important for you in forming your opinions
 17 in this case?
 18 **A. No.**
 19 Q. The reports that are attached to your
 20 report as Exhibit 1, those are analyses conducted by
 21 investment bankers in connection with potential
 22 transactions, correct?
 23 **A. Yes.**
 24 Q. Would you assume that similar analyses
 25 would have been conducted by an investment banker

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1 contemplating a transaction with Gawker?
 2 MR. BERRY: Objection.
 3 THE WITNESS: Well, clearly, the question
 4 is speculative. I would assume so, but with no
 5 knowledge of the transaction or the details, sure.
 6 BY MR. VOGT: (Continuing)
 7 Q. In your experience, do investment bankers
 8 typically conduct extensive due diligence in
 9 connection with transactions?
 10 MR. BERRY: Objection.
 11 THE WITNESS: What do you mean by
 12 "extensive due diligence"? I'm sorry.
 13 BY MR. VOGT: (Continuing)
 14 Q. Would investment bankers in connection with
 15 a potential transaction review a company's audited
 16 financial statements.
 17 MR. BERRY: Objection as to form.
 18 THE WITNESS: They would review the
 19 statements; however, the ultimate investor or acquirer
 20 is the one who would primarily do the diligence, not
 21 the investment bankers.
 22 BY MR. VOGT: (Continuing)
 23 Q. Would you agree with the statement that
 24 generally investors or acquirers conservatively
 25 estimate the value of companies that they are going to

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1 acquire?
 2 MR. BERRY: Objection.
 3 THE WITNESS: I'm sorry. You said would I
 4 agree with the statement that investors or acquirers
 5 conservatively --
 6 BY MR. VOGT: (Continuing)
 7 Q. Value a company.
 8 **A. And by "conservative," you're saying --
 9 what does conservative mean?**
 10 Q. Would they typically value the company
 11 lower than what its fair market value might be?
 12 **A. Well, the fair market value is the price at
 13 which the deal closes, so, obviously, there's a
 14 negotiation to establish what that point is.
 15 So an acquirer will come in probably on the
 16 low side where the deal settles, the seller comes in
 17 on the high side, and you meet somewhere in the
 18 middle, which is what fair market value is.**
 19 Q. Does a deal have to close in order to form
 20 a fair market value?
 21 **A. I would believe so, yes.**
 22 Q. So because no deal is closed with Gawker
 23 Media, you are unable to determine a fair market value
 24 for Gawker Media?
 25 MR. BERRY: Objection.

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1 BY MR. VOGT: (Continuing)
 2 Q. Is that right?
 3 **A. I would say you can estimate what we think**
 4 **it would or could or should be worth, but until**
 5 **somebody actually writes a check, you don't really**
 6 **know.**
 7 Q. So as we sit here today, you're unable to
 8 tell me what the fair market value of Gawker Media is?
 9 MR. BERRY: Objection.
 10 BY MR. VOGT: (Continuing)
 11 Q. Is that correct?
 12 MR. BERRY: Objection as to form.
 13 THE WITNESS: So a couple of points. One
 14 is, again, I was not asked to estimate the fair market
 15 value of Gawker Media now. I was not asked to
 16 estimate the fair market value of the overall company
 17 as of the period in question.
 18 Having said that, the methodology for
 19 figuring what it roughly should be is what we've
 20 discussed before.
 21 BY MR. VOGT: (Continuing)
 22 Q. As we sit here today, can you tell me what
 23 the fair market value of Gawker Media was in 2012?
 24 MR. BERRY: Objection as to form.
 25 Go ahead.

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1 THE WITNESS: Again, unless there was a
 2 financing transaction, that I'm not aware of, you
 3 know, there was no objective assignment of value.
 4 What I would tell you is that I would say an estimate
 5 would be somewhere -- between two and a half and call
 6 it four times 2012 revenue would be a range in which I
 7 would have expected a transaction to happen.
 8 BY MR. VOGT: (Continuing)
 9 Q. And with respect to Gawker.com, as we sit
 10 here today, if you were to value Gawker.com as of
 11 2012, could you do that?
 12 MR. BERRY: Objection as to form.
 13 And just to clarify, you're talking about
 14 the website?
 15 MR. VOGT: The website.
 16 THE WITNESS: Okay. It would be very hard
 17 to assign a value to Gawker.com in isolation because
 18 of the way they were running the business, where
 19 advertising ran across the entire company, not
 20 specifically on Gawker.com. And costs, you know, are
 21 spread pretty much across the whole company. So to
 22 that extent, it would be hard.
 23 I would say in terms of enterprise value,
 24 Gawker.com is the -- probably the least valuable asset
 25 within Gawker Media.

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1 BY MR. VOGT: (Continuing)
 2 Q. Did you, as part of your opinions in this
 3 case, calculate a fair market value for Gawker.com in
 4 2012?
 5 **A. I did not.**
 6 MR. BERRY: Objection.
 7 THE WITNESS: Sorry.
 8 BY MR. VOGT: (Continuing)
 9 Q. If you take a look at Exhibit 1 to your
 10 report --
 11 **A. Looking at this one?**
 12 Q. Yes.
 13 And the first part of Exhibit 1 is a
 14 document that on the front page says RBC Capital
 15 Markets, and it's entitled "Valuation Material
 16 Discussion."
 17 **A. Yes.**
 18 Q. And it was prepared in March of 2015; is
 19 that right?
 20 **A. That is correct.**
 21 Q. And was this prepared for Purch?
 22 **A. It was part of that Purch discussion, but I**
 23 **did ask them if I could -- without telling them what**
 24 **it was, I said, Hey, I'm working on something. Can I**
 25 **use that report? They said yes.**

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1 Q. If you look on the second page, it just
 2 references a source for -- or sources for the data
 3 that is depicted in these graphs. One source is
 4 Capital IQ. Are you familiar with Capital IQ?
 5 **A. Yes.**
 6 Q. Is this a reliable source within your
 7 industry?
 8 **A. Yes. Again, this all ties back to public**
 9 **companies, so they go back to SEC filings.**
 10 Q. Why was this RBC Capital Markets report
 11 prepared?
 12 **A. Actually, it's for exactly the reasons**
 13 **we're talking about here. We're going into the market**
 14 **to raise debt and sell some stock. We're trying to**
 15 **figure out how we value the company, what was the**
 16 **appropriate pricing, what types of terms might we**
 17 **receive, who might be an interested investor.**
 18 Q. And you did not prepare this report,
 19 correct?
 20 **A. No.**
 21 Q. And then if you look on page 4, there's a
 22 disclaimer. I think you just covered the first part
 23 of this, which is that RBC gave you permission to use
 24 this for another purpose?
 25 **A. Yes.**

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1 Q. If you go down to the third paragraph, it
 2 says, The information and analysis contained in this
 3 presentation are taken from, or based upon,
 4 information obtained from the recipient or from
 5 publicly available sources, the completeness and
 6 accuracy of which has not been independently verified
 7 and cannot be assured by RBCCM. Do you see that?
 8 **A. Yep.**
 9 Q. Do you agree with that statement?
 10 **A. I agree that that's what their lawyers**
 11 **advised them to put as a disclaimer, sure.**
 12 Q. Have you independently verified the
 13 information in this RBC report?
 14 **A. I have cross checked it against, as I said,**
 15 **other sources like Yahoo Finance or Wall Street**
 16 **Journal.com, other investment banking reports such as**
 17 **the Pac. Crest report that was attached.**
 18 Q. Did you actually look at the sources for
 19 this report itself, the Capital IQ and
 20 company-provided materials, as of 3-19, 2015?
 21 **A. I did not in this particular case.**
 22 Q. The next paragraph says, To the extent
 23 projections and financial analyses are set forth
 24 herein -- are there any projections in this RBC
 25 report?

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1 **A. There were no projections that I used as**
 2 **part of my analysis for this case.**
 3 Q. In the next-to-last paragraph, the last
 4 sentence says, All recommendations, ratings, price
 5 targets, and opinions regarding a company are
 6 determined independently by RBCCM's research
 7 department.
 8 Did you independently determine any price
 9 targets or opinions regarding a company?
 10 **A. There were no -- no price targets were used**
 11 **as part of my analysis.**
 12 Q. And then if you go to the next report
 13 within Exhibit 1 to your report, it's the Pacific
 14 Crest Securities.
 15 **A. Uh-huh.**
 16 Q. Why was this report prepared?
 17 **A. This is just something they distribute on a**
 18 **weekly basis showing metrics for Internet and digital**
 19 **media public companies. I get this report every**
 20 **Sunday night.**
 21 Q. Who do they distribute it to?
 22 **A. Investors, board members, company**
 23 **executives.**
 24 Q. Do you, like, sign up and you register for
 25 their service and they provide you with this data?

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1 **A. I have gone to their investor conferences,**
 2 **and I've actually retained them to work on different**
 3 **projects, so in the course of that relationship, they**
 4 **provide me with this.**
 5 Q. In this report there's a number of
 6 categories for companies.
 7 **A. Sure.**
 8 Q. Diversified content, vertical content,
 9 market places, listing some personals. It goes on.
 10 There's not a category for online news
 11 companies; is that right?
 12 **A. Correct.**
 13 Q. Have you ever seen a report that provides
 14 the analysis that Pacific Crest does, where it
 15 specifically looked at online news companies?
 16 **A. No.**
 17 Q. This report also has on page 11 a
 18 disclaimer. As you did with the prior one we looked
 19 at, did you talk to them about using it for other
 20 purposes?
 21 **A. Yes.**
 22 Q. It also says, The material contained herein
 23 is based on data from sources considered to be
 24 reliable; however, PCS does not guarantee or warrant
 25 the accuracy or completeness of the information.

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1 **A. Yep.**
 2 Q. Did you do anything to verify the accuracy
 3 or completeness of the information in this report?
 4 **A. Again, it's the same basic source of**
 5 **information. I looked at the publicly available**
 6 **information -- Wall Street Journal, Yahoo Finance --**
 7 **as well as the various, you know, investment banking**
 8 **reports.**
 9 Q. But you didn't actually look at the source
 10 data for this report?
 11 **A. No.**
 12 Q. And then the last report within Exhibit 1
 13 is for BMO Capital Markets. Why was this BMO Capital
 14 Markets report prepared?
 15 **A. This was one of their just standard**
 16 **reports, again, as with the Pac. Crest. As I said,**
 17 **I'm in contact with multiple investment banks who work**
 18 **in the Internet space, so I get regular valuation**
 19 **information.**
 20 Q. Was this report sent to you on a regular
 21 basis?
 22 MR. BERRY: Object to form.
 23 THE WITNESS: Yes.
 24 BY MR. VOGT: (Continuing)
 25 Q. Was it similar to the Pac. Crest one where

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1 you get it on a weekly --

2 **A. It's not on a weekly basis but a periodic**

3 **basis, shall we say.**

4 Q. This one contains a similar disclaimer to

5 the other ones. And did you do anything to

6 independently verify the information contained in the

7 BMO Capital Markets report?

8 **A. No.**

9 Q. Now all three of these reports were

10 prepared in 2015, correct?

11 **A. Correct.**

12 Q. Did you review any reports for 2012?

13 **A. No. I could not get -- you know, pull**

14 **historical reports, but a lot of these reports do have**

15 **backward -- looking data, like -- what I was looking**

16 **for -- to these reports for primarily is information**

17 **on market multiples and growth rates, to establish**

18 **context for the valuation.**

19 **(Exhibit 304 marked for identification.)**

20 BY MR. VOGT: (Continuing)

21 Q. I'm going to hand you what we're going to

22 mark as Exhibit 304. Have you ever seen this exhibit

23 before?

24 **A. Yes.**

25 Q. Okay. And what is Exhibit 304?

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1 **A. It's a summary of the different documents**

2 **that I used in preparing my report.**

3 Q. And is this list a complete list of all of

4 the documents that you reviewed in forming your

5 opinions in this case?

6 **A. Yes. Again, I may have general knowledge**

7 **outside of this, but these are the specific ones that**

8 **I looked at.**

9 Q. Are there any documents that you asked for

10 in connection with forming your opinions in this case

11 that you did not receive?

12 **A. No.**

13 **(Exhibit 305 marked for identification.)**

14 BY MR. VOGT: (Continuing)

15 Q. I'm going to hand you what we're going to

16 mark as Exhibit 305. Have you ever seen Exhibit 305

17 before?

18 **A. Have not.**

19 Q. Did you do any sort of Internet research on

20 Gawker or Gawker Media in connection with forming your

21 opinions in this case?

22 MR. BERRY: Objection as to form.

23 THE WITNESS: I'm sorry. What -- like,

24 what type of Internet research are you thinking of?

25 BY MR. VOGT: (Continuing)

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1 Q. I mean anything. Did you do any

2 investigation of the company, what types of financial

3 activities it may have been involved in, any Internet

4 information that may be out there about its revenue or

5 its value; anything like that?

6 **A. No.**

7 Q. Were you aware that Gawker Media generated

8 45 million in net revenue in 2014?

9 **A. Vaguely.**

10 Q. Did you have any idea that in January of

11 2015, Gawker was attempting to raise a \$15 million

12 round of debt?

13 MR. BERRY: Objection.

14 THE WITNESS: Again, I believe I heard that

15 they were out in the market.

16 BY MR. VOGT: (Continuing)

17 Q. Do you know where you heard that from?

18 **A. No.**

19 Q. This article talks about how Mr. Denton

20 owns 68 percent of the company and that insiders own

21 90 percent of Gawker Media.

22 MR. BERRY: Objection.

23 BY MR. VOGT: (Continuing)

24 Q. Did you take that into consideration in

25 forming your opinions in this case?

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1 MR. BERRY: Objection.

2 THE WITNESS: I'm sorry. What opinions are

3 we referring to?

4 BY MR. VOGT: (Continuing)

5 Q. Any of your opinions. Did you take into

6 consideration that Gawker Media is a closely held

7 company?

8 **A. No.**

9 Q. If you look on the second page of this

10 article, down at the bottom it says, Last year Gawker

11 Media's gross E-commerce revenue exploded to

12 100 million.

13 Have you ever seen any data or information

14 indicating that in 2014, Gawker's E-commerce revenue

15 exploded to \$100 million?

16 **A. No, I've not seen that.**

17 Q. Have you seen any data or information

18 regarding Gawker Media's gross revenues?

19 **A. I looked primarily at the data during the**

20 **period in question, not two or three years later.**

21 Q. But did -- any of the information that you

22 looked at or the data for the years in question, did

23 any of that include gross revenues?

24 **A. That's what -- I believe that's what this**

25 **chart here would show, which is Exhibit 303.**

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1 Q. Do you know whether that's gross revenues
2 or net revenues?
3 **A. My understanding is that this is total
4 revenue; all sources, all in.**
5 Q. If you look at page 2, the second paragraph
6 from the top --
7 **A. Of this article?**
8 Q. Of the same one, yes. Sorry.
9 It says, Aside from a casual conversation
10 or two, Denton says he's never been tempted to sell
11 the site, which is worth at least 250 million based on
12 the company's 2014 net revenue of 45 million.
13 What revenue multiple would that be?
14 MR. BERRY: Objection to form.
15 THE WITNESS: Simple math would say that's
16 about five or six times.
17 BY MR. VOGT: (Continuing)
18 Q. If you would go back to Exhibit 303 --
19 **A. I'm sorry. That's the financial statement?**
20 Q. Yes.
21 Looking at revenue, what's the growth rate
22 for Gawker Media from 2012 to 2013?
23 **A. I've got that in my report. So if you
24 don't mind, let me just take a look.
25 Here we go. It grew 13.7 percent; 12 to**

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1 **13.**
2 Q. And if we use the \$45 million revenue
3 figure that's in Exhibit 305, what's the growth rate
4 from 2013 to 2014, approximately?
5 **A. Over the two-year period, it's probably
6 80 percent growth.**
7 Q. How would you characterize that growth?
8 **A. Pretty good growth. That's back in that
9 range I was saying, to start to really think about
10 getting a better multiple on revenue, because you're a
11 more fast growing company.**
12 Q. That would be in -- I think you talk in
13 your report about companies with 40 percent revenue
14 growth being growth companies.
15 **A. Yes.**
16 Q. Now, you've never spoken with Andrew
17 Gorenstein; is that correct?
18 **A. That is correct.**
19 Q. Do you know what his position is at Gawker?
20 **A. I know he's part of the management, but not
21 specifically, no.
22 (Exhibit 306 marked for identification.)**
23 BY MR. VOGT: (Continuing)
24 Q. I've handed you Exhibit 306. If you turn
25 to the second page, there's a profile there listed for

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1 Mr. Gorenstein. It says that he manages all aspects
2 of revenue generation. Do you see that?
3 **A. Uh-huh.**
4 Q. Is that a person that you would typically
5 want to speak with before determining whether or not
6 you wanted to invest or acquire a company?
7 MR. BERRY: Objection.
8 THE WITNESS: I'm sorry. Are you asking if
9 I was going to acquire the company right now or
10 invest, would I want to meet with --
11 BY MR. VOGT: (Continuing)
12 Q. Yes.
13 **A. Yes.**
14 Q. And if you look also on that page, there's
15 a profile there for Erin Pettigrew.
16 **A. Uh-huh.**
17 Q. And her profile states that she has built
18 its key revenue products and grown its core revenue
19 operations teams. Do you see that?
20 **A. Yes.**
21 Q. Is Ms. Pettigrew also someone that you
22 would want to speak with if you were interested in
23 acquiring or investing in Gawker Media?
24 **A. Yes.**
25 MR. BERRY: Objection.

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1 THE WITNESS: I'm sorry. And, by the way,
2 I have met her before. She was one of the people
3 whose name I didn't remember until I saw the picture.
4 BY MR. VOGT: (Continuing)
5 Q. When did you meet her?
6 **A. Also at an OPA conference a few years ago.
7 We sat at a table.**
8 Q. Was it just a brief meeting?
9 **A. Yeah. We were sitting at the same table.**
10 Q. Were you aware that both Mr. Gorenstein and
11 Ms. Pettigrew had been deposed in this case?
12 **A. Yes.**
13 Q. Did you ask for their depositions?
14 **A. I did not.**
15 Q. Why not?
16 **A. Because, like I said, I had a relatively
17 specific mandate, which is to look at the revenue that
18 was likely to have been derived from this post and,
19 you know, the value that might have been created as a
20 result of it.**
21 Q. Don't you think it's important, in
22 determining whether the revenue figures that you were
23 using in 2012 were accurate, that you speak with the
24 two principals at Gawker who had the most knowledge of
25 Gawker's revenue sources?

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1 MR. BERRY: Objection.
 2 THE WITNESS: No.
 3 BY MR. VOGT: (Continuing)
 4 Q. Why not?
 5 MR. BERRY: Object.
 6 You can keep answering. Just let me make
 7 my objections for the record. You keep answering his
 8 questions.
 9 THE WITNESS: Because the real question is
 10 what was the revenue, not, in a sense, how did they
 11 get there. So the information I needed was available
 12 from other sources. I didn't -- they didn't -- color
 13 commentate from them wouldn't have affected the
 14 valuation.
 15 BY MR. VOGT: (Continuing)
 16 Q. So it wouldn't have changed your opinions
 17 in this case at all if you would have been provided
 18 with information concerning Gawker Media ramping up
 19 its other sources of revenue during 2011 and 2012?
 20 MR. BERRY: Objection.
 21 THE WITNESS: They didn't ramp up other
 22 sources of revenue materially during that period. In
 23 later years, perhaps they did, but this is principally
 24 about what happened in '12 into '13, and we looked at
 25 the numbers.

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1 So we said, yeah -- again, could you say
 2 instead of \$10,000, if we included the other source of
 3 revenue, it went to \$13,000? Okay. But it didn't go
 4 from 11 to \$500,000. It's a 10 percent sway.
 5 BY MR. VOGT: (Continuing)
 6 Q. So it wouldn't have changed your opinions
 7 at all to know that Mr. Gorenstein's plan in
 8 connection with being retained at Gawker to help grow
 9 the business just first started showing tangible
 10 results in the end of 2011?
 11 MR. BERRY: Objection.
 12 THE WITNESS: The revenue was growing
 13 slowly. Non-advertising revenue was minimal; '11 into
 14 '12. So everybody's got plans. The question is what
 15 do the numbers say.
 16 BY MR. VOGT: (Continuing)
 17 Q. But you have no knowledge of whether their
 18 plans were actually being implemented in 2011 into
 19 2012, correct?
 20 **A. No.**
 21 Q. Do you know whether programmatic
 22 advertising was critical to Gawker's business strategy
 23 moving forward in 2012?
 24 **A. No.**
 25 Q. Do you know in 2012 how involved Gawker was

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1 with Amazon?
 2 MR. BERRY: Objection.
 3 THE WITNESS: No.
 4 BY MR. VOGT: (Continuing)
 5 Q. Do you know in 2012 how involved Gawker was
 6 with Skim Links?
 7 MR. BERRY: Objection.
 8 THE WITNESS: No.
 9 BY MR. VOGT: (Continuing)
 10 Q. Do you know whether Gawker's plans for
 11 programmatic advertising to be one-third of its
 12 business by 2017?
 13 MR. BERRY: Objection.
 14 THE WITNESS: No. But like I said, it's
 15 outside of the scope of anything I care about.
 16 BY MR. VOGT: (Continuing)
 17 Q. Do you know how much revenue Gawker
 18 generated from sponsored content in 2012?
 19 **A. Not specifically, no.**
 20 Q. Do you know what Gawker's actual ad rates
 21 were on a CPM basis in 2012?
 22 **A. I've got some idea, but it's largely**
 23 **irrelevant.**
 24 Q. Why is it largely irrelevant?
 25 **A. Because what really matters is not the rate**

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1 **for any specific ad; it's their ability to monetize**
 2 **all the ads on the page across the whole site.**
 3 **So, you know, the CPM for a specific ad is**
 4 **one component of that, but it's not even the most**
 5 **important component.**
 6 Q. Did you review in this case the actual
 7 documentation relating to the CPM advertising on
 8 Gawker's websites during 2012?
 9 **A. No.**
 10 Q. By that I mean: Did you look at the
 11 contracts, the invoices, the receipts; those things?
 12 **A. No.**
 13 Q. Did you estimate what their advertising
 14 rates were?
 15 **A. Didn't need to.**
 16 Q. Do you know what the key performance
 17 indexes are that Gawker used for its business in 2012?
 18 **A. No.**
 19 Q. Do you know whether Gawker's CPM rates for
 20 mobile were based on an audience reach?
 21 MR. BERRY: Objection as to form.
 22 THE WITNESS: I'm sorry. Tell me that
 23 again -- or ask me it again.
 24 BY MR. VOGT: (Continuing)
 25 Q. Do you know whether Gawker's CPM rates for

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1 mobile were based on an audience reach?
 2 **A. Can you -- that question isn't exactly**
 3 **answerable, the way you're asking. Can you tell me**
 4 **what you're trying to get at there?**
 5 Q. Do you know what Gawker's CPM rates were
 6 for mobile in 2012?
 7 **A. No.**
 8 Q. Do you know how they were determined in
 9 2012?
 10 **A. No, not specifically.**
 11 Q. Do you know if during 2012, Gawker worked
 12 with any ad exchanges?
 13 **A. I believe they did not, but I can't swear**
 14 **to that.**
 15 Q. What is an ad exchange?
 16 **A. It's a third-party demand source. It's ad**
 17 **networks, ad exchanges, the nuance being ad networks**
 18 **buy in bulk and sell in bulk; ad exchanges tend to be**
 19 **more on an RTB, impression by impression.**
 20 Q. What are some of the examples of the larger
 21 more well-known ad exchanges?
 22 **A. Appnexus, Rubicon, PubMatic.**
 23 Q. Do you know whether Gawker in 2012 was
 24 working with Rubicon?
 25 **A. I don't believe that they were, but I'm not**

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1 **100 percent sure.**
 2 Q. Do you have any knowledge of efforts in
 3 2012 to increase revenue on Gawker's sites by using
 4 promoted posts?
 5 MR. BERRY: Objection.
 6 THE WITNESS: No.
 7 BY MR. VOGT: (Continuing)
 8 Q. Do you know what revenue Gawker receives
 9 from its partnerships with Amazon and Skim Links?
 10 **A. Only to the extent it shows up in the**
 11 **financial statements.**
 12 Q. Do you know what revenue Gawker received
 13 from those partnerships in 2012?
 14 MR. BERRY: Objection.
 15 THE WITNESS: It's a subset of \$25 million.
 16 BY MR. VOGT: (Continuing)
 17 Q. But you don't know what it is?
 18 **A. No.**
 19 Q. Do you know if during 2012, Gawker received
 20 any revenue from content licensing?
 21 MR. BERRY: Objection.
 22 THE WITNESS: I -- no, I do not, but,
 23 again, it would be a subset of the \$25 million revenue
 24 number. It wouldn't be a superset of that.
 25 BY MR. VOGT: (Continuing)

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1 Q. Do you know whether in 2012 Gawker derived
 2 any revenue from international advertising?
 3 MR. BERRY: Objection.
 4 THE WITNESS: I do not, but my
 5 understanding is -- my sense is they did not.
 6 BY MR. VOGT: (Continuing)
 7 Q. Do you know whether in 2012 Gawker derived
 8 any revenue from international licensing?
 9 MR. BERRY: Objection. Can I have, like, a
 10 standing objection to all these questions?
 11 MR. VOGT: Yeah.
 12 MR. BERRY: They assume facts not in
 13 evidence.
 14 You can answer.
 15 THE WITNESS: No, I don't.
 16 BY MR. VOGT: (Continuing)
 17 Q. Are you aware that in 2012, 5 percent of
 18 Gawker's total advertising revenue was coming from
 19 programmatic advertising?
 20 **A. No.**
 21 **You say in '12 it was 5 percent?**
 22 Q. You weren't aware of that?
 23 **A. No. Again, that would be within the**
 24 **advertising number. It shouldn't be outside of it.**
 25 **So it's -- and it's, obviously, a pretty small number.**

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1 Q. And you weren't aware that during 2012,
 2 Gawker was working with Ad Exchange, Ad Ex, and
 3 Rubicon; is that right?
 4 **A. No.**
 5 Q. Were you aware that in 2012 Gawker had a
 6 program called Promotions to Work with Smaller
 7 Advertisers?
 8 **A. I'd heard of that, yes.**
 9 Q. Do you know what percentage of their
 10 revenue in 2012 was derived from the Promotions
 11 program?
 12 **A. Nope.**
 13 Q. Would that be considered advertising
 14 revenue?
 15 **A. Yes.**
 16 Q. Do you agree that because Gawker sells CPM
 17 advertising, its user's act to visiting a page with
 18 advertising on it results in a revenue?
 19 **A. Okay. So you're asking do I agree that**
 20 **users visiting pages, their ads and the ads built-in**
 21 **revenue?**
 22 Q. Yes.
 23 **A. The users visit pages, pages have ads on**
 24 **them, Gawker sells ads on those pages, and that**
 25 **results in revenue. Are we good?**

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<p>1 BY MR. VOGT: (Continuing)</p> <p>2 Q. Yes.</p> <p>3 A. Then yes.</p> <p>4 Q. The users don't have to click on the ads</p> <p>5 for Gawker to receive revenue?</p> <p>6 MR. BERRY: Objection.</p> <p>7 THE WITNESS: It's not all one or the</p> <p>8 other. So in a lot of cases, it's CPM; in some cases,</p> <p>9 it's CPC or CPA.</p> <p>10 BY MR. VOGT: (Continuing)</p> <p>11 Q. Did Gawker utilize any CPC or CPA</p> <p>12 advertising?</p> <p>13 MR. BERRY: Objection.</p> <p>14 THE WITNESS: Again, I do not know</p> <p>15 specifically, but whether they did or did not, it</p> <p>16 would all be under the umbrella of advertising</p> <p>17 revenue.</p> <p>18 BY MR. VOGT: (Continuing)</p> <p>19 Q. Go back to Exhibit 306, the last page.</p> <p>20 MR. BERRY: What's the Bates number?</p> <p>21 MR. VOGT: 4414.</p> <p>22 MR. BERRY: The next one.</p> <p>23 THE WITNESS: Okay. Got it.</p> <p>24 BY MR. VOGT: (Continuing)</p> <p>25 Q. Got it?</p>	<p>1 Q. Would it change your opinions at all if</p> <p>2 Gawker recognized its revenue internally once the</p> <p>3 impressions had been viewed?</p> <p>4 MR. BERRY: Objection.</p> <p>5 THE WITNESS: No, because that's actually</p> <p>6 within the window I'm talking about anyway.</p> <p>7 BY MR. VOGT: (Continuing)</p> <p>8 Q. Do you know what metric Gawker paid the</p> <p>9 most attention to in 2012?</p> <p>10 MR. BERRY: Objection.</p> <p>11 THE WITNESS: No.</p> <p>12 BY MR. VOGT: (Continuing)</p> <p>13 Q. Do you know whether Gawker in 2012 paid</p> <p>14 bonuses based on monthly unique users?</p> <p>15 MR. BERRY: Objection.</p> <p>16 THE WITNESS: No. I did hear that they</p> <p>17 were trying to grow user base, yes.</p> <p>18 BY MR. VOGT: (Continuing)</p> <p>19 Q. What did you hear about them trying to grow</p> <p>20 user base?</p> <p>21 A. I believe I read a news article somewhere</p> <p>22 that said that Nick was focused on growing users.</p> <p>23 Q. And what would be the point of growing</p> <p>24 users?</p> <p>25 A. To grow revenue and hopefully make money</p>

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<p>1 A. Yep.</p> <p>2 Q. Do you see the advertising section there?</p> <p>3 A. Yep.</p> <p>4 Q. It says, Our marketing programs include</p> <p>5 content and display opportunities with CPM pricing.</p> <p>6 We do not allow networks, resellers, text links, or</p> <p>7 CPC/CPA pricing.</p> <p>8 So was all their advertising CPM?</p> <p>9 MR. BERRY: Objection as to form.</p> <p>10 THE WITNESS: Again, I don't have that</p> <p>11 level of detail; however, you just gave me an example</p> <p>12 of where they're effectively working with networks, so</p> <p>13 I'm not -- I wouldn't base that opinion on that one</p> <p>14 paragraph.</p> <p>15 BY MR. VOGT: (Continuing)</p> <p>16 Q. In your report, you state that it was your</p> <p>17 understanding that Gawker was not working with</p> <p>18 networks, correct?</p> <p>19 A. Yes, based on statements like this that</p> <p>20 says no, we're not doing it.</p> <p>21 Q. Do you know when Gawker recognizes revenue</p> <p>22 internally?</p> <p>23 A. I don't know specifically for Gawker. The</p> <p>24 industry practice is you recognize revenue when it</p> <p>25 runs, and that's basically GAAP standards.</p>	<p>1 some day.</p> <p>2 Q. Seven?</p> <p>3 A. Yeah. The last one, I've got six here.</p> <p>4 (Exhibit 307 marked for identification.)</p> <p>5 MR. VOGT: That writing was already on here</p> <p>6 that I have.</p> <p>7 THE WITNESS: That handy red circle.</p> <p>8 BY MR. VOGT: (Continuing)</p> <p>9 Q. I'm not even going to ask you about that.</p> <p>10 A. It wasn't mine.</p> <p>11 Q. Exhibit 307, if you look up at the top, it</p> <p>12 says, Tracking Uniques. Our primary metric is unique</p> <p>13 visitors. We track this at every level - the network,</p> <p>14 the site, the writer, and the post.</p> <p>15 Did you take into consideration, in</p> <p>16 reaching your opinions, whether Gawker's primary</p> <p>17 metric was unique visitors?</p> <p>18 MR. BERRY: Objection.</p> <p>19 THE WITNESS: I'm sorry. I don't recognize</p> <p>20 this document. What's the source?</p> <p>21 BY MR. VOGT: (Continuing)</p> <p>22 Q. It's from Gawker's editorial resources.</p> <p>23 A. This is an internal Gawker document?</p> <p>24 Q. Yes.</p> <p>25 MR. BERRY: Objection.</p>

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1 THE WITNESS: I'm trying to understand
 2 where it came from because I hadn't seen this one
 3 before.
 4 BY MR. VOGT: (Continuing)
 5 Q. Yeah.
 6 **A. How they managed their business is separate**
 7 **from how the business is valued, and so no, that**
 8 **doesn't really change how I would think about what the**
 9 **business is worth.**
 10 Q. Would you agree that publicity increases
 11 the monetization value of Gawker Media, LLC?
 12 MR. BERRY: Objection.
 13 THE WITNESS: Let's see. So you're saying
 14 does publicity make the company more valuable?
 15 BY MR. VOGT: (Continuing)
 16 Q. Yes.
 17 **A. Not inherently, no.**
 18 Q. Does publicity help increase the
 19 monetization value of the company, though?
 20 **A. What kind of publicity?**
 21 Q. Any kind of publicity.
 22 MR. BERRY: Objection.
 23 THE WITNESS: Broadly, no. I mean, certain
 24 types of publicity perhaps, but not, you know,
 25 universally, no.

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1 BY MR. VOGT: (Continuing)
 2 Q. Would you agree that the Hogan sex tape got
 3 more traffic to Gawker.com?
 4 MR. BERRY: Objection.
 5 THE WITNESS: Got more traffic than what?
 6 BY MR. VOGT: (Continuing)
 7 Q. Than it had at the time.
 8 MR. BERRY: Objection.
 9 THE WITNESS: I mean, obviously, some
 10 people saw the article, so for sure, but it didn't --
 11 the nature of Gawker is people click to see a specific
 12 story. Then the next day, they look at that whatever
 13 story comes up next. And so people saw that story.
 14 Then they went away. If they came back later, it's
 15 because they had a picture of Kate Middleton's butt or
 16 something else.
 17 BY MR. VOGT: (Continuing)
 18 Q. Do you know how many unique visitors viewed
 19 the Hogan post?
 20 **A. The page is about 5.3 million, which, I**
 21 **believe, is your number, which we're going to go with.**
 22 **The video is -- started the video, initiated it, 2.5**
 23 **to 2.8 million. Saw the whole video, 1.5 million.**
 24 Q. Wouldn't that be considered an increase in
 25 traffic to the Gawker.com site, 5.3 million uniques?

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1 MR. BERRY: Objection.
 2 THE WITNESS: It's really a question of
 3 increase. Was it traffic? Yes. Some of those --
 4 undoubtedly a lot of those folks had been there
 5 before. They came back again when they saw another
 6 link.
 7 So I think what I'm -- I don't want to use
 8 the word object because it's got a specific meaning
 9 here, but what I'm pushing back on is the notion that
 10 somehow or another, these folks came became loyal
 11 Gawker readers because of this post. There's just no
 12 evidence of that.
 13 Q. Right. And that's not what I'm saying.
 14 But just generally --
 15 **A. Yes.**
 16 Q. -- it resulted in an increase in traffic?
 17 **A. Yes. And my analysis basically is saying**
 18 **we'll treat all those 5 million uniques as if they**
 19 **were new visitors to the site.**
 20 Q. Do you know whether Gawker in 2012
 21 considered people who came to the site as a result of
 22 a post like the Hogan post to be more valuable than
 23 others?
 24 MR. BERRY: Objection.
 25 THE WITNESS: I'm sorry. Please repeat the

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1 question or --
 2 BY MR. VOGT: (Continuing)
 3 Q. Do you know whether Gawker itself in 2012
 4 considered people who came to its site to view things
 5 like the Hogan post to be more valuable than others?
 6 MR. BERRY: Objection.
 7 THE WITNESS: I'm going to say no, I don't
 8 know that.
 9 BY MR. VOGT: (Continuing)
 10 Q. Do you know whether Nick Denton describes
 11 monthly unique users as the metric critical to
 12 deciding whether a site is working or not?
 13 MR. BERRY: Objection.
 14 THE WITNESS: I have heard Nick say -- or
 15 read that Nick has said things like that.
 16 BY MR. VOGT: (Continuing)
 17 Q. Do you agree with that?
 18 MR. BERRY: Objection.
 19 THE WITNESS: It's a metric.
 20 BY MR. VOGT: (Continuing)
 21 Q. So you think it's a metric; Nick thinks
 22 it's the metric --
 23 MR. BERRY: Objection.
 24 BY MR. VOGT: (Continuing)
 25 Q. -- right?

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1 **A. I think it's a metric. Nick can speak for**
 2 **himself.**
 3 **(Exhibit 308 marked for identification.)**
 4 BY MR. VOGT: (Continuing)
 5 Q. I'll show you Exhibit 308. Have you ever
 6 seen this article before?
 7 **A. Especially printed this way, I'd say I'm**
 8 **somewhat familiar with it, but I can't say I saw this**
 9 **exact article.**
 10 Q. And this talks about Mr. Denton writing an
 11 internal memo that an item which gets picked up and
 12 draws in new visitors is worth more than a catnip
 13 slide show that our existing readers can't help but
 14 click upon.
 15 Do you agree with that?
 16 MR. BERRY: Objection.
 17 THE WITNESS: Not necessarily, no.
 18 BY MR. VOGT: (Continuing)
 19 Q. So do you view the value of new visitors
 20 differently than Mr. Denton?
 21 **A. Probably so. Again, my assignment was not**
 22 **to be a management consultant to Nick.**
 23 Q. I understand that.
 24 If you look on the second page, it talks
 25 about the target being U.S. monthly uniques. It says,

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1 This is the figure that journalists cite when judging
 2 a site's competitive position.
 3 Is that accurate?
 4 MR. BERRY: Objection.
 5 THE WITNESS: Yeah, probably.
 6 BY MR. VOGT: (Continuing)
 7 Q. Because when we had talked earlier and you
 8 talked about -- was it About or Answers being one of
 9 the top ten media properties, that was based on unique
 10 visitors, correct?
 11 **A. Yes.**
 12 Q. He then goes on to say that it's also the
 13 metric by which advertisers decide which sites they
 14 will shower with dollars.
 15 Do you agree with that?
 16 **A. No. He's being overly simplistic.**
 17 Q. Why do you say that?
 18 **A. When agencies plan ad campaigns, they'll**
 19 **often do what they call a ranker, which is show me the**
 20 **top 25 sites in autos, show me the top 25 sites for**
 21 **women 25 to 49. So that will be the first group of**
 22 **sites they look at. So to that extent, having a large**
 23 **audience is useful for getting a look.**
 24 **But then it's a whole other matter to say**
 25 **how do I actually get on to this particular buy.**

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1 **What's the pricing; what's the quality, the**
 2 **demographics of my audience, you know; how can I**
 3 **demonstrate that I've got in-market buyers; can I --**
 4 **so I think he is -- he's speaking in sound bites and**
 5 **bumper stickers, and he's overly simplifying a pretty**
 6 **complex process.**
 7 Q. So -- but the first step, though, in
 8 getting in the door with the advertisers is being on
 9 the ranker, by having a lot --
 10 **A. Yes.**
 11 Q. -- of unique users, right?
 12 **A. Yes. Yes.**
 13 Q. And you also mention demographics as being
 14 something that advertisers consider.
 15 **A. Yes.**
 16 Q. Do you know what the demographics for
 17 Gawker's users are?
 18 **A. Fairly undistinguished. And by that I mean**
 19 **it's a traditional mass media audience. It's not a**
 20 **particularly affluent audience. It's not a**
 21 **particularly millennial audience. It's not an**
 22 **audience that's particularly active in car buyers or**
 23 **travelers. It's just a pretty mainstream, middle**
 24 **audience.**
 25 Q. So you wouldn't consider the demographics

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1 of Gawker's readers to be younger than the average
 2 American, younger than the Web average, upscale,
 3 better educated, and wealthier?
 4 MR. BERRY: Objection.
 5 THE WITNESS: If you're asking me to agree
 6 or disagree with their marketing materials, which it
 7 sounds like you are -- the question with regard to the
 8 audience is how scarce is the audience. Is it an
 9 audience that I can reach through a variety of
 10 different methods or is it an audience that's hard to
 11 reach. And they don't have an audience that's
 12 uniquely hard to reach.
 13 BY MR. VOGT: (Continuing)
 14 Q. What do you base that on?
 15 **A. Based on my looking at what their audience**
 16 **looks like via Alexa Quantcast; things like that.**
 17 Q. What year did you look at that?
 18 MR. BERRY: Objection.
 19 THE WITNESS: I looked at it both for -- I
 20 looked for the period in question as well as the
 21 current year.
 22 BY MR. VOGT: (Continuing)
 23 Q. How else can you reach the audience that
 24 you just described?
 25 MR. BERRY: Objection.

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1 THE WITNESS: Audience targeting. You can
 2 just say, Hey, I want to buy women 25, 49, wherever I
 3 reach them. You can buy it through large portals such
 4 as a Yahoo, which gets massive reach. You can buy it
 5 on any number of content-specific sites, ad networks.
 6 It's not a unique franchise audience that
 7 only they can reach. There's 87 different ways to
 8 reach all those people.
 9 BY MR. VOGT: (Continuing)
 10 Q. Do you know who Gawker's top five
 11 advertisers were in 2012?
 12 **A. Nope.**
 13 MR. BERRY: Object.
 14 BY MR. VOGT: (Continuing)
 15 Q. In your experience, would a company such as
 16 Jaguar go after a general, broad audience, or would
 17 they be more targeted to a certain audience?
 18 MR. BERRY: Objection.
 19 THE WITNESS: It would cause me to
 20 speculate on Jaguar's strategy.
 21 BY MR. VOGT: (Continuing)
 22 Q. I mean, is that -- jaguar is a fairly
 23 high-end automobile, correct?
 24 **A. Yes.**
 25 Q. They're not going to want to advertise with

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1 middle- to low-income-type audiences, correct?
 2 MR. BERRY: Objection.
 3 THE WITNESS: Again, I don't do Jaguar's
 4 advertising strategy, so --
 5 BY MR. VOGT: (Continuing)
 6 Q. Do you -- have you ever done advertising
 7 strategy for a company similar to Jaguar?
 8 **A. Not a high-end imported automobile.**
 9 Q. Going back to Exhibit 308, Mr. Denton says,
 10 Finally, a site with plenty of genuine uniques is one
 11 that has good growth prospects.
 12 Do you agree with that statement?
 13 **A. Sure.**
 14 Q. And then he goes on to say, Each of those
 15 first-time visitors is a potential convert.
 16 Do you agree with that statement?
 17 **A. Yes.**
 18 Q. If you go to the little numbers on the
 19 bottom, 5 of 29 -- it's tiny print.
 20 **A. I'm not old, and the eyes haven't gone that
 21 far yet. I can figure it out.**
 22 Q. Seth would be mad. He doesn't like the
 23 mini transcripts.
 24 MR. BERRY: The record is silent.
 25 BY MR. VOGT: (Continuing)

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1 Q. The last paragraph there says, Over time
 2 I'd hope writers will focus more of their energies on
 3 the stories that have the potential to break out on
 4 Twitter, Facebook or in TV coverage.
 5 **A. Yes.**
 6 Q. Is that viral marketing?
 7 **A. Yes.**
 8 Q. Which shouldn't be a big challenge.
 9 He goes on to say, It just means that you
 10 have to be even more original, more provocative or
 11 even more of a hustler than usual.
 12 Are provocative stories the types of
 13 stories that typically will end up becoming viral?
 14 MR. BERRY: Objection.
 15 BY MR. VOGT: (Continuing)
 16 Q. In your experience?
 17 **A. In my experience, sure.**
 18 Q. Do you know whether Buzzfeed is considered
 19 to be a competitor of Gawker.com?
 20 **A. I'm sorry. Competitor, in what space?**
 21 Q. Of Gawker.com.
 22 **A. No. But in --**
 23 Q. For advertising space and for traffic.
 24 **A. I would say I don't know that, but I would
 25 assume -- I would certainly assume that they are**

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1 **competitors, yes.**
 2 Q. Let me show you what's already been marked
 3 as Deposition Exhibit 24.
 4 Have you ever seen this article before?
 5 **A. No. It does not look familiar to me.**
 6 Q. Were you aware that Mr. Denton had a beef
 7 with Buzzfeed?
 8 MR. BERRY: Objection.
 9 THE WITNESS: No, I am not. But I'm not
 10 surprised when Nick has a beef with anybody, so --
 11 BY MR. VOGT: (Continuing)
 12 Q. On the second page, it talks about --
 13 there's a question: Will you ever open the Gawker
 14 commenting platform Kinja to brands, and Mr. Denton
 15 says, Our ambition is to turn at least half our
 16 advertisers in publishers. Our role should be that of
 17 an impresario, bringing brand advocates into real
 18 contact with influential readers.
 19 Did you take that into consideration at all
 20 in reaching your opinions in this case?
 21 MR. BERRY: Objection.
 22 THE WITNESS: No.
 23 BY MR. VOGT: (Continuing)
 24 Q. Right above that it says, We drove
 25 15 million in transactions on Amazon in the last 12

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<p>1 months and that number will more than double in the</p> <p>2 next.</p> <p>3 Did you take that into consideration in</p> <p>4 rendering your opinions in this case?</p> <p>5 MR. BERRY: Objection.</p> <p>6 THE WITNESS: I'm sorry. Which part of</p> <p>7 that statement?</p> <p>8 BY MR. VOGT: (Continuing)</p> <p>9 Q. That -- well, either part. Did you take</p> <p>10 into consideration that Gawker drove 15 million in</p> <p>11 transactions on Amazon within the last 12 months?</p> <p>12 A. Only to the extent that it showed up in</p> <p>13 revenue numbers.</p> <p>14 Q. Did you take into consideration the</p> <p>15 statement that the number will more than double in the</p> <p>16 next 12 months?</p> <p>17 A. No.</p> <p>18 Q. And this article was written July 25th of</p> <p>19 2013.</p> <p>20 Does that affect your opinions at all?</p> <p>21 A. No.</p> <p>22 MR. BERRY: Objection.</p> <p>23 (Exhibit 309 marked for identification.)</p> <p>24 BY MR. VOGT: (Continuing)</p> <p>25 Q. I'm going to hand you Exhibit 309. Have</p>	<p>1 40 percent this year, an acceleration from 26 percent</p> <p>2 in 2012.</p> <p>3 Did they have a 26 percent growth rate in</p> <p>4 2012?</p> <p>5 A. No. As I said, this is why you don't base</p> <p>6 valuations on news stories and news releases.</p> <p>7 Q. So these are quotes that dent is making,</p> <p>8 though, that are coming out after a memo he wrote.</p> <p>9 MR. BERRY: Objection.</p> <p>10 BY MR. VOGT: (Continuing)</p> <p>11 Q. Do you know why he would something</p> <p>12 inaccurate like that?</p> <p>13 A. No.</p> <p>14 MR. BERRY: Objection.</p> <p>15 THE WITNESS: That's why -- but this is</p> <p>16 exactly why, for the basis of my evaluation, I want to</p> <p>17 deal with real numbers, not news stories.</p> <p>18 BY MR. VOGT: (Continuing)</p> <p>19 Q. And when you say you want to deal with real</p> <p>20 numbers, you're assuming that the numbers that you</p> <p>21 reviewed in the exhibit that we have been reviewing,</p> <p>22 the income statement, are accurate, correct?</p> <p>23 A. I trust you would have objected to them if</p> <p>24 they weren't. So sure.</p> <p>25 MR. BERRY: Objection.</p>

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<p>1 you ever seen this article before?</p> <p>2 A. I have not.</p> <p>3 Q. Are you familiar with the International</p> <p>4 Business Times?</p> <p>5 A. A little bit, but not -- it's not one of my</p> <p>6 primary publications.</p> <p>7 Q. And this article talks about a memo leaked</p> <p>8 Thursday and posted on Advertising Age; that Gawker</p> <p>9 founder, Nick Denton, said he expects at least</p> <p>10 10 percent of the company's revenue in 2013 to come</p> <p>11 from E-commerce activity, a quarter of the 40 percent</p> <p>12 growth he projects for the entire network.</p> <p>13 Did you consider whether or not Mr. Denton</p> <p>14 was projecting 40 percent growth for the entire</p> <p>15 network in reaching your opinions in this case?</p> <p>16 MR. BERRY: Objection.</p> <p>17 THE WITNESS: Well, I'd say, if anything,</p> <p>18 this kind of underscores why articles that begin with</p> <p>19 hopes and projections get discounted, because they</p> <p>20 didn't grow 40 percent; they grew 13 percent.</p> <p>21 No. I based it on what actually shows up</p> <p>22 on the bottom line, not what Nick says in news</p> <p>23 releases.</p> <p>24 BY MR. VOGT: (Continuing)</p> <p>25 Q. He then went on to say, We're reaching for</p>	<p>1 BY MR. VOGT: (Continuing)</p> <p>2 Q. Well, you trust that I would have. Did you</p> <p>3 do anything to verify that they were accurate?</p> <p>4 A. I was told that these were audited</p> <p>5 financials, and I trusted that audited financials were</p> <p>6 useful for this purpose.</p> <p>7 Q. Did you actually review audited financial</p> <p>8 statements for Gawker?</p> <p>9 MR. BERRY: Objection.</p> <p>10 THE WITNESS: Objection, don't answer or</p> <p>11 objection --</p> <p>12 MR. BERRY: You can answer it, to the best</p> <p>13 of your knowledge.</p> <p>14 THE WITNESS: I believe the financials I</p> <p>15 was given were audited, and that's what I, you know,</p> <p>16 worked with.</p> <p>17 (Exhibit 310 marked for identification.)</p> <p>18 THE VIDEOGRAPHER: Off the record at 2:05.</p> <p>19 (Recess: 2:05 - 2:15 p.m.)</p> <p>20 THE VIDEOGRAPHER: We are back on the</p> <p>21 record.</p> <p>22 BY MR. VOGT: (Continuing)</p> <p>23 Q. I just want to make sure we're on the same</p> <p>24 page as to what financials you reviewed, so we're</p> <p>25 going to kind of cross-reference a couple of the</p>

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1 exhibits.
 2 If you'll pull out Exhibit 303 --
 3 **A. Oh, I'm sorry.**
 4 Q. -- which is the income statement.
 5 **A. Hang on a second. Lots of paper flying.**
 6 MR. BERRY: You're done with these
 7 articles?
 8 MR. VOGT: Yes.
 9 THE WITNESS: Okay. Got it.
 10 BY MR. VOGT: (Continuing)
 11 Q. And then Exhibit 304 should be the list of
 12 documents you reviewed.
 13 **A. Got it.**
 14 Q. And then your report. Turn to page 17 of
 15 your report.
 16 **A. Okay.**
 17 Q. On page 17 is where we looked at before;
 18 you had the 2012 advertising revenue and 2013
 19 advertising revenue figures.
 20 **A. Got it.**
 21 Q. There's a footnote there, 14, that's
 22 listed, and that references Gawker 18323_C.
 23 **A. Right.**
 24 Q. That's Exhibit 303, correct?
 25 **A. Agreed.**

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1 Q. So that's the source of where you got those
 2 numbers from?
 3 **A. Correct.**
 4 Q. And if you look at Exhibit 304, which is
 5 the documents that were relied upon by you, item 23 is
 6 Gawker 18323_C.
 7 **A. I'm sorry. What -- just give me the**
 8 **number.**
 9 Q. Twenty-three.
 10 **A. Gotcha. Yeah.**
 11 Q. There are no other financial statements
 12 that are included within the list of documents you
 13 reviewed, correct?
 14 **A. Correct.**
 15 Q. So you did not -- and this Exhibit 303,
 16 this is an internal financial statement for Gawker,
 17 correct?
 18 MR. BERRY: Objection.
 19 THE WITNESS: I'm sorry?
 20 MR. BERRY: You can answer.
 21 THE WITNESS: I understood it to be pulled
 22 from audited financials. That was my understanding of
 23 where this came from.
 24 BY MR. VOGT: (Continuing)
 25 Q. Now I want to look at Exhibit 310. You

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1 have never seen Exhibit 310 before, correct?
 2 **A. That is correct.**
 3 Q. These are audited financial statements for
 4 Gawker?
 5 MR. BERRY: Objection. It's a different --
 6 I mean, this is Gawker Media Group.
 7 MR. VOGT: I understand.
 8 BY MR. VOGT: (Continuing)
 9 Q. But you've never seen these before,
 10 correct?
 11 **A. No.**
 12 Q. Turn to YAC17.
 13 **A. One moment. Okay.**
 14 Q. The revenues listed there are \$26,355,834
 15 for 2012, correct?
 16 MR. BERRY: Objection.
 17 BY MR. VOGT: (Continuing)
 18 Q. YAC17, the top line --
 19 MR. BERRY: That is what the number says,
 20 but, again, can I just have a standing objection --
 21 MR. VOGT: Yeah.
 22 MR. BERRY: -- that this is talking about a
 23 different company?
 24 MR. VOGT: Yeah, that's fine.
 25 THE WITNESS: Okay.

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1 BY MR. VOGT: (Continuing)
 2 Q. Did you ever see an audited financial
 3 statement similar to this one for Gawker Media, LLC?
 4 **A. I did not. This is the -- this is the**
 5 **financial report that I worked from.**
 6 Q. So you never actually saw any financial
 7 reports that were prepared by Cooperman, the
 8 independent accountant who prepared these reports?
 9 **A. I did not see any reports in this format,**
 10 **let me say.**
 11 Q. Well, other than the one you looked at, you
 12 didn't see any other reports?
 13 **A. Correct.**
 14 Q. We had talked about viral marketing a
 15 little bit.
 16 **A. I'm sorry. Are we done with 310?**
 17 Q. Yes. Sorry.
 18 **A. It's okay. Paper management.**
 19 Q. Would you agree that viral marketing is a
 20 technique that uses social networking to try to
 21 increase brand awareness?
 22 **A. That is one of the uses of viral marketing,**
 23 **sure.**
 24 Q. And viral marketing is valuable, correct?
 25 MR. BERRY: Objection.

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1 THE WITNESS: It's a little bit of a broad
 2 statement, but sure, it's valuable.
 3 BY MR. VOGT: (Continuing)
 4 Q. It is a very low-cost advertising mechanism
 5 for companies, correct?
 6 **A. Yes. As part of an entire marketing mix,
 7 it's a valuable tool.**
 8 Q. I'm going to show you what was previously
 9 marked as Exhibit 92. Have you ever seen this before?
 10 **A. Yes.**
 11 Q. Now, the top of this is a video box,
 12 correct?
 13 **A. Yep.**
 14 Q. That would play the video when you clicked
 15 on it?
 16 **A. Yep.**
 17 Q. There's a box underneath that -- it's blue.
 18 Do you know what that box is?
 19 **A. I'm sorry. Are you pointing here?**
 20 Q. Yes.
 21 **A. I believe that is a it's a social media
 22 interaction box.**
 23 Q. What's a social media interaction box?
 24 **A. It's designed to make it easy for folks to
 25 share this with their friends or indicate that they**

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1 **like it on Facebook.**
 2 Q. So if someone clicked the share box on
 3 there, they would have a choice of sharing it on
 4 Facebook or Twitter, those types of social networks?
 5 **A. Yes.**
 6 Q. And then there's also -- right underneath
 7 the blue box, it says, Get our top stories. Follow
 8 Gawker. Do you see that?
 9 **A. Yes. Yep.**
 10 Q. That would be a link where you would choose
 11 to follow Gawker on various social media formats?
 12 **A. Principally on Twitter, but yes.**
 13 MR. VOGT: 311.
 14 THE WITNESS: So we're done with this one
 15 now?
 16 (Exhibit 311 marked for identification.)
 17 BY MR. VOGT: (Continuing)
 18 Q. Yes. Handing you Exhibit 311. Have you
 19 ever seen this before?
 20 **A. I've not seen this, but I can't read Bubba
 21 the Love Sponge without laughing.**
 22 Q. We're very proud.
 23 This is a printout of Gawker's Facebook
 24 page, correct?
 25 **A. Correct.**

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1 Q. It's dated October 4th of 2012. You
 2 understand that to be the date that the Hogan post was
 3 published by Gawker?
 4 **A. I believe that is correct, yeah.**
 5 Q. The top of this says, It's probably time
 6 you watched this snippet from the Hulk Hogan sex tape
 7 with a woman some claim is Bubba the Love Sponge's
 8 wife. Work's over. You're fine.
 9 And there's a link.
 10 Now, that would be the text that Gawker
 11 would post, correct?
 12 MR. BERRY: Objection.
 13 THE WITNESS: Yes.
 14 BY MR. VOGT: (Continuing)
 15 Q. Would you characterize that post as
 16 inviting people to watch the Hogan sex tape?
 17 MR. BERRY: Objection.
 18 THE WITNESS: Yes.
 19 BY MR. VOGT: (Continuing)
 20 Q. Are you familiar with what Click Bait is?
 21 MR. BERRY: Objection.
 22 THE WITNESS: Yes.
 23 BY MR. VOGT: (Continuing)
 24 Q. Is Click Bait defined as a publisher
 25 posting a link with a headline that encourages people

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1 to click to see more?
 2 **A. I don't know if I'd say it's defined as,
 3 but that's a good working definition, sure.**
 4 Q. Would -- this Facebook post that we just
 5 looked at, Exhibit 311, would that qualify as Click
 6 Bait?
 7 **A. Not really, but, like I said, I'm not --
 8 Click Bait is typically things where it's more just
 9 the headline: Like, you know, 57 Celebrity Tattoos
 10 You've Never Seen Before, and you click it.
 11 Because this is actually on their page with
 12 the video box, it's a little different than classic
 13 Click Bait, but it's certainly a promotional piece.**
 14 Q. We had looked at the share box before in
 15 Exhibit 92.
 16 **A. Yeah.**
 17 Q. If someone were to share this story from
 18 Gawker.com, the Hogan post, when it came up on their
 19 Facebook page, would it look similar to how it does on
 20 Gawker's page, with the video showing?
 21 MR. BERRY: Objection.
 22 THE WITNESS: I would think so. I'm not
 23 100 percent certain, but I would think so.
 24 And, frankly, the question is because it's
 25 NSFW, I don't know as if Facebook or Twitter would

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1 actually try to block it. They have some content
 2 filtering along the way.
 3 BY MR. VOGT: (Continuing)
 4 Q. Well, if you look back at Exhibit 311, it
 5 says right in the title that it's not safe for work,
 6 so that probably would have been blocked if there was
 7 a filter, right?
 8 MR. BERRY: Objection.
 9 THE WITNESS: Let me just say, might have
 10 gotten through. I don't know if it would have gotten
 11 through. It might have gotten through.
 12 BY MR. VOGT: (Continuing)
 13 Q. Have you heard of the term traffic whoring?
 14 **A. No.**
 15 **Traffic whoring?**
 16 Q. Whoring.
 17 **A. No.**
 18 Q. Are you aware that A.J. Daulerio used that
 19 word to describe what Gawker was doing in 2012?
 20 MR. BERRY: Objection.
 21 THE WITNESS: No.
 22 BY MR. VOGT: (Continuing)
 23 Q. Are you aware that in 2012, Mr. Daulerio
 24 implemented a policy of requiring a staff member each
 25 day to be assigned to traffic whoring duty?

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1 MR. BERRY: Objection.
 2 THE WITNESS: No.
 3 BY MR. VOGT: (Continuing)
 4 Q. And that job entailed offering as many
 5 posts as possible to garner the most traffic to the
 6 site?
 7 MR. BERRY: Objection.
 8 THE WITNESS: No.
 9 BY MR. VOGT: (Continuing)
 10 Q. Are you aware that in 2012 Mr. Daulerio
 11 wrote that at some point, a viral video becomes a
 12 default hit switch for a slow news day?
 13 MR. BERRY: Objection.
 14 THE WITNESS: No.
 15 BY MR. VOGT: (Continuing)
 16 Q. Are you aware that Mr. Daulerio wrote that
 17 a viral video is a necessary cog when your job is to
 18 grow traffic?
 19 MR. BERRY: Objection.
 20 THE WITNESS: No.
 21 BY MR. VOGT: (Continuing)
 22 Q. We had looked before at the article,
 23 Exhibit 308, when Mr. Denton said that --
 24 MR. BERRY: Which one was that?
 25 THE WITNESS: 308; the sideways one.

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1 BY MR. VOGT: (Continuing)
 2 Q. 308; yeah, the sideways one.
 3 **A. There it is. I got it.**
 4 Q. In which he said, Over time I hope writers
 5 will focus more of their energies on stories that have
 6 the potential to break out on Twitter, Facebook, or on
 7 TV coverage, and you agreed that that was viral
 8 marketing?
 9 **A. Yes.**
 10 Q. Would you consider the Hogan post to be
 11 viral marketing?
 12 MR. BERRY: Objection.
 13 THE WITNESS: The post itself is not viral
 14 marketing. Efforts to get people to share it would be
 15 viral marketing, but the post itself is just content.
 16 BY MR. VOGT: (Continuing)
 17 Q. So efforts to share through this box we
 18 just looked at on Exhibit 92 would be viral marketing?
 19 **A. Yeah.**
 20 Q. The blue box that has the share button?
 21 **A. Yes, that would be viral marketing.**
 22 Q. You have a background in -- obviously, in
 23 the advertising field, correct?
 24 **A. Yep.**
 25 Q. Generally, how much is an advertisement

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1 worth that would be guaranteed to bring 5 million
 2 unique visitors to a website?
 3 MR. BERRY: Objection.
 4 THE WITNESS: Really, you don't buy
 5 advertising -- like, you very rarely would buy
 6 advertising to drive traffic. That's just not how you
 7 do it.
 8 BY MR. VOGT: (Continuing)
 9 Q. But if you could, if you could buy an ad
 10 that would guarantee to bring 5 million unique viewers
 11 to your website, how much would that be worth?
 12 MR. BERRY: Objection.
 13 THE WITNESS: \$10,000.
 14 BY MR. VOGT: (Continuing)
 15 Q. And what are you basing that on?
 16 **A. The revenue you derive from it.**
 17 Q. And how do you know how much revenue you
 18 would derive from 5 million unique visitors to a
 19 website?
 20 **A. That's the kind of calculation I went**
 21 **through in my report. It's an estimate, but it's not**
 22 **wildly off. It's how much traffic, how many pages do**
 23 **they look at, what are those pages worth, what other**
 24 **parts of the Gawker network did they go to.**
 25 Q. Have -- any of the web media businesses

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<p>1 that you've been affiliated with, have they ever had</p> <p>2 marketing campaigns?</p> <p>3 A. A couple, yeah.</p> <p>4 Q. Some of those in multimillion dollar</p> <p>5 marketing campaigns?</p> <p>6 A. No.</p> <p>7 Q. You weren't involved in a multimillion</p> <p>8 dollar marketing campaign for, I think it was,</p> <p>9 About.com?</p> <p>10 A. No. They might have done that before my</p> <p>11 time, but while I was there, we did not.</p> <p>12 Q. There wasn't a marketing campaign involving</p> <p>13 billboards that talked about algorithms?</p> <p>14 A. Now, are you thinking of a campaign that</p> <p>15 was at Ask.Com?</p> <p>16 Q. It may have been Ask.Com.</p> <p>17 A. Okay.</p> <p>18 Q. Was that a multimillion dollar marketing</p> <p>19 campaign?</p> <p>20 A. That was for a search engine, but yeah.</p> <p>21 Q. And was the purpose of that marketing</p> <p>22 campaign to draw traffic to the Ask.Com website?</p> <p>23 A. Yes.</p> <p>24 Q. And it was a multimillion dollar</p> <p>25 advertising campaign?</p>	<p>1 on them are more valuable than pages with less traffic</p> <p>2 on them?</p> <p>3 A. Sort of.</p> <p>4 Q. Sort of?</p> <p>5 A. I'm trying to give you the benefit of the</p> <p>6 doubt here.</p> <p>7 Q. Can you explain?</p> <p>8 A. Traffic is traffic. And so whatever</p> <p>9 page -- I don't really care what page somebody comes</p> <p>10 to. It's the amount of traffic, the amount of ads</p> <p>11 that can run on that page, that's what that page is</p> <p>12 worth.</p> <p>13 So it's not like one page is worth more</p> <p>14 than another. It's just how much traffic, how much</p> <p>15 revenue did that page drive.</p> <p>16 (Exhibit 312 marked for identification.)</p> <p>17 BY MR. VOGT: (Continuing)</p> <p>18 Q. I'm going to show you Exhibit 312.</p> <p>19 Are you familiar with comScore?</p> <p>20 A. Sure.</p> <p>21 Q. What is comScore?</p> <p>22 A. It's a syndicated audience metrics service.</p> <p>23 Q. Do websites that you're affiliated use</p> <p>24 comScore?</p> <p>25 A. Sure.</p>
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<p>1 A. It was.</p> <p>2 Q. How many unique viewers did that</p> <p>3 multimillion dollar advertising campaign bring in to</p> <p>4 Answers.com's website?</p> <p>5 A. Ask.</p> <p>6 Q. Ask.com.</p> <p>7 A. Keep the A's straight. I've got this bad</p> <p>8 habit; About, Ask, Answers.</p> <p>9 Almost none. It was a train wreck of a</p> <p>10 campaign.</p> <p>11 Q. It was still a multimillion dollar</p> <p>12 campaign?</p> <p>13 A. Right.</p> <p>14 Q. When was that campaign?</p> <p>15 A. 2007 or -8.</p> <p>16 Q. What was the -- I've been saying</p> <p>17 multimillion dollar because that's what I saw in</p> <p>18 articles. Do you know how much was spent?</p> <p>19 A. I don't remember, to tell you the truth.</p> <p>20 Q. Have you ever been affiliated with any</p> <p>21 websites that have purchased Super Bowl ads?</p> <p>22 A. No.</p> <p>23 Q. Do you know how much Super Bowl ads go for?</p> <p>24 A. No.</p> <p>25 Q. Do you agree that pages with more traffic</p>	<p>1 Q. Do you know whether Gawker uses comScore?</p> <p>2 A. I don't.</p> <p>3 Q. And in this article, comScore ranks the top</p> <p>4 50 digital media properties, and this is for September</p> <p>5 of 2014.</p> <p>6 Are you familiar with comScore ranking this</p> <p>7 way?</p> <p>8 A. Yes.</p> <p>9 Q. Is this the type of ranking that you were</p> <p>10 referring to when you talked about -- was it</p> <p>11 Answers.com being --</p> <p>12 A. Yes.</p> <p>13 Q. -- top ten media property?</p> <p>14 A. Yes.</p> <p>15 Q. Is Answers.Com included within any of these</p> <p>16 that are listed?</p> <p>17 A. Where are they? Yeah, I saw them on one of</p> <p>18 the listings. So About is 14. Purchase, 42.</p> <p>19 Where is Answers? I saw it, and I lost it</p> <p>20 again.</p> <p>21 MR. BERRY: Prior page.</p> <p>22 THE WITNESS: There's Ask.</p> <p>23 So what is the question -- yeah, 23.</p> <p>24 BY MR. VOGT: (Continuing)</p> <p>25 Q. I was asking -- okay. Number 23.</p>

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1 There's different tables in here. There's
 2 multi-platform properties. That starts on the first
 3 page. So that's desktop and mobile, right?
 4 **A. Yep.**
 5 Q. And then desktop only, was that the table
 6 that you were just looking at when you said 14 for
 7 About?
 8 **A. I was -- actually multi platform I think is**
 9 **where -- let's see. So that was -- you're right.**
 10 **Desktop only is where Answers was 17 on this one and**
 11 **About was 14.**
 12 Q. Do you consider comScore's rankings to be
 13 an accurate depiction of the top digital properties in
 14 the United States?
 15 MR. BERRY: Objection.
 16 THE WITNESS: They are a trustworthy
 17 source.
 18 BY MR. VOGT: (Continuing)
 19 Q. Now, AOL, Inc., is on here, if you look at
 20 the first page, No. 4.
 21 **A. Yep.**
 22 Q. And I believe AOL owns Purchase.
 23 **A. Sorry?**
 24 Q. AOL acquired Huffington Post, correct?
 25 **A. Yes.**

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1 Q. So Huffington Post would be included within
 2 the AOL category at No. 4?
 3 **A. I believe so, yes.**
 4 Q. And Yelp is listed on here at No. 26?
 5 **A. Yes.**
 6 Q. Turner Digital is listed on here as 11?
 7 **A. Okay.**
 8 Q. And Turner acquired Bleacher Report for
 9 170 million, correct?
 10 **A. Okay.**
 11 Q. And BuzzFeed's on here at No. 24. Do you
 12 see that?
 13 **A. Hang tight. Yep.**
 14 Q. And Gawker is on here at No. 44.
 15 **A. Yep. Got it.**
 16 Q. Now, does -- the fact that Gawker's listed
 17 within the top 50 U.S. digital media properties, does
 18 that affect your opinion of the company's value at
 19 all?
 20 **A. No.**
 21 Q. Why not?
 22 **A. Because, like I said, at the end of the**
 23 **day, it's based on revenue, profit, growth rate.**
 24 Q. Do you think that the top 50 digital media
 25 properties rankings are a good indicator of companies

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1 that would be comparable to Gawker?
 2 **A. No.**
 3 Q. Why not?
 4 **A. Well, start at the top, Google, Yahoo,**
 5 **Facebook have got no relationship to Gawker. Amazon**
 6 **is on here. They've got no relationship to Gawker.**
 7 **So it's -- this only looks at traffic, not**
 8 **the basic business. I mean, you know, you can look at**
 9 **Demand Media, which is bigger than Gawker and is a**
 10 **train wreck, financially. I mean, it's -- trades at a**
 11 **fraction of one times revenue.**
 12 Q. Why is it a train wreck, financially?
 13 **A. Just they have not -- they've fallen out of**
 14 **favor with the stock market. They haven't monetized**
 15 **well. They've got traffic, but they're just not**
 16 **making any money.**
 17 **Oh, eBay is on here. The NFL is on here.**
 18 **So it's -- it's -- IHeart Radio is on here. It's a**
 19 **mixed bag, as far as a group of companies.**
 20 Q. Would a responsible investor ever value a
 21 company without looking in detail at its audited
 22 financial statements?
 23 MR. BERRY: Objection.
 24 THE WITNESS: I'm sorry. You're saying an
 25 investor or an acquirer or, like -- what's the --

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1 what's the set here?
 2 BY MR. VOGT: (Continuing)
 3 Q. Let's see. If you look on page 5 of your
 4 report, under issue 3.1 -- and you're referencing
 5 Mr. Anderson's analysis. In the next-to-last sentence
 6 you say, He did not look deeply at the company's
 7 financials which any responsible investor or purchaser
 8 would do.
 9 **A. Okay.**
 10 Q. Do you agree with that statement?
 11 **A. Yes.**
 12 Q. Do you think that that review should
 13 include audited financials?
 14 **A. If they're available, sure.**
 15 Q. Gawker's audited financials were available
 16 to you, correct?
 17 MR. BERRY: Objection.
 18 THE WITNESS: No.
 19 BY MR. VOGT: (Continuing)
 20 Q. Why weren't they available?
 21 **A. I do not believe they audit Gawker Media as**
 22 **a separate property.**
 23 Q. You had referenced earlier in your
 24 testimony that you thought that audited financials
 25 supported the income statement that you gave.

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1 **A. I was mistaken. I used their -- like I**
 2 **said, the exhibit that was produced, I believe that it**
 3 **was audited, but, apparently, it was not audited**
 4 **separately.**
 5 Q. Did you ask for audited financials for
 6 Gawker Media, LLC?
 7 MR. BERRY: Objection.
 8 THE WITNESS: I asked for financials.
 9 Actually, I believe I did ask for audited, and they
 10 said this is what they had. So the exhibit that's
 11 referenced is what I had to work with.
 12 BY MR. VOGT: (Continuing)
 13 Q. Okay. What is post-money valuation?
 14 **A. It's the value of the company after a round**
 15 **of investment, sort of with the investment added to**
 16 **the pre-money valuation. So if the company was valued**
 17 **at \$200 million and they invested \$50 million, the**
 18 **pre-money is 200; the post money is 250.**
 19 Q. This is a copy of Deposition Exhibit 170,
 20 which is Mr. Anderson's report. You reviewed this in
 21 reaching your opinions in this case, right?
 22 **A. Yes.**
 23 Q. On page 8 he has a definition for
 24 post-money valuation. Do you agree with that
 25 definition?

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1 **A. Hang on a second. I'm not there yet.**
 2 Q. Sorry.
 3 MR. BERRY: At the bottom there?
 4 MR. VOGT: Yeah.
 5 THE WITNESS: Yes. Sure.
 6 BY MR. VOGT: (Continuing)
 7 Q. And then if you go to page 12 of the
 8 report --
 9 **A. Okay. Gotcha.**
 10 Q. -- he discusses there some of the values
 11 that he used for his comparable companies.
 12 And for Bleacher Report, he uses
 13 170 million, which is based on Turner Broadcasting
 14 System acquiring Bleacher Report from CrossLink
 15 Capital on August 6 of 2012.
 16 Do you have any reason to doubt the
 17 accuracy of that \$170 million figure?
 18 **A. No.**
 19 Q. And then for Buzzfeed, he discusses
 20 receiving 50 million in funding from Andreessi --
 21 **A. Andreessen.**
 22 Q. -- Horowitz in a series E round of funding.
 23 The company had a post-money valuation of
 24 \$850 million.
 25 Do you have any reason to doubt that

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1 figure?
 2 **A. Nope.**
 3 Q. Then we talk -- he talks about the
 4 Huffington Post transaction, 295.9 million. Do you
 5 have any reason to doubt that figure?
 6 **A. No.**
 7 Q. And then the Ozy.com figure he uses on
 8 page 13 is based on it receiving 20 million in funding
 9 from Axle Springer Venture and which gave it a
 10 post-money valuation of 120 million. Do you have any
 11 reason to doubt that figure?
 12 **A. No.**
 13 Q. And then for Grandparents.com, that's a
 14 publicly traded company?
 15 **A. Yeah.**
 16 Q. So do you have any reason to doubt the
 17 total enterprise value he uses there of \$31,280,800?
 18 **A. Actually, I'd say for that one, yeah.**
 19 Q. Why?
 20 **A. Only because it was such an outlier, that I**
 21 **actually looked at it. And right now their board of**
 22 **directors is writing up checks every month to fund the**
 23 **company. So there's something really unusual about**
 24 **that company.**
 25 Q. How do you know that they're doing that?

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1 **A. Because they're public, they did an 8-K**
 2 **filing of saying, you know, this director wrote a**
 3 **check to fund operations for this month.**
 4 Q. Now, they would have filed audited
 5 financial statements, 10-Ks, correct?
 6 **A. They would have, yeah.**
 7 Q. And so the information that Mr. Anderson
 8 relied on for the December 31st, 2014, figure for the
 9 enterprise value would have come from those documents?
 10 **A. Yeah. Like I say, all I'm saying is that**
 11 **number is probably correct, but there's something**
 12 **about that which is -- like I said, the others, yeah,**
 13 **I get that. This one, there's just something squishy**
 14 **about it that just doesn't look right.**
 15 Q. Okay. And then the final one was Yelp.
 16 And the value Mr. Anderson used was as of December 31,
 17 2014, Yelp had a total enterprise value of
 18 3,604,851,060. Any reason to doubt that value?
 19 **A. No. Which, obviously, skews the class**
 20 **average.**
 21 **(Exhibit 313 marked for identification.)**
 22 BY MR. VOGT: (Continuing)
 23 Q. I'll hand you Exhibit 313.
 24 **A. Thank you.**
 25 Q. And this is the S&P Capital IQ company

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1 profile for BuzzFeed.
 2 Their revenue is listed at 12 million. Do
 3 you see that --
 4 **A. Yes.**
 5 Q. -- total revenue?
 6 Do you have any reason to doubt that
 7 number?
 8 **A. Yes.**
 9 Q. Why?
 10 **A. Because the last time I actually saw Jonah**
 11 **Peretti speak, he claimed the revenue was 60 million,**
 12 **and I believe it's currently north of 100 million.**
 13 **So, I mean, this probably was true at some**
 14 **time, but the revenue has grown so astronomically that**
 15 **it's sort of not the -- I don't imagine that's the**
 16 **basis upon a \$850 million valuation was granted.**
 17 Q. What do you think the \$850 million
 18 valuation was granted on?
 19 **A. The fact that they're currently running it**
 20 **north of \$100 million.**
 21 Q. Well, if we were to use the revenue figure
 22 that's listed in this S&P Capital IQ printout for
 23 BuzzFeed, what would the revenue multiple be --
 24 MR. BERRY: Objection.
 25 BY MR. VOGT: (Continuing)

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1 Q. -- to get to the \$850 million value that we
 2 talked about?
 3 **A. Seventy times. As I said, it's based on an**
 4 **extreme growth multiple, which they've actually pretty**
 5 **much grown into.**
 6 **(Exhibit 314 marked for identification.)**
 7 BY MR. VOGT: (Continuing)
 8 Q. I'll hand you Exhibit 314. This is the S&P
 9 Capital IQ company provide for Bleacher Report. It
 10 has a total revenue of 6.2 million.
 11 Do you see that?
 12 **A. I do.**
 13 Q. Do you have any reason to disagree with
 14 that?
 15 **A. I have no reason to agree or disagree with**
 16 **it.**
 17 Q. And I believe you testified earlier that
 18 you generally consider S&P Capital IQ to be a reliable
 19 source of information, right?
 20 **A. As reliable as the information they're**
 21 **given. In this particular case, they're given, as I**
 22 **say, private company financial data, so it's**
 23 **self-reported.**
 24 Q. So it's reported by the company, though?
 25 **A. Yes.**

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1 Q. So Bleacher Report would have reported to
 2 Capital IQ that they had 6.2 million in revenue?
 3 **A. Yes.**
 4 Q. What revenue multiple does that provide you
 5 with, based on \$170 million value?
 6 **A. Twenty-four.**
 7 Q. Twenty-seven?
 8 **A. Twenty-seven.**
 9 MR. HARDER: I'm impressed. Human
 10 calculator over there.
 11 (Exhibit 315 marked for identification.)
 12 BY MR. VOGT: (Continuing)
 13 Q. Your favorite now. This is the S&P
 14 Capital IQ for Grandparents.com.
 15 Now, this -- because it's a public company
 16 profile, this would have been taken from
 17 Grandparents.com's public filings, correct?
 18 **A. Yeah.**
 19 Q. And its total revenue is how much?
 20 **A. \$300,000.**
 21 Q. And --
 22 **A. And they lost 11 and a half million.**
 23 Q. And what was -- this actually lists the
 24 total enterprise value over total revenue figure,
 25 right?

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1 **A. It does.**
 2 Q. What is it?
 3 **A. 90.8.**
 4 **(Exhibit 316 marked for identification.)**
 5 THE WITNESS: This one is squishy. There's
 6 something wrong with that one.
 7 BY MR. VOGT: (Continuing)
 8 Q. Exhibit 316, this is the S&P Capital IQ
 9 public company profile for Yelp. So this, again,
 10 would be based, again, on Yelp's public filings?
 11 **A. Yes.**
 12 Q. And its total revenue is listed there as
 13 377 million?
 14 **A. Yep.**
 15 Q. And actually calculates the total
 16 enterprise value over total revenue, because it's a
 17 public company, as 8.8?
 18 **A. I see that. And saying "I see that"**
 19 **doesn't imply that I think that Yelp is a good comp,**
 20 **but --**
 21 Q. No. I understand.
 22 **A. -- the numbers are definitely there.**
 23 Q. We had talked about some figures early on
 24 with respect to the companies that you had been
 25 involved in acquisitions with.

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1 **A. Sure.**
 2 Q. Answer, you said, sold for 985 million and
 3 had 250 million in revenue?
 4 **A. Yes.**
 5 Q. So what's that revenue multiple?
 6 **A. Three and a half, four.**
 7 Q. About had sold for 410 million and had
 8 revenue of 32 million. What's that multiple?
 9 **A. Twelve.**
 10 **Damn, I was good.**
 11 Q. Merchant had a sales price of -- or a value
 12 of 70 million and revenue of 14 million. What's that
 13 multiple?
 14 **A. Five.**
 15 Q. Pluck had a value of 70 million and
 16 revenues of 12 million. What's that multiple?
 17 **A. Six.**
 18 Q. And Huffington had a price of approximately
 19 310 million and had 32 million in revenue. So what's
 20 that multiple?
 21 **A. Ten.**
 22 Q. I'm going to get stuff out. It's going to
 23 look worse than it is.
 24 **A. Is that window open? I'm going to jump**
 25 **now.**

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1 MR. HARDER: We're halfway through.
 2 THE WITNESS: You're paying me by the hour.
 3 Keep going. Talk really slowly.
 4 BY MR. VOGT: (Continuing)
 5 Q. So the comparables that you suggested in
 6 your report were The Not --
 7 **A. Yep.**
 8 Q. -- Street, and Everyday Health, right?
 9 **A. Yes, sir.**
 10 Q. Did you review the 10-Ks for those
 11 companies?
 12 **A. Yes.**
 13 Q. Did you review them before or after you
 14 prepared your report?
 15 **A. After.**
 16 Q. Because they were not listed in the
 17 materials that you had said you relied on.
 18 **A. Correct. I looked at -- like I said, I**
 19 **looked at the information on, you know,**
 20 **Finance.yahoo.com, Wallstreetjournal.com, the**
 21 **investment banking reports.**
 22 Q. After reviewing the 10-Ks for each of these
 23 companies, does it change your opinion at all as to
 24 whether or not they are comparable to Gawker?
 25 **A. No. I wouldn't say they're exact perfect**

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1 **comps, but they're pretty good. They're among the**
 2 **best, I think, in the market.**
 3 Q. More so than the other ones that we just
 4 went through?
 5 **A. Yes.**
 6 Q. More so than Bleacher Report?
 7 **A. Again, we don't have good information on**
 8 **Bleacher Report.**
 9 Q. They're more comparable than BuzzFeed?
 10 **A. Absolutely.**
 11 Q. Even though Gawker considers BuzzFeed to be
 12 a competitor?
 13 **A. Yeah.**
 14 Q. They're more comparable than Answers or
 15 About?
 16 **A. Yeah.**
 17 **(Exhibit 317 marked for identification.)**
 18 BY MR. VOGT: (Continuing)
 19 Q. I'm going to hand you the 10-K for
 20 TheStreet, which we've marked as Exhibit 317. If you
 21 see on the bottom, the Bates numbers Bollea --
 22 **A. Yes.**
 23 Q. -- I'm going to reference to those.
 24 Will you turn to the one that says 6682?
 25 **A. Subscription services?**

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1 Q. Yes.
 2 **A. Got it.**
 3 Q. Does TheStreet generate revenue through
 4 subscription services?
 5 **A. Yes it does.**
 6 Q. Does Gawker?
 7 **A. No.**
 8 Q. Subscription services revenue is a more
 9 reliable source of revenue than advertising revenue,
 10 correct?
 11 **A. It's more predictable.**
 12 Q. That was one of the categories that you had
 13 discussed that people were beginning to look at now --
 14 **A. Yes.**
 15 Q. -- in revenue models?
 16 **A. Yes.**
 17 Q. If you turn to the next page, subscription
 18 services contributed 79 percent of our total revenue
 19 in 2014, 80 percent in 2013, and 73 percent in 2012.
 20 Do you still think this company is
 21 comparable to Gawker?
 22 **A. Relatively, yeah.**
 23 Q. Even though in 2012, 73 percent of its
 24 revenue was from subscription services?
 25 **A. But a lot of the revenue from the**

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1 **subscription services was actually driven off the**
 2 **website. So it was based on attracting an audience of**
 3 **investors via viral marketing, contents indication,**
 4 **getting them on the site, showing ads, but then**
 5 **ultimately trying to up-sell them to subscription**
 6 **services.**
 7 Q. Media revenue is listed next there, what
 8 they call media revenue. It's comprised of fees
 9 charged for the placement of ads and sponsorships
 10 within TheStreet and its affiliated properties, our
 11 subscription and institutional services and other
 12 miscellaneous revenue. That accounted for in 2012
 13 only 27 percent of the revenue of TheStreet.com,
 14 right -- or of TheStreet? Sorry.
 15 **A. Yes.**
 16 Q. How much of Gawker's revenue was derived
 17 from advertising in 2012?
 18 **A. 85, 90 percent.**
 19 Q. If you turn to Bollea 6684, at the bottom
 20 there it says, According to an October 2014 survey by
 21 comScore, TheStreet ranks number one website with
 22 readers having a portfolio value over one million.
 23 Is there a desirable demographic?
 24 **A. Certainly.**
 25 Q. How does that compare to Gawker's

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1 demographics?
 2 **A. I don't know precisely whether -- I don't**
 3 **think I've seen the number for Gawker's portfolio**
 4 **value, but this is a very affluent audience.**
 5 Q. The website with readers having investable
 6 assets over 500,000, how does that compare to Gawker?
 7 **A. Again, I haven't seen Gawker listed on**
 8 **these.**
 9 Q. So you wouldn't know how Gawker compared to
 10 any of these rankings by comScore for TheStreet at the
 11 bottom of 6684?
 12 **A. Not for portfolio and investable assets.**
 13 Q. If you go to Bollea 6689, there's a
 14 reference here to there being a series B preferred
 15 stock which is convertible into an aggregate of shares
 16 of common stock.
 17 **A. I see a couple of references to series B**
 18 **convertible. Which one are you talking about?**
 19 Q. Well, it says here, The holders of our
 20 series B preferred stock are entitled to a \$55 million
 21 liquidation preference upon liquidation or dissolution
 22 of the company.
 23 MR. BERRY: So you're in the first
 24 paragraph --
 25 MR. VOGT: Right.

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1 MR. BERRY: -- after "however"?
 2 MR. VOGT: Right.
 3 BY MR. VOGT: (Continuing)
 4 Q. Is that similar to Gawker?
 5 **A. No.**
 6 Q. If you turn to Bollea 6700 --
 7 **A. Hang on a second, please. Okay. Gotcha.**
 8 Q. There's a breakdown there of revenue at the
 9 top for subscription services and media services in
 10 different years.
 11 **A. Yep.**
 12 Q. Do you see that?
 13 **A. I do.**
 14 Q. In 2012, subscription services were
 15 37 million --
 16 **A. Yes.**
 17 Q. -- right?
 18 **A. Yep.**
 19 Q. And media, which was the advertising
 20 revenues, was at 13 million?
 21 **A. Right.**
 22 Q. What were Gawker's advertising revenues in
 23 2012?
 24 **A. 21 million. Again, which I would argue is**
 25 **in the same neighborhood as 13 million, and I say for**

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1 **all these reasons, TheStreet is in some ways more**
 2 **attractive as a property than Gawker.**
 3 Q. Turn to Bollea 6733.
 4 **A. Consolidated Statements of Operation?**
 5 Q. Yes.
 6 What were TheStreet's net losses in 2012?
 7 **A. \$4 million.**
 8 Q. How does that compare to Gawker?
 9 **A. Unfavorable.**
 10 Q. What were its net losses in 2013?
 11 **A. 3.7 million.**
 12 Q. How does that compare to Gawker?
 13 **A. Also unfavorable.**
 14 Q. And you said in -- 2014 is the first
 15 column?
 16 **A. I'm sorry. I'm sorry.**
 17 Q. What were TheStreet's net losses in 2012?
 18 **A. 13 million -- 12.9 million.**
 19 Q. How does that compare to Gawker?
 20 **A. Significantly less favorable.**
 21 Q. Do you still think this is a comparable
 22 company to Gawker?
 23 **A. It is, yeah. It's a smaller publicly**
 24 **traded media company. It's one of the companies we**
 25 **need to look at.**

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1 Q. One of the things you said you should
 2 consider in valuing the company is its profits,
 3 correct?
 4 **A. Yes.**
 5 Q. And TheStreet had \$12 million in losses?
 6 **A. Yep.**
 7 Q. In 2012?
 8 **A. Yes.**
 9 **(Exhibit 318 marked for identification.)**
 10 BY MR. VOGT: (Continuing)
 11 Q. All right. I'm going to hand you 318.
 12 **A. Okay.**
 13 Q. This is the 10-K for XO Group, Inc.
 14 If you'll turn to Bollea 6449 --
 15 **A. Okay. Got it.**
 16 Q. -- under the service -- Services section,
 17 it says it offers consumer Internet multi-platform
 18 media services.
 19 Do you know what multi-platform media
 20 services are?
 21 **A. I believe they're talking about mobile**
 22 **website, and they actually have a magazine, as well.**
 23 Q. Underneath there -- and I wasn't trying to
 24 trick you or anything.
 25 **A. Sure.**

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1 Q. It's getting late.
 2 It says, We reach our audience through
 3 several platforms including online --
 4 **A. Give me a line or a --**
 5 Q. First paragraph under Services.
 6 **A. XO Group offers consumer.**
 7 Q. Yeah.
 8 **A. Gotcha.**
 9 Q. If you go to the second sentence --
 10 **A. Yeah.**
 11 Q. -- it says, We reach our audience through
 12 several platforms including online properties, mobile
 13 applications, magazine and books, and television and
 14 video?
 15 **A. Yep.**
 16 Q. Does Gawker have mobile applications?
 17 **A. They have -- they have mobile Web presence,**
 18 **which is interchangeable with applications.**
 19 Q. Does Gawker have magazines and books?
 20 **A. No.**
 21 Q. Does Gawker have television and video?
 22 **A. They, obviously, have some video. They**
 23 **don't have television, per se.**
 24 Q. Video, like the Hogan video is what you're
 25 referring to?

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1 **A. Hopefully not all like that, but yes.**
 2 Q. And then there's a breakdown underneath
 3 that. Do you see national online advertising?
 4 **A. Yes.**
 5 Q. That's 21 percent of their consolidated
 6 revenue?
 7 **A. Yep.**
 8 Q. And then they have local online
 9 advertising?
 10 **A. Yes.**
 11 Q. And that references digital advertisements
 12 and direct email marketing?
 13 **A. Right. Which is another 40 percent.**
 14 Q. Does Gawker have direct email marketing?
 15 **A. No.**
 16 Q. Does Gawker have local market advertising?
 17 **A. No.**
 18 Q. And that accounts for -- local online
 19 advertising is 41.1 percent?
 20 **A. That's still advertising. It's a flavor of**
 21 **advertising revenue which is still 62 percent of their**
 22 **total revenue base.**
 23 Q. But Gawker doesn't engage in local online
 24 advertising, right?
 25 **A. I don't think that's a meaningful**

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1 **distinction.**
 2 Q. You don't think there's a meaningful
 3 distinction between, say, CPM advertising on a website
 4 and direct email marketing for the services within
 5 XO's platform?
 6 MR. BERRY: Objection; misstates.
 7 You can answer.
 8 THE WITNESS: Let's reset it. Shane,
 9 what's the question.
 10 BY MR. VOGT: (Continuing)
 11 Q. You don't believe that there's a meaningful
 12 distinction between CPM advertising on a website and
 13 local online advertising, as its described here, which
 14 includes digital advertisements and direct email
 15 marketing?
 16 **A. How are you thinking about meaningful?**
 17 **Because I look at it and say they're both -- it's,**
 18 **like, yeah, one's locally targeted, one's nationally**
 19 **targeted, but they're both basically display**
 20 **advertising.**
 21 Q. Would Gawker and XO be competing for the
 22 same advertisers?
 23 **A. Not typically, no.**
 24 Q. If you go to Bollea 6450 --
 25 **A. Next page?**

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1 Q. Yes -- registry services represents
 2 6.8 percent of their revenue?
 3 **A. Yeah.**
 4 Q. Gawker doesn't have registry services,
 5 right?
 6 **A. But they have commerce services. That's**
 7 **like Maps to, like, the Amazon referral links and**
 8 **things like that.**
 9 Q. So you would include Gawker's commerce
 10 services?
 11 **A. For -- as a comparable here?**
 12 Q. As a comparable.
 13 **A. Yeah.**
 14 Q. And then it goes on to say, While
 15 merchandising and commerce services represent
 16 11.3 percent.
 17 So is it possible that registry services
 18 does not include commerce?
 19 MR. BERRY: Where are you?
 20 BY MR. VOGT: (Continuing)
 21 Q. Do you see that whole last sentence?
 22 **A. That could be additive. So it's**
 23 **18.1 percent for the whole.**
 24 Q. And then the last category there is
 25 publishing and other?

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1 **A. Yep.**
 2 Q. And that represents 19.6 percent of their
 3 consolidated?
 4 **A. And that's not directly comparable. The**
 5 **other 80 percent is fairly well comparable. And I**
 6 **said, Oh, by the way, this is an inherently more**
 7 **commercial topic than most of what Gawker does.**
 8 Q. Right. And it would be -- typically they
 9 would be competing for different advertisers, as well,
 10 right?
 11 **A. There's not 100 percent match, no. Because**
 12 **they might compete for travel, credit cards, things**
 13 **like that, but not -- you know, autos, but not for**
 14 **other stuff.**
 15 Q. If you look at 6459 --
 16 **A. Un momento por favor.**
 17 **Okay. Gotcha.**
 18 Q. In the middle of the page there's a section
 19 that says, We may experience higher costs than
 20 expected from the disposition of our Ijje --
 21 **A. Spelled just the way it sounds, yes.**
 22 Q. -- operations.
 23 Do you speak Chinese?
 24 **A. A little Japanese.**
 25 Q. I thought you might.

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1 **A. No, no. One of my master's thesis was in**
 2 **U.S. Japanese trade relations, but --**
 3 Q. And it references here that on
 4 December 30th of '14, they completed the disposition
 5 of operations in China.
 6 Did Gawker have anything like that happen
 7 to them?
 8 **A. I don't specifically know, to tell you the**
 9 **truth.**
 10 Q. If you look at 6463 --
 11 **A. Okay.**
 12 Q. -- it says, Risks related to our common
 13 stock. Do you see that?
 14 **A. Yeah.**
 15 Q. Our stock price has been highly volatile
 16 and is likely to experience significant price in
 17 volume fluctuations in the future which could result
 18 in substantial losses for our stockholders and subject
 19 us to litigation.
 20 Is that similar to Gawker?
 21 MR. BERRY: Objection.
 22 THE WITNESS: I'd say that's standard 10-K,
 23 you know, risk language, but --
 24 BY MR. VOGT: (Continuing)
 25 Q. Does -- Gawker being a closely held

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1 company, does his stock -- did its stock have that
 2 same risk?
 3 **A. No. And he's not public, so it's --**
 4 Q. If you go to Bollea 6470, there's an
 5 executive overview section. It says, The year ended
 6 December 31, 2014, was a transformational investment
 7 year.
 8 Did Gawker go through any transformational
 9 investment years?
 10 MR. BERRY: Objection.
 11 THE WITNESS: I would think they would
 12 argue that some of the stuff they did in '13 was
 13 transformational investment, setting the stage for
 14 later growth, but like I said, that's based on outside
 15 opinion, not inside knowledge.
 16 BY MR. VOGT: (Continuing)
 17 Q. So you're not actually basing that on any
 18 facts?
 19 **A. No.**
 20 Q. You're just assuming, right?
 21 **A. Correct.**
 22 Q. And then the last part of this one is 6475.
 23 **A. Okay. Gotcha.**
 24 Q. They say here, In 2015 -- it's right above
 25 Gross Profit/Gross Margin.

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1 **A. Okay. Got it.**
 2 Q. We believe our total revenue will be
 3 negatively impacted by our decision to exit our
 4 warehouse operations in Ijje, together representing
 5 17.1 million in 2014 revenue.
 6 Did -- what percentage of their revenue is
 7 that loss?
 8 **A. 12 percent, maybe.**
 9 Q. Did Gawker have a 12 percent reductions in
 10 revenue in the periods that you looked at?
 11 **A. No.**
 12 **(Exhibit 319 marked for identification.)**
 13 THE WITNESS: You at the bottom of that bag
 14 soon?
 15 BY MR. VOGT: (Continuing)
 16 Q. We're getting very close.
 17 MR. HARDER: Just one more hour.
 18 THE WITNESS: What did you say, Charles?
 19 MR. HARDER: Just one more hour.
 20 THE WITNESS: Like I said, get out your
 21 bonus check there.
 22 MR. HARDER: We got it. That's why it's
 23 blank.
 24 BY MR. VOGT: (Continuing)
 25 Q. This is 319, right?

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1 **A. Yes.**
 2 Q. All right. Exhibit 319 is the 10-K for
 3 Everyday Health?
 4 **A. Yep.**
 5 Q. What type of company is Everyday Health?
 6 **A. Content site around health, wellness.**
 7 Q. Is the area in which that company does
 8 business, its industry, is that comparable to Gawker?
 9 **A. The industry? No. It's an online media**
 10 **company, which is why I was looking at it.**
 11 Q. If you look at 6541 --
 12 **A. 6541. Okay. Got it.**
 13 Q. It says they operate 25 websites and 21
 14 mobile applications and a number of social media
 15 destinations. Is that comparable to Gawker?
 16 **A. Well, Gawker has multiple websites, so**
 17 **yeah, loosely comparable, yeah.**
 18 Q. And it also says, a couple of sentences
 19 down, The Everyday Health portfolio includes
 20 properties that we do not own or operate such, as
 21 MayoClinic.org, Drugstore.com, but that we help
 22 monetize by selling advertisements and sponsorships.
 23 Does Gawker engage in that segment of
 24 business?
 25 **A. Not currently, no.**

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1 Q. On 6542, about a third of the way down the
 2 page, it says, We derive a significant majority of our
 3 revenue --
 4 **A. Hang on. I'm not tracking you.**
 5 **All right. I got you. We derive -- from**
 6 **the sale of advertising.**
 7 Q. Sponsorships and other marketing solutions
 8 and engage consumers and health care professionals.
 9 Does Gawker engage in any marketing
 10 solutions, engage a segment of --
 11 **A. I think I would argue yes.**
 12 Q. What do they engage in?
 13 **A. Their whole custom solutions, Gawker**
 14 **Studio, all that stuff would be largely comparable to**
 15 **that kind of stuff.**
 16 Q. Was Gawker Studio in existence in 2012?
 17 **A. No, not to the best of my knowledge.**
 18 **But, by the way, I say even then they were**
 19 **doing more -- you know, when I referenced earlier, I**
 20 **said they were trying to get away from standard**
 21 **solutions versus more custom solutions. Again,**
 22 **broadly, they would agree with that sentence, I**
 23 **believe.**
 24 Q. This references sponsorships, as well.
 25 **A. Yep.**

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1 Q. Was Gawker engaged in sponsorships in 2012?
 2 **A. Yep.**
 3 Q. What are sponsorships?
 4 **A. It's an ad product, not necessarily**
 5 **based -- directly tied to CPMs, but it's the**
 6 **traditional "brought to you by." It's where an**
 7 **advertiser gets exposure above and beyond a specific**
 8 **standard IAB ad unit.**
 9 Q. So is that referring to sponsored content?
 10 **A. It might be.**
 11 Q. Which would include, say, someone on
 12 Gizmodo writing a story about a product?
 13 **A. Might, yes.**
 14 Q. And that would also serve as an
 15 advertisement; if someone clicked on a link that had
 16 that product in it, in that sponsored content, and
 17 bought something, then Gawker would get revenue?
 18 MR. BERRY: Objection.
 19 THE WITNESS: I was agreeing with you until
 20 you said clicked on the link and bought a product, and
 21 that's where you kind of go from sponsorship to lead
 22 gen. or commerce revenue.
 23 BY MR. VOGT: (Continuing)
 24 Q. Okay.
 25 **A. But --**

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1 Q. Are they similar?

2 **A. Yeah. Directionally you weren't wrong, but**

3 **it's just when they click on the link and buy**

4 **something, it sort of becomes a different type of**

5 **revenue.**

6 Q. Okay. Do you know how much of Gawker's

7 business in 2012 it was deriving from sponsorships?

8 **A. No. Because it was all rolled under the**

9 **advertising line item. It wasn't broken out within**

10 **that.**

11 Q. If you turn to 6565 --

12 **A. Okay. Gotcha.**

13 Q. -- Risks Related to our Business, do you

14 see that section?

15 **A. Yes.**

16 Q. It says, We have incurred significant

17 losses since our inception and expect to incur losses

18 in the future. We have accumulated significant losses

19 since our inception. As of December 31, 2014, our

20 accumulated deficit was 119 million.

21 **A. Yep.**

22 Q. Is that comparable to Gawker?

23 **A. I don't know what their cumulative number**

24 **is, but I would think that Gawker was not profitable.**

25 **Like, if you added up all the years, my guess is**

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1 **they've got some losses.**

2 Q. Some. Do you know how it compares to

3 119 million?

4 **A. I don't.**

5 **The flip side of that is it's a tax loss**

6 **carry forward, which is attractive to somebody,**

7 **potentially.**

8 Q. How so?

9 **A. A profitable acquiring company can**

10 **occasionally acquire an unprofitable company to**

11 **shelter profitability and not pay taxes.**

12 Q. Would that be taken into consideration in a

13 revenue multiple valuation?

14 **A. Not specifically, no. But in an**

15 **acquisition scenario, they might well find they --**

16 **that an acquirer could free up cash as a result of tax**

17 **loss carry forwards.**

18 Q. So there could be additional value in

19 acquiring a company that would not be reflected in

20 using a revenue multiple alone?

21 **A. Sure. That's that second -- like I said,**

22 **that's that second tier of -- it's like the big driver**

23 **of valuation is revenue profit, revenue profit growth.**

24 **Then the second tier is the things -- strategic fit,**

25 **you know, a big name attached to it, scarce audience,**

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1 **tax loss carry forward.**

2 Q. But you didn't analyze that second tier in

3 this case, right?

4 **A. I didn't see anything on that -- strategic**

5 **fit is -- it's a one-off. It's a particular acquirer**

6 **has a burning need that they want to fill, so that's**

7 **not predictable.**

8 **I'll say Nick is recognizable, but he's**

9 **not -- nobody's going to buy Gawker to be able to say,**

10 **oh, it's -- we got Nick Denton on our -- now. Like I**

11 **said, the audience I don't believe is a particularly**

12 **scarce audience. So it's not -- it wouldn't be bought**

13 **for that reason.**

14 **And I'm not specifically aware of a tax**

15 **loss carry forward. A tax loss carry forward -- but**

16 **that's only useful to certain acquirers. It's not**

17 **generally attractive.**

18 Q. If you look at 6595 --

19 **A. Almost there. Okay. Got it.**

20 Q. -- and it has one category of revenue for

21 advertising and sponsorship revenue.

22 **A. Yep.**

23 Q. Do you see that?

24 **A. Yep.**

25 Q. And then it has another category for

Page 233

1 premium services revenues. Do you see that?

2 **A. Yep.**

3 Q. Does Gawker have premium services revenues?

4 **A. I am not sure how Gawker would categorize**

5 **their services revenue relative to how Everyday Health**

6 **is categorizing it. I believe Gawker does have**

7 **premium services, but they don't break it out in the**

8 **same way.**

9 Q. Go to 6598.

10 **A. Okay.**

11 Q. Right before there's that weird text all on

12 the left?

13 **A. Yep.**

14 Q. The second sentence of that following

15 paragraph, it starts with, To a lesser extent.

16 **A. Okay. I gotcha.**

17 Q. It says, To a lesser extent, we generate

18 revenues from the sale of our premium services, which

19 consists primarily of subscriptions sold to

20 individuals who purchase access to one or more

21 properties in our portfolio.

22 **A. Okay.**

23 Q. Gawker doesn't have subscription services,

24 right?

25 **A. No, not in that sense.**

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1 Q. I'm going to go back to your report,
 2 through a few things in that, and then we'll be done.
 3 If you go to page 10 --
 4 **A. Okay.**
 5 Q. -- at the bottom of the page there's a
 6 section entitled "Revenue Model for Web Publishing
 7 Businesses."
 8 **A. Yep.**
 9 Q. Is that the model that you applied in
 10 rendering your opinions in this case a revenue model?
 11 **A. What that refers to is, I'll say, primarily**
 12 **how Internet advertising is sold. So I included, just**
 13 **I'll say for background purposes, a description of how**
 14 **Internet advertising is sold and served, which was the**
 15 **point of the -- of image 6, as well. How those ads**
 16 **magically appear on the page.**
 17 Q. And that's a CPM basis --
 18 **A. Actually --**
 19 Q. -- with respect to Gawker?
 20 **A. That's principally for CPM, but you**
 21 **actually serve CPC ads the same way; just account for**
 22 **them differently afterwards.**
 23 Q. And then if you go to page 11 --
 24 **A. Yep. There.**
 25 Q. -- you list four factors there that are

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1 typically considered when analyzing the amount of
 2 revenue received by a publisher?
 3 **A. Yep.**
 4 Q. The first factor is the number of unique
 5 individuals who visit a website?
 6 **A. Yep.**
 7 Q. So that is a factor that --
 8 **A. I've always said it was. I never said it**
 9 **wasn't. Like I said, that's raw material.**
 10 Q. If you go to page 12, a footnote down,
 11 No. 9, towards the end of that there's a sentence that
 12 starts, As a matter of evaluating a Web business.
 13 **A. Uh-huh.**
 14 Q. Do you see that?
 15 **A. Yes.**
 16 Q. It says, The number of unique visitors
 17 reflects the extent of the overall audience and has
 18 some impact on the ability to sell advertisements
 19 seeking a broad reach.
 20 **A. Uh-huh.**
 21 Q. What impact does it have, the number of
 22 unique visitors?
 23 **A. A, like I said, it just tells you -- it**
 24 **gives you the opportunity to serve ads against those**
 25 **individuals. And, as we discussed earlier, if your**

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1 **audience is of a certain size, it may raise you above**
 2 **the level where an ad agency would look at you for an**
 3 **ad buy.**
 4 Q. And then if you go to page 13, this is how
 5 you went through the four factors that you listed out
 6 on the prior pages, correct?
 7 **A. Yes, sir.**
 8 Q. So the first thing you did was identify the
 9 total number of unique visitors to the story. And
 10 then the next thing you did was net out all
 11 international visitors --
 12 **A. Yes.**
 13 Q. -- because most advertising campaigns only
 14 target U.S. consumers?
 15 **A. Yes.**
 16 Q. Do you know whether Gawker's advertising
 17 campaigns only target U.S. consumers?
 18 **A. I believe that they do, but I can tell you**
 19 **broadly, almost every insertion order I've ever seen**
 20 **says specifically U.S. only audience.**
 21 Q. But did you actually look at Gawker's
 22 insertion orders to see if that was in theirs?
 23 **A. Through the law firm, if I can say this --**
 24 MR. BERRY: Objection.
 25 Can we take a break?

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1 THE VIDEOGRAPHER: Off the record at 3:19.
 2 (Recess: 3:19 - 3:22 p.m.)
 3 THE VIDEOGRAPHER: Back on the record at
 4 3:22.
 5 MR. VOGT: You want to reread that
 6 question?
 7 (Record read.)
 8 MR. BERRY: That's the question that you're
 9 answering.
 10 THE WITNESS: No. However, I -- when I was
 11 doing my analysis, I said, in my experience, most
 12 insertion orders are only for U.S. traffic.
 13 I asked for a confirmation that Gawker was
 14 not monetizing the -- I'm sorry. That insertion
 15 orders are only for U.S. traffic and excluded
 16 international traffic. I asked Gawker to confirm they
 17 were not monetizing international traffic, and they
 18 confirmed it.
 19 BY MR. VOGT: (Continuing)
 20 Q. Who at Gawker confirmed it?
 21 MR. BERRY: Objection. Just to be clear,
 22 that was our instruction to him.
 23 BY MR. VOGT: (Continuing)
 24 Q. Okay. So it wasn't actually someone at
 25 Gawker that you spoke to?

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1 **A. Correct.**
 2 Q. Then the next step you did was you
 3 estimated the portion of the audience who left
 4 Gawker -- the Gawker network after viewing only that
 5 story.
 6 Why did you estimate that?
 7 **A. Are you asking why it's relevant or why did**
 8 **I estimate that or --**
 9 Q. Why did you estimate it?
 10 **A. Because the initial pages did not have**
 11 **advertising on them, trying to figure out how much**
 12 **revenue was generated -- the only people that**
 13 **generated revenue were folks that went beyond that**
 14 **first page. I had to figure out what portion of the**
 15 **audience continued deeper into Gawker or went to**
 16 **another Gawker site.**
 17 Q. Why did you have to estimate that number
 18 using the bounce rate? Wasn't there actual data that
 19 you could have looked at it that would have told you
 20 what the actual bounce rate was for the Hogan story?
 21 **A. Even that actual data is still an estimate,**
 22 **and so it's -- say it's a range of between 48 and**
 23 **50 percent -- 55 percent bounce rate, but it's -- it's**
 24 **between those two numbers.**
 25 Q. But -- so there is actual data available

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1 for the Hogan post that would tell you what the actual
 2 bounce rate was, even if it is an estimate?
 3 MR. BERRY: Objection.
 4 THE WITNESS: Again, I'm -- in running a
 5 website, there are multiple data sources. So there's
 6 a couple of different data sources here. One data
 7 source would say 48 percent; one would say
 8 55.7 percent. So it's, you know -- and in most cases,
 9 you look at all of them, you say which way they're
 10 pointing, and you more or less split the difference.
 11 BY MR. VOGT: (Continuing)
 12 Q. Right. And I understand I'm -- when you
 13 say that there's multiple sources that have the bounce
 14 rate, that's just in general for a website, though,
 15 correct?
 16 **A. Yes.**
 17 Q. Is there actual data for a specific post?
 18 In other words, is there bounce rate data somewhere
 19 for the Hogan post?
 20 **A. Yes. So for this post, it would look**
 21 **something like 48 percent and change.**
 22 Q. Why do you say that?
 23 **A. It's actually in the report. It's a**
 24 **footnote. It's a Gawker -- there's a Google analytics**
 25 **number.**

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1 Q. Okay. And that's for the actual page?
 2 **A. That's -- well, there are multiple pages**
 3 **around this, but yeah, that's --**
 4 Q. And -- I'm sorry. What does that mean,
 5 there's multiple pages around it?
 6 **A. Multiple URLs related to the post.**
 7 Q. Okay. You read Mr. Kidder's deposition,
 8 correct?
 9 **A. Mr. Kidder? Who is Mr. Kidder?**
 10 Q. Scott Kidder, the corporate representative
 11 for Gawker.
 12 **A. I recall -- I recall looking at it. I did**
 13 **not commit it to memory, shall we say.**
 14 MR. BERRY: It's 304, No. 14.
 15 MR. VOGT: 304? It's listed in there?
 16 MR. BERRY: It is.
 17 BY MR. VOGT: (Continuing)
 18 Q. So you at least reviewed Mr. Kidder's
 19 deposition?
 20 **A. Yep.**
 21 Q. Do you recall seeing anything in
 22 Mr. Kidder's deposition where he discussed the bounce
 23 rate for Gawker?
 24 **A. I do not recall that particular paragraph**
 25 **or section.**

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1 Q. So you're not aware that Mr. Kidder
 2 testified that Gawker doesn't put much credence in
 3 bounce rates because of the technical features of
 4 their sites?
 5 MR. BERRY: Objection. You can --
 6 THE WITNESS: Whether they do or not,
 7 everybody else in the world does put credence in
 8 bounce rate.
 9 BY MR. VOGT: (Continuing)
 10 Q. Could there be technical features of
 11 Gawker's site that renders the bounce rate estimates
 12 unreliable?
 13 MR. BERRY: Objection.
 14 THE WITNESS: I'm not aware of any features
 15 that would make it unreliable.
 16 BY MR. VOGT: (Continuing)
 17 Q. But you didn't discuss that with
 18 Mr. Kidder?
 19 **A. I didn't have any conversations directly**
 20 **with anybody at Gawker.**
 21 Q. And if for some reason the bounce rate
 22 estimates that you used in forming your opinions were
 23 unreliable, would that affect the reliability of your
 24 opinions, as well?
 25 MR. BERRY: Objection.

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1 THE WITNESS: I'd say there's a lot of ifs
 2 in that sentence. I have no reason to believe -- like
 3 I said, I've got a couple of estimates of bounce rate
 4 which are anywhere from 48 to 55 percent, and I'm
 5 99 percent certain it's between those two numbers. I
 6 have no reason to consider a number that's outside
 7 that range.
 8 BY MR. VOGT: (Continuing)
 9 Q. So I want you to assume that Gawker itself
 10 doesn't put credence in the bounce rates because of
 11 the features of their site.
 12 Would that change your opinion at all?
 13 MR. BERRY: Objection.
 14 THE WITNESS: All right. So suspension of
 15 disbelief, I don't agree with the premise --
 16 BY MR. VOGT: (Continuing)
 17 Q. Right.
 18 **A. -- but if I did agree with the premise --**
 19 Q. Right.
 20 **A. -- the most it would do was take it from**
 21 **\$10,000 to \$20,000 of revenue.**
 22 Q. And how do you get there?
 23 **A. Because basically going from half the**
 24 **people left on the first post to half the people**
 25 **didn't leave on the first post. It's -- that's just**

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1 arithmetic.
 2 Q. And then the last factor that you have here
 3 is that you estimated the portion of the audience that
 4 continued on to revenue-producing pages.
 5 **A. Yes.**
 6 Q. How did you estimate that?
 7 **A. Looked at the average number of pages per**
 8 **visit for Gawker, which was two and change; netted out**
 9 **the first page, which didn't have advertising on it**
 10 **because it was NSFW; so you wind up with 1.43, I want**
 11 **to say, and looked at that as revenue-producing pages.**
 12 Q. Now, with respect to estimating that
 13 portion of the audience that continued on, was there
 14 data available that would have told you, specifically
 15 with respect to the Hogan post, the actual number of
 16 people that continued on from that post to other
 17 revenue-producing pages on Gawker.com or one of the
 18 other sites?
 19 **A. No. At the time, Gawker was using a free**
 20 **version of Google analytics that didn't have some of**
 21 **the most sophisticated features. So I used sort of**
 22 **site-wide data. I used Alexa, which is an Amazon**
 23 **service, primarily because it let me look at sort of**
 24 **the whole Gawker ecosystem and get a sense of page**
 25 **use, flow, where folks came from, where they went out**

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1 to.
 2 Q. So you had to estimate that amount because
 3 Gawker did not maintain the data?
 4 MR. BERRY: Objection.
 5 THE WITNESS: They did not have the data.
 6 They have access to that data.
 7 BY MR. VOGT: (Continuing)
 8 Q. And let me rephrase it because your -- you
 9 had to estimate the portion of the audience that
 10 continued on to revenue-producing pages either on
 11 Gawker.com or one of the other Gawker Media websites
 12 because Gawker did not have access to the data that
 13 would have allowed you to determine specifically what
 14 those numbers were --
 15 **A. Yes.**
 16 Q. -- with respect to the Hogan post?
 17 **A. That is correct.**
 18 Q. There's a chart on page 16 of your report.
 19 **A. Hang tight. Gotcha.**
 20 Q. It's U.S. Online Display Ad CPM?
 21 **A. Yes.**
 22 Q. Did you use this -- the figures in this
 23 table in reaching your opinions?
 24 **A. I put it here for context. The number I**
 25 **used was the revenue per thousand, which is taking all**

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1 **their revenue, dividing by all their pages, and**
 2 **getting a sense of revenue per thousand pages served.**
 3 **But what I was doing is I was cross**
 4 **checking back at numbers like this to say is this**
 5 **reasonable, is it sort of -- does it look like the**
 6 **rest of the market. And it did.**
 7 Q. So to put that in context, on page 17 where
 8 you have the RPM, revenue per thousand, figures of
 9 \$3.16 and \$4.61, you're comparing those to the average
 10 CPM prices that are listed in the table, image 11 on
 11 page 16?
 12 **A. They're not -- they're related but not**
 13 **exactly comparable.**
 14 Q. Right. I understand.
 15 But you would look at the \$3.16 and \$4.61
 16 for revenue per thousand and just see where it fit in
 17 within the CPM rates --
 18 **A. Yes.**
 19 Q. -- that are in image 11?
 20 **A. Right. Because the 3.16 considers how many**
 21 **ads are on the page, how many are sold, what CPM do**
 22 **they get for all those pages, which pages didn't have**
 23 **advertising on it at all, and sort of takes it all**
 24 **together.**
 25 **But then I was just kind of cross checking**

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1 and saying, Okay. 3.16, how does it look? You know,
 2 Indirect is a buck. Mid-tier is 2.90. Average CPM is
 3 a buck 80. So is it sort of -- does it bear a
 4 resemblance to the rest of the world? And it does.
 5 Q. Do you know whether Gawker receives premium
 6 CPM rates from its advertisers?
 7 A. The materials I've seen from Gawker
 8 indicated they're going for six or seven bucks a
 9 thousand, which would be somewhere between -- would
 10 have been in that time frame somewhere between
 11 mid-tier and premium, but, again, they don't sell
 12 every ad on the page.
 13 Q. Right.
 14 A. But that's why I went with the RPM number,
 15 which sort of says the stuff they sold for a lot of
 16 money, the stuff they told for a little money, the
 17 stuff they didn't sell at all against all the pages.
 18 Because, frankly, your head would explode
 19 if we tried to track down every one of those cases.
 20 Q. Right. And so if you go to page 17, where
 21 you've got your calculations for RPMs, values is the
 22 2012, 2013 advertising revenue?
 23 A. Yes.
 24 Q. It does not include the other revenue?
 25 A. Correct.

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1 Q. And it's possible that people who initially
 2 went to Gawker to view the Hogan post would have gone
 3 to other pages on Gawker.com or within the Gawker
 4 network of sites and led to revenue to Gawker in other
 5 ways?
 6 A. To the extent that they went to other pages
 7 and generated ad revenue, that is within my
 8 calculation. To the extent they went to those pages
 9 and did something that falls into the other revenue
 10 bucket, you are correct; that is not currently
 11 calculated.
 12 Q. Okay. Why didn't you calculate that, as
 13 well?
 14 A. Because I principally believed that the
 15 revenue that would have been generated was ad revenue,
 16 not other revenue.
 17 Q. And it's an assumption that you made,
 18 correct --
 19 A. Yes.
 20 Q. -- in reaching your opinions?
 21 A. Yes. I'll call it an expert opinion, but
 22 yeah.
 23 But, by the way, again, in 2012, when most
 24 of the page views happened, that would have been about
 25 a 10 percent increase, so it would have gone from 3.16

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1 to call it 3.50.
 2 Q. And if you go to page 18 --
 3 A. Yes, sir.
 4 Q. -- the last sentence in that paragraph says
 5 that Gawker's RPM during this period was on the lower
 6 end of the range of its peer group.
 7 A. Yes.
 8 Q. What is its peer group?
 9 A. Other pure-play Web businesses. It's
 10 like -- so 3.16 is -- you know, I would say most Web
 11 businesses are maybe at six or seven bucks a thousand,
 12 and they're at three, so they're on the lighter end of
 13 the monetization range.
 14 Q. When you say six or seven bucks per
 15 thousand, you're talking about RPM, not CPM?
 16 A. Yes, sir.
 17 Q. And then if you go to page 19 on to page
 18 20, you have a discussion there about enterprise value
 19 for the -- for Gawker by the Bollea video?
 20 A. Yep.
 21 Q. Then you have a section that talks about
 22 principles of Web media company valuations?
 23 A. Yes.
 24 Q. You start that by saying, The valuation of
 25 Web media companies is an exercise in pure market

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1 economics. What does that mean, "pure market
 2 economics"?
 3 A. Something is worth what people will pay for
 4 it.
 5 Q. You then say, Investors and acquirers
 6 determine which companies have the greatest
 7 probability of increasing significantly in value. Is
 8 that accurate?
 9 A. Yep.
 10 Q. How do they figure out which companies have
 11 the greatest probability of increasing significantly
 12 in value?
 13 A. Well, obviously, if we knew perfectly, we
 14 would never buy a stock that goes down. But the
 15 factors you look at is, again, momentum of revenue
 16 growth, ability to monetize; again, to some extent, is
 17 there a competitive mode; do you have a strong
 18 position in a segment, you know, where you're the
 19 market leader; how well do you execute.
 20 And so that's why, you know, a lot of it
 21 has to do particularly with growth prospects.
 22 Q. And growth prospects includes potential
 23 areas of revenue that the website or Internet media
 24 business may not be capitalizing upon, correct?
 25 A. I'm not sure I can agree to that just yet.

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<p>1 Q. Let's say, for example, there's a Web-based 2 media business which is not heavily involved in 2012 3 in programmatic advertising, in ad networks, in 4 sponsorship. Are those areas that a potential 5 acquirer or investor is going to look at and say that 6 that business has a -- could increase significantly in 7 value?</p> <p>8 A. First of all, you'd want to understand how 9 real it is that they'll actually do those things and 10 do you have any control over the fact they're going to 11 execute against those. So it's the -- again, it's 12 that sort of potential versus plausible execution. So 13 that becomes a major factor.</p> <p>14 But, in fact, what you tend to value, you 15 pay what the company is currently worth hoping that 16 that other stuff will happen and it will grow in 17 value.</p> <p>18 Q. Right. But the hope that it will -- an 19 acquirer or an investor has that those other things 20 are going to happen, they actually base that on 21 information and data, right? They're not speculating?</p> <p>22 MR. BERRY: Objection.</p> <p>23 THE WITNESS: Which -- what scenario are we 24 talking about? Are we talking about acquisition, 25 private market, venture investment, public market,</p>	<p>1 Q. And one of the areas that the pro forma 2 would potentially include would be sources of revenue 3 that the acquisition company is underutilizing, right?</p> <p>4 A. The target company?</p> <p>5 Q. The target company.</p> <p>6 A. Yes, probably so.</p> <p>7 Q. And in this instance in this case, you 8 didn't consider that element of Gawker Media's 9 business, correct?</p> <p>10 MR. BERRY: Objection.</p> <p>11 THE WITNESS: I did not, because I'm not -- 12 again, if I was to acquire this business and replace 13 Nick as CEO, I might do things very differently, but 14 basically, I'm not going to give Nick the benefit of 15 changes I would make in the business. I'm valuing it 16 based on this business as Nick was running it in '12 17 and '13.</p> <p>18 BY MR. VOGT: (Continuing)</p> <p>19 Q. And then on page 20, you talk there about 20 the primary valuing metric being discounted cash flow. 21 You did not --</p> <p>22 A. Give me a --</p> <p>23 Q. The first full paragraph on page 20.</p> <p>24 A. Yeah, with more mature businesses.</p> <p>25 Q. So you did not use the discounted cash flow</p>
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<p>1 buying a share? I mean, because there's three 2 different scenarios and we have three 3 different levels --</p> <p>4 BY MR. VOGT: (Continuing)</p> <p>5 Q. Let's talk about acquisition.</p> <p>6 A. Okay.</p> <p>7 Q. If we're talking about acquisition, the 8 acquirer is not going to gamble on what potential 9 revenue streams there could be in the future, right?</p> <p>10 MR. BERRY: Objection.</p> <p>11 THE WITNESS: Let me kind of say it 12 proactively. When you're on the acquiring side, you 13 look at it and say -- you basically create a pro forma 14 financial. You'd say, Okay. If we ran this thing, 15 here's how we would do this.</p> <p>16 BY MR. VOGT: (Continuing)</p> <p>17 Q. Right.</p> <p>18 A. And most likely you say, Okay. They're 19 lazy sons of bitches. We can cut this much out of 20 cost. They're not very good sales guys. We can do 21 this on the upside.</p> <p>22 And so we're -- like I said, we're going to 23 buy this thing at four to six times current revenue 24 and hope to double the profit and get a better 25 multiple for it.</p>	<p>1 method in this case, right?</p> <p>2 A. No.</p> <p>3 Q. You go on at the very end of that paragraph 4 to say, Acquirers make their decisions based on more 5 available information and often use revenue and 6 profits as a proxy for cash flow.</p> <p>7 A. Yes.</p> <p>8 Q. Is that what you did in this case?</p> <p>9 A. Yes.</p> <p>10 Q. And that's the revenue multiple method that 11 you used?</p> <p>12 A. Yes.</p> <p>13 Q. So in this situation here, though, you're 14 talking about determining the enterprise value for 15 Gawker Media, correct?</p> <p>16 A. The uplift in enterprise value based on 17 running this post, yes.</p> <p>18 Q. But you need to determine the enterprise 19 value of Gawker Media in order to determine what the 20 revenue up-click is, right?</p> <p>21 MR. BERRY: Objection.</p> <p>22 THE WITNESS: I think you're leading the 23 witness.</p> <p>24 Not necessarily.</p> <p>25 BY MR. VOGT: (Continuing)</p>

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1 Q. Did you determine that?

2 **A. No. And we've kind of hit this three**

3 **times. No, I didn't do an overall valuation of the**

4 **business.**

5 Q. At the bottom of this page, you talk about

6 unicorns, and you have a paragraph that says, To place

7 these exceptional companies in proper context, I look

8 at an analysis performed by Bill Gurley of Benchmark

9 Capital.

10 **A. Yes, sir.**

11 Q. Who is Bill Gurley?

12 **A. A leading venture capitalist; invests**

13 **primarily in a lot of Internet content companies.**

14 Q. Is he an expert in your field?

15 **A. He's an expert of venture capital, sure.**

16 Q. Is that your field?

17 **A. One of my fields, yeah.**

18 Q. Do you consider his works to be

19 authoritative?

20 **A. Yes.**

21 Q. And you speak specifically here about this

22 "Above the Crowd" blog story that he did, that you

23 have listed as Exhibit 9 to your report.

24 Is that authoritative?

25 **A. Yes.**

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1 Q. If you turn to Exhibit 9, there's that

2 first paragraph there that starts with, With the IPO

3 market --

4 **A. Yes.**

5 Q. -- do you see that?

6 **A. Yes.**

7 Q. If you go down a couple of sentences,

8 there's a sentence that starts with, Calculating.

9 **A. Uh-huh.**

10 Q. It says, Calculating or qualifying

11 potential valuation using the simplistic and crude

12 tool of a revenue multiple was quite trendy back

13 during the Internet bubble of the late 1990s.

14 Do you see that?

15 **A. Yes.**

16 Q. You used a revenue multiple as a tool in

17 this case, right?

18 **A. I did.**

19 Q. It goes on to say that this is a remarkably

20 dangerous technique because all revenues are not

21 created equal. Do you see that?

22 **A. Yep.**

23 Q. So you used a remarkably dangerous

24 technique in this case?

25 MR. BERRY: Objection.

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1 THE WITNESS: I wouldn't characterize it

2 remarkably dangerous technique.

3 BY MR. VOGT: (Continuing)

4 Q. So you disagree with this gentleman?

5 **A. With that characterization, yeah.**

6 Q. The next paragraph starts with, What drives

7 true equity value.

8 **A. Yep.**

9 Q. Is what you determined in this case equity

10 value?

11 **A. Roughly, yeah.**

12 Q. If you go on to the next page, page 2 of

13 28, it says up in the top right-hand corner --

14 **A. Gotcha.**

15 Q. -- the last sentence of that paragraph at

16 the top says, I want to argue that for a variety of

17 reasons, the price revenue multiple is the crudest

18 evaluation tool of them all.

19 Do you see that?

20 **A. Yes.**

21 Q. And then at the end of the next paragraph,

22 he goes on to say, at the end of that, Talk about room

23 for error. What is that hot new company worth? This

24 graph would suggest that the company's revenue alone

25 is a very poor guide.

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1 Do you see that?

2 **A. Alone, yes, it is.**

3 Q. You used revenue multiples alone in your

4 opinions in this case, didn't you?

5 MR. BERRY: Objection.

6 THE WITNESS: No. By the way, if you

7 notice, he then continues to go down and show a

8 distribution of revenue multiples. And basically

9 having said that, he then proceeds to use revenue

10 multiples.

11 So it's -- you know, it's like any -- you

12 know, one of the things I've said kind of throughout

13 the conversation is that you can't just say, Oh,

14 here's one number. I'm going to throw it in the

15 calculator and ta-da, we've got the number.

16 It's the process of saying, Okay. What are

17 the comps, what are the metrics, what's reasonable in

18 this marketplace, what deals have we actually seen get

19 done, and what do we think is reasonable.

20 Q. Doesn't he use the chart, though, that

21 you're talking about in terms of the ranges -- doesn't

22 he use the chart that you were talking about there as

23 an example of why the revenue multiple method is not

24 reliable?

25 MR. BERRY: Objection.

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1 THE WITNESS: No. He uses the chart to
 2 show -- it's basically back to the notion of unicorns.
 3 That the bulk of companies trade at relatively modest
 4 revenue multiples and very, very few ever get these
 5 exorbitant revenue multiples, like we've occasionally
 6 talked about in this conversation.
 7 BY MR. VOGT: (Continuing)
 8 Q. If you turn to page 5 of 28, there's an
 9 item there for gross margin levels.
 10 **A. Yes.**
 11 Q. What's Wal-Mart's revenue multiple?
 12 **A. Don't know. Don't care.**
 13 Q. It says here it trades at .41. That would
 14 be its revenue multiple, correct?
 15 **A. Yes.**
 16 Q. So a company with a 25 percent gross margin
 17 has a revenue multiple of .41, do you think that's a
 18 reliable indicator of Wal-Mart's value?
 19 MR. BERRY: Objection.
 20 THE WITNESS: I am not -- Wal-Mart is
 21 outside my area of interest.
 22 MR. VOGT: Why don't we break there.
 23 THE VIDEOGRAPHER: Off the record at 3:47.
 24 (Recess: 3:47 - 3:54 p.m.)
 25 THE VIDEOGRAPHER: It's 3:54. We are back

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1 on the record.
 2 BY MR. VOGT: (Continuing)
 3 Q. The advertising campaign that we had talked
 4 about for Ask.Com --
 5 **A. Yes.**
 6 Q. -- is it possible that a \$100 million was
 7 spent on that advertising campaign?
 8 MR. BERRY: Objection.
 9 THE WITNESS: As I said, I don't recall the
 10 specifics of it. I don't believe -- I don't think
 11 that's reasonable.
 12 BY MR. VOGT: (Continuing)
 13 Q. And I know we talked generally, but do you
 14 have any recollection as to how many unique visitors
 15 actually drove to the site?
 16 **A. Almost none.**
 17 Q. Almost none.
 18 What is your best estimate on how much was
 19 spent on the advertising?
 20 MR. BERRY: Objection.
 21 THE WITNESS: Like I said, I'd be pulling a
 22 number out of my ear. I don't want to do it.
 23 BY MR. VOGT: (Continuing)
 24 Q. And then --
 25 **A. I will tell it was singularly unsuccessful.**

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1 Q. Your opinions in this case, the Bollea post
 2 had no advertising on it, correct?
 3 **A. Correct. Yes, sir.**
 4 Q. Would it be fair to say that your initial
 5 opinion about this case is that there would be no
 6 revenue associated with the Hogan post?
 7 MR. BERRY: Objection.
 8 THE WITNESS: No. Kind of as my report
 9 said, my opinion was there was nominal revenue; ten,
 10 15 grand, ten grand.
 11 MR. VOGT: Okay. That's all I have.
 12 MR. BERRY: I have no questions.
 13 THE VIDEOGRAPHER: The time is 3:55, and we
 14 are off the record.
 15 (Proceedings concluded at 3:55 p.m.)
 16 ***
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1 I, PETER HORAN, do solemnly declare under
 2 penalty of perjury that the foregoing is my deposition
 3 under oath; that these are the questions asked of me and
 4 my answers thereto; that I have read same and have made
 5 the necessary corrections, additions, or changes to my
 6 answers that I deem necessary.
 7 In witness thereof, I hereby subscribe my name
 8 this day of _____, 2015.
 9
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 23
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 25
 WITNESS SIGNATURE

CERTIFICATE

The State of Oregon)
SS.)
County of Multnomah)

I, BRIDGET MONTERO, CSR, CRR, RMR, a
Certified Shorthand Reporter for the States of Oregon
and California, hereby certify that said witness
personally appeared before me at the time and place set
forth in the caption hereof; that at said time and place
I reported in stenotype all testimony adduced and other
oral proceedings had in the foregoing matter; that
thereafter my notes were transcribed through
computer-aided transcription, under my direction; and
that the foregoing going pages constitute a full, true,
and accurate record of all such testimony adduced and
oral proceedings had, and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto
set my hand and affixed my seal at Portland, Oregon,
this 29th day of April, 2015.

Bridget Montero



Bridget Montero, OR CSR No. 08-0408, CRR, RMR
CA CSR No. 10020