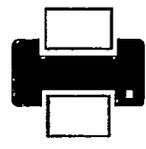


12-12447-CI

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EXHIBIT "5"

Page 1

1
2 IN THE CIRCUIT COURT OF THE
3 SIXTH JUDICIAL CIRCUIT
4 IN AND FOR PINELLAS COUNTY, FLORIDA
5 Case No. 12012447CI-011
6 TERRY GENE BOLLEA professionally
7 known as HULK HOGAN,
8 Plaintiff,
9 vs.
10 HEATHER CLEM, GAWKER MEDIA, LLC a/k/a
11 GAWKER MEDIA, GAWKER MEDIA GROUP, INC.
12 a/k/a GAWKER MEDIA, GAWKER ENTERTAINMENT,
13 LLC, GAWKER TECHNOLOGY, LLC, GAWKER SALES,
14 LLC, NICK DENTON, A.J. DAULERIO,
15 KATE BENNERT and BLOGWIRE HUNGARY SZELLEMI
16 ALKOTAST HASZNOSITO KFT a/k/a GAWKER MEDIA,
17 Defendants.
18
19 VIDEOTAPED DEPOSITION OF
20 NICK DENTON
21 New York, New York
22 Wednesday, October 2, 2013
23
24 Reported by:
25 Toni Allegrucci
JOB NO. 10071

Page 2

1
2 October 2, 2013
3 10:01 a.m.
4
5 Videotaped Deposition of
6 NICK DENTON, held at the offices of
7 Esquire Deposition Solutions,
8 1384 Broadway, New York, New York 10018,
9 pursuant to Notice, before
10 Toni Allegrucci, a Notary Public of the
11 State of New York.
12
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Page 3

1
2 APPEARANCES:
3
4 HARDER MIRELL & ABRAMS, LLP
5 Attorneys for Plaintiff
6 1801 Avenue of the Stars Ste. 1120
7 Los Angeles, California 90067
8 BY: DOUGLAS E. MIRELL, ESQ.
9 (424) 203-1603
10 dmirell@hmafirm.com
11
12 LEVINE SULLIVAN KOCH & SCHULZ, LLP
13 Attorneys for Defendants
14 1899 L Street Ste. 200
15 Washington, D.C. 20036
16 BY: SETH D. BERLIN, ESQ.
17 (202) 508-1122
18 sberlin@skslaw.com
19 BY: ALIA L. SMITH, ESQ.
20 asmith@skslaw.com
21
22
23 ALSO PRESENT:
24 ANDREW RITCHIE, Videographer
25 HEATHER L. DIETRICK, Counsel, Gawker Media

Page 4

1
2 THE VIDEOGRAPHER: This is tape
3 No. 1 to the videotaped deposition of
4 Nick Denton being taken in the matter of
5 Terry Gene Bollea, professionally known
6 as Hulk Hogan, versus Heather Clem and
7 Gawker Media, LLC, et al., being heard
8 in the Circuit Court of the Sixth
9 Judicial Circuit in and for Pinellas
10 County Florida, Case No. 12012447CI-011.
11 This deposition is being held at
12 the offices of Esquire, 1384 Broadway
13 New York, New York on October 2, 2013.
14 The time is approximately 10:01 a.m. My
15 name is Andrew Ritchie and I'm the
16 videographer. The Court Reporter is
17 Toni Allegrucci.
18 Counsel, will you please introduce
19 yourselves and affiliations and the
20 witness will be sworn.
21 MR. MIRELL: Douglas Mirell of
22 Harder Mirell & Abrams, LLP, counsel for
23 the plaintiff.
24 MR. BERLIN: Seth Berlin, Levine
25 Sullivan Koch & Schulz, counsel for

Page 5

1 N. Denton
2 defendants other than Heather Clem.
3 MS. SMITH: Alia Smith also of
4 Levine Sullivan, counsel for defendants
5 other than Heather Clem.
6 MS. DIETRICK: Heather Dietrick,
7 inhouse counsel for Gawker Media.
8 THE VIDEOGRAPHER: Will the
9 Court Reporter please swear in the
10 witness.
11 N I C K D E N T O N, called as a witness,
12 having been duly sworn by a Notary Public,
13 was examined and testified as follows:
14 EXAMINATION BY
15 MR. MIRELL:
16 Q. Good morning, Mr. Denton.
17 A. Good morning.
18 Q. Would you state your full name for
19 the record?
20 A. Nicholas Guido Anthony Denton.
21 Q. And, Mr. Denton, the oath that you
22 were just administered by the Court Reporter
23 is the same oath that you would take if you
24 were appearing in a court of law and you
25 understand, do you not, that the penalties of

Page 6

1 N. Denton
2 perjury that apply here in this informal
3 setting are exactly the same as the penalties
4 of perjury that apply in a court of law?
5 Do you understand that?
6 A. Yes.
7 Q. What is your current business
8 address?
9 A. 210 Elizabeth Street, New York,
10 New York 10012.
11 Q. And your current home address?
12 A. Is 76 Crosby Street, similarly
13 New York, New York 10012.
14 Q. And that's Apartment 2B?
15 A. That's right.
16 Q. And does your home also have a
17 different street address?
18 A. There's another entrance to the
19 building.
20 Q. And where is that entrance located?
21 A. It's on Spring Street.
22 Q. And what's the address on Spring
23 Street?
24 A. 81 Spring Street.
25 Q. Have you ever had your deposition

Page 7

1 N. Denton
2 taken before?
3 A. No, I haven't.
4 Q. Have you ever testified in any
5 court proceedings?
6 A. No.
7 Q. Have you ever participated in any
8 arbitration proceedings?
9 A. I don't think I was in the room.
10 Q. You were not placed under oath in
11 any --
12 A. No.
13 Q. -- proceedings, okay. Your counsel
14 may have told you something about the
15 procedure we're going to be following today,
16 but let me for the record and so we're all on
17 the same page let you know what to expect.
18 The transcript that is being taken today, the
19 official transcript is that which the
20 Court Reporter is preparing. Even though we
21 are videotaping this deposition the written
22 transcript is the official record.
23 Consequently that imposes some limitations
24 upon us.
25 The way in which human beings

Page 8

1 N. Denton
2 ordinarily communicate, including by nods of
3 the head or shakes of the head or grunts or
4 um-hm or un-hn do not translate on to the
5 written record. So it's important that you
6 answer the question audibly and in a manner
7 that can be transcribed. You understand
8 that?
9 A. Sure. And you'll I presume prompt
10 me if I --
11 Q. We will both endeavor to do that.
12 Exactly.
13 A. Okay.
14 Q. The limitations of the medium also
15 make it difficult for the Court Reporter to
16 transcribe more than one of us taking at
17 once. Consequently, I will endeavor at all
18 costs to accord you the courtesy of letting
19 you complete your answer before I ask another
20 question. If you'll do likewise by allowing
21 me to complete the question I'm asking before
22 you begin answering, okay?
23 A. Yes.
24 Q. Have you spoken to -- let me ask
25 you this first. Let me make this point as

Page 9

1 N. Denton
2 well. At points in time during the day today
3 I may ask you, I may ask you a question for
4 which you don't have a specific answer or a
5 specific recollection, but you may have a
6 general understanding or general recollection
7 that would allow you to provide an educated
8 estimate.
9 I'm entitled to know what you know
10 that doesn't require you to speculate. So
11 the classic example, if I were to ask you how
12 much money you are currently carrying in any
13 wallet you might have, you'd be able to give
14 me a rough estimate of what that might be.
15 If, on the other hand, I were to ask you how
16 much money I'm carrying in my wallet, you
17 would have no idea, that would be
18 speculation.
19 The latter is not something you are
20 called upon to provide, the former is. You
21 understand?
22 A. I think so.
23 Q. Okay. Have you spoken with anyone
24 about this deposition other than your
25 counsel?

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1 N. Denton
2 A. I've mentioned to several
3 colleagues that it's happening.
4 Q. Have you talked about the substance
5 of any testimony you might be giving here
6 today with any of your colleagues?
7 A. No.
8 Q. Anyone else other than those who
9 you've spoken with about this deposition?
10 A. My boyfriend.
11 Q. Again same question, have you
12 spoken to him about the substance of what you
13 might be testifying?
14 A. No, only talked to him about the
15 general situation.
16 Q. What did you discuss about the
17 general situation?
18 A. Not really being able to understand
19 Hogan's motives.
20 Q. What do you mean by that? What do
21 you mean by that?
22 A. I don't understand.
23 Q. You said you don't understand
24 Hogan's motives?
25 A. Yes.

Page 11

1 N. Denton
2 Q. What motives are you referring to?
3 A. I -- that's something I can't work
4 out what the motive is.
5 Q. Anything else that you talked to
6 him about?
7 A. Not that I can recollect.
8 Q. Did he say anything in response to
9 your comment?
10 A. He told me to dress smart for
11 today.
12 Q. Did you follow his advice?
13 A. Marginally.
14 Q. All right. Anything else?
15 A. That's all I can remember.
16 Q. Did you bring any documents with
17 you today?
18 A. No.
19 Q. Did you review any documents in
20 preparation for this deposition today?
21 A. During the preparation, yeah,
22 absolutely I looked at.
23 Q. Can you recall what documents you
24 reviewed?
25 A. There was some web statistics

Page 12

1 N. Denton
2 primarily.
3 Q. Anything else?
4 THE WITNESS: Can I ask you a
5 question, or?
6 MR. BERLIN: We would have to go
7 out in the hall. But if it involves a
8 question about --
9 A. I think there was some financial,
10 there was some financial documents that I
11 looked at to jog my memory.
12 Q. Anything else --
13 MR. BERLIN: If I can just
14 interject to answer his question.
15 MR. MIRELL: Sure.
16 MR. BERLIN: If you have a question
17 about something, whether something is
18 privileged, you should ask for us to go
19 out in the hall and we should talk about
20 it. If -- otherwise you should just
21 testify to the best of your recollection
22 about what you can remember.
23 THE WITNESS: Okay.
24 MR. BERLIN: You don't need to ask
25 me to prompt your memory. They are

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1 N. Denton
2 testing your memory of things, not mine.
3 Is that fair?
4 MR. MIRELL: Right. We'll take
5 Mr. Berlin's deposition next week.
6 Q. No. But yes, he's correct that
7 we're looking for your best recollection
8 independent of any, anything that you may
9 have -- may be prompted by, by counsel.
10 Generically then, any other
11 categories of documents you might have looked
12 at?
13 A. Not that I can remember now, no.
14 Q. The web statistics that you looked
15 at were those web statistics for page views
16 or for unique visitors or, or impressions or
17 something else?
18 A. The one I remember looking at was
19 some Google Analytics numbers that I didn't
20 think were particularly appropriate for the
21 discussion. Not numbers that I really look
22 at on any regular basis.
23 Q. Any other statistics that you
24 looked at that you recall in preparation for
25 this deposition?

Page 14

1 N. Denton
2 A. Yes, looked at the, the numbers for
3 the Hogan article, the numbers for the site
4 for that month, the bonus calculations for
5 the site's staff that month.
6 Q. Can you recall what information you
7 gleaned about the bonus that the staff
8 received for the site for that month?
9 A. The -- we call it max, we maxed out
10 on that bonus for that month, which meant
11 that they were more than 20 percent ahead of
12 target. That bonus is capped at 20 percent.
13 Q. And do you recall what the
14 editorial budget was for that month?
15 A. Not from that particular document,
16 no.
17 Q. Do you have an independent
18 recollection of that?
19 A. From the deposition prep, yes.
20 Q. What is that?
21 A. I think I was told Scott had looked
22 it up and that it was of the order of
23 \$100,000.
24 Q. Any other statistics that you
25 reviewed in preparation for this deposition

Page 15

1 N. Denton
2 that you can recall?
3 A. Can you define review?
4 Q. Read, looked at?
5 A. Read, heard about?
6 Q. Sure, yes, all.
7 A. A.J.'s bonus for that particular
8 month, this is A.J. Daulerio, the editor of
9 the site, his bonus for the previous month,
10 his bonus for his next full month of
11 employment after his Sabbatical.
12 Q. Do you recall those numbers?
13 A. I recall them roughly, yes.
14 Q. What were they?
15 A. They were all roughly the same.
16 Q. Which was?
17 A. I think around \$2,000 a month.
18 Q. You mentioned a Sabbatical that he
19 took?
20 A. Um-hm.
21 Q. Do you know what period of time he
22 took a Sabbatical?
23 A. It was in -- this is also not
24 something that I would have normally
25 remembered.

Page 16

1 N. Denton
2 Q. Yes.
3 A. But I remember conversations
4 alluding to November being the month that he
5 took off, which sounds about right because he
6 went to -- you know what, I'm not going to,
7 I'm not going to venture that because my
8 memory's rather hazy. At some point he went
9 to Egypt. I can't remember whether that was
10 actually associated with the Sabbatical.
11 Q. All right. But the duration of the
12 Sabbatical was approximately one month
13 though?
14 A. I couldn't, I couldn't tell you
15 exactly.
16 Q. You don't remember?
17 A. Judging by the fact that he was
18 actually paid out his bonus for December and
19 for October and not for November, as far as I
20 was told that -- and all these numbers are
21 easily checkable.
22 Q. Sure, of course.
23 A. That it sounds like November was
24 the month that he was not around.
25 Q. Okay. But you have a recollection

Page 17

1 N. Denton
2 of him being on Sabbatical, returning to
3 Gawker and then departing ultimately in
4 January of 2013?
5 A. He subsequently worked for us, but
6 yes.
7 Q. Okay.
8 A. He left full-time employment around
9 then.
10 Q. Okay, good. You also mentioned
11 that you reviewed some financial documents in
12 preparation for your deposition today. What
13 financial documents did you review?
14 A. I think it was, it was just a table
15 that had revenues on them for the year.
16 Q. Revenues for what entity or
17 entities?
18 A. For the company.
19 Q. And when you say "the company," do
20 you mean Gawker Media --
21 A. The group.
22 Q. -- LLC?
23 A. You know what, I can't remember, I
24 can't remember which, precisely what the
25 legal entity was. It's whatever our standard

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1 N. Denton
2 group revenue number is.
3 Q. And when you say "group," do you
4 mean -- I learned yesterday about the, I
5 think, about the distinctions between
6 Gawker Media, LLC and Gawker Media Group,
7 Inc. Do you have, do you have in your mind a
8 clear understanding of the distinction
9 between those two entities?
10 A. I understand that we have an entity
11 in the U.S. and an entity in Budapest where
12 we also have operations and then there's a
13 Cayman Island parent company.
14 Q. Right.
15 A. Sometimes I forget what all the
16 suffixes are to all the names.
17 Q. Okay. So what I'm just trying
18 to --
19 A. I think the Hungarian company was
20 called Blogwire Szellemi Alkotó st Felelős Eg,
21 Hasznosító, something or other, you know.
22 Q. Thank goodness you said it, not me.
23 So you did a much better job. I, I chose to
24 spell it on the record as opposed to
25 attempting to pronounce it.

Page 19

1 N. Denton
2 A. I wish I'd heard that.
3 Q. So let me ask you this. Do you, do
4 you have a recollection of whether the
5 financial documents you looked at were for
6 that entity which I now understand is
7 referred to as Kinja KFT?
8 A. Yeah.
9 Q. As opposed to Gawker Media Group,
10 Inc., the Cayman Islands corporation or
11 Gawker Media, LLC?
12 MR. BERLIN: Let me -- you have to
13 give me a second to object. Just
14 objection, asked and answered.
15 You may answer the question.
16 A. Okay. It would not be in the
17 Hungarian entity because the Hungarian entity
18 wouldn't have the -- the total amount was I
19 think \$25 million and the Hungarian entity
20 doesn't have that revenue. So it would have
21 been -- you know, I should, I should look at
22 the document and tell you rather than, then
23 guessing.
24 Q. Perhaps we'll see it later today
25 and you can identify for me if that's the

Page 20

1 N. Denton
2 document. Any other documents, financial
3 documents that you can recall seeing other
4 than revenues for one of the Gawker entities?
5 A. In relation to this particular --
6 Q. Yes.
7 A. -- preparation.
8 Q. In relation to your preparation for
9 the deposition?
10 A. That's the only one I can remember.
11 Q. And then let me just close the
12 loop. We had been talking about other
13 documents that you recalled seeing. Anything
14 else that you recall reviewing in preparation
15 for this deposition, other than what we've
16 already discussed?
17 A. Oh, the article itself.
18 Q. This is the original post by
19 Mr. Daulerio?
20 A. That's right.
21 Q. Okay. Anything else?
22 A. Not that I can remember. If it
23 comes back to me I'll let you know.
24 Q. Please. Thank you. Is there any
25 reason why this deposition can't proceed

Page 21

1 N. Denton
2 today?
3 A. No.
4 Q. Are you taking any medication or
5 have you consumed alcohol or done anything
6 that would impair your ability to respond
7 fully, completely and truthfully today?
8 A. A little bit too much caffeine this
9 morning.
10 Q. Sometimes it's helpful, but okay.
11 A. I'll be over-caffeinated and then
12 I'll probably slump.
13 Q. All right. Let's discuss briefly
14 then, Mr. Denton, your educational
15 background. You were educated in the U.K.,
16 correct?
17 A. That's right.
18 Q. Can you tell me where you attended
19 school and when?
20 A. School as in high school or school
21 as in university?
22 Q. Let's start with high school.
23 A. University College School, London.
24 Q. In what years?
25 A. Until 1984.

Page 22

1 N. Denton
2 Q. And then?
3 A. Then I went to Oxford University.
4 Q. And from when to when?
5 A. That would have been '85 to '88.
6 Q. And did you receive a degree?
7 A. I did.
8 Q. In what?
9 A. Politics, philosophy and economics.
10 Actually I should say that I passed the exam,
11 I never actually picked up the document.
12 Q. In the U.S. there are BAs and BS
13 degrees that are awarded, is there a
14 particular name for the degree you received?
15 A. Oxford has this ridiculous, you
16 know, I don't even know whether I have it,
17 but they give you an MA even if you just
18 studied for the BA. So it's one of those
19 silly English eccentricities.
20 Q. Lovely, okay.
21 A. It's much cheaper.
22 Q. Doubtless. Let me ask you whether
23 you had any postgraduate education?
24 A. No.
25 Q. Okay. Did you go to work

Page 23

1 N. Denton
2 immediately after graduating at Oxford?
3 A. After a few months.
4 Q. Okay. Where did you first begin
5 working?
6 A. I worked at The Economist Books.
7 Q. Beginning in when?
8 A. It would have been later on in
9 1988.
10 Q. Okay. And how long did you remain
11 there?
12 A. Six months.
13 Q. Through the end of '88 or into '89?
14 A. Sorry?
15 Q. Through the end of '88 or into '89?
16 A. In August '89 I went to Eastern
17 Europe to work as a freelance journalist, so
18 it would have been before that.
19 Q. Okay. And what was your job at The
20 Economist Books?
21 A. I was an editor.
22 Q. Had you taken any journalism
23 courses at Oxford?
24 A. No. They don't exist.
25 Q. Had you taken any journalism

Page 24

1 N. Denton
2 courses at University College School.
3 A. No. They didn't exist.
4 Q. All right. And what did your job
5 as an editor at The Economist Books entail?
6 A. I was business guide, businessman's
7 guide to the U.K., I think. It was a long
8 time ago.
9 Q. Yeah.
10 A. I don't remember exactly. These
11 were, these were guidebooks for business
12 travelers particular, particularly.
13 Q. Okay. Then in August of '89 you
14 became a freelancer?
15 A. Um-hm.
16 Q. For whom did you freelance?
17 A. I worked, first of all, for the
18 Scotsman newspaper and then for the
19 Daily Telegraph newspaper and then finally
20 for the Financial Times.
21 Q. And you did all of this as a
22 freelancer rather than as a full-time staff
23 writer?
24 A. Initially yes.
25 Q. And --

Page 25

1 N. Denton
2 A. I was what they call, at the
3 Telegraph and Financial Times, I was what
4 they call a stringer.
5 Q. Sure.
6 A. It's a permanent freelance
7 arrangement so...
8 Q. And were you assigned stories or
9 did you, did you pitch stories to those?
10 A. It would have been a mixture.
11 Q. And how long were you a stringer
12 for those papers?
13 A. For Scotsman, the Scotsman and
14 Telegraph, that would have been month or
15 months. I moved pretty rapidly to the
16 Financial Times.
17 Q. Okay. When did you begin working
18 as a freelancer for the Financial Times
19 roughly?
20 A. In January of 1990.
21 Q. All right. Then I take it from
22 your last answer that you then became a
23 full-time employee of the Financial Times?
24 A. When I returned to the U.K. for
25 them, yes.

Page 26

1 N. Denton
2 Q. Okay. And when you were in Eastern
3 Europe were you anywhere other than in
4 Hungary?
5 A. Yes. I was in Bucharest during the
6 revolution in Romania.
7 Q. Okay. All right. And then --
8 A. And various other places.
9 Q. All right. You began working for
10 the Financial Times in what year, I'm sorry,
11 full-time?
12 A. Sorry?
13 Q. You began full-time work at the
14 Financial Times?
15 A. I was also writing for
16 The Economist magazine.
17 Q. Okay.
18 A. They call it a newspaper, but it's
19 a magazine. It's another English thing.
20 Q. And were you doing that
21 simultaneously?
22 A. I was.
23 Q. Okay. And the focus at
24 The Economist knew you were writing for the
25 Financial Times and vice versa?

Page 27

1 N. Denton
2 A. Yes. Though they have some shared
3 corporate parentage.
4 Q. Okay. When were you -- when
5 did you begin that work full-time?
6 A. For?
7 Q. Both the Financial Times and
8 The Economist?
9 A. Well, worked for the
10 Financial Times, like I said, was
11 January 1990. Could possibly have been
12 February, but I don't suppose a month matters
13 here or there. The Economist would have been
14 after that.
15 Q. Roughly how long?
16 A. I can't remember exactly.
17 Q. Okay. Sometime in 1990 though
18 approximately?
19 A. Could have been 1991. I'm not
20 sure.
21 Q. And what was your -- did you have a
22 title at either of these publications?
23 A. Budapest correspondent.
24 Q. For?
25 A. The Financial Times. The Economist

Page 28

1 N. Denton
2 doesn't have bylines so...
3 Q. Still?
4 A. Unless it's a special report, yes,
5 still. I always admired them for that.
6 Q. How long did you serve as Budapest
7 correspondent for the Financial Times?
8 A. Four years.
9 Q. And ending when, when in
10 1990 -- would that be 1993 or '94?
11 A. 1994.
12 Q. Okay. How long did you continue
13 writing for The Economist?
14 A. That same period, well, until 1994.
15 Q. And what did you then do next?
16 A. I went on staff at the
17 Financial Times to cover investment banking
18 based out of London.
19 Q. And that was from 1994 until when?
20 A. There was a little overlap, but two
21 years.
22 Q. 1996?
23 A. Yes, I think so.
24 Q. And during that period of time that
25 you were staff writer for the Financial Times

Page 29

1 N. Denton
2 did you at that point cease working for
3 The Economist?
4 A. I did.
5 Q. Okay. And what were your -- were
6 all of the stories that you wrote for the
7 Financial Times during that period as a staff
8 writer involving the investment banking
9 industry?
10 A. Were all of them?
11 Q. Yes.
12 A. Probably not, no. Most of them.
13 Q. Do you recall generically what
14 other subjects you might have written about
15 at that time?
16 A. No.
17 Q. What did you do -- there came a
18 point in time where you left the
19 Financial Times?
20 A. That was in 1997.
21 Q. Okay. Did you have another job at
22 the Financial Times then after you were staff
23 writer?
24 A. I had a job as San Francisco
25 correspondent, or, I forget what my exact

Page 30

1 N. Denton
2 title was. But I went to San Francisco to
3 write about technology in the east land.
4 Q. And you did that beginning in '96
5 through '97?
6 A. The -- that job was in -- where
7 exactly was that? I think I left the
8 Financial Times in was it '97 or '98. No, I
9 went to San Francisco in '97 full-time. I
10 had gone on a trip before, I can't remember
11 whether it was '96 or '97. And then I left
12 the FT, the Financial Times, in middle of
13 1998.
14 Q. The last position you held at the
15 Financial Times was as the San Francisco
16 correspondent?
17 A. Yes.
18 Q. What did you then --
19 A. If that was the title. I can't
20 actually, I can't remember precisely.
21 Q. Okay. All right. But you were
22 covering the technology industry?
23 A. Yes, based out of San Francisco.
24 Q. What did you then do in 1998?
25 A. A whole bunch of different things.

Page 31

1 N. Denton
2 Startup -- between then and 2000 I was
3 involved with a company called iSyndiate. I
4 started two companies.
5 Q. Okay. The names of those
6 companies?
7 A. First Tuesday and what was later
8 known as Moreover Technologies.
9 Q. All right. Then briefly what was
10 the business of iSyndiate?
11 A. iSyndiate was a web content
12 startup.
13 Q. Does it still exist?
14 A. No.
15 Q. First Tuesday?
16 A. First Tuesday was an events
17 business.
18 Q. Meaning?
19 A. It was a monthly -- it began as a
20 monthly event on the first Tuesday of each
21 month in London and it spread to other
22 cities. It got revenue from sponsors such as
23 law firms, venture capital firms that wanted
24 to reach the new business technology elite.
25 Q. Does that entity still exist?

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1 N. Denton
2 A. I think there are still some
3 events, but it was taken over in 2000.
4 Q. And Moreover, finally Moreover?
5 A. Which is also the name of a section
6 in The Economist actually.
7 Q. Have they sued over that?
8 A. I'm sure you'll represent them if
9 they do. The Moreover -- so what was the
10 question about Moreover?
11 Q. What was the nature of the business
12 of Moreover Technology?
13 A. It was an internet content,
14 internet news venture.
15 Q. And does that entity still exist?
16 A. I think it does, yes.
17 Q. Okay. Did you do anything else
18 professionally during the period from '98
19 through 2000, other than what you've just
20 discussed?
21 A. Oh, I did so many things then. I
22 don't think I had any other sources of
23 income.
24 Q. Okay. What then happened in the
25 year 2000?

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1 N. Denton
2 A. In the year 2000 we raised funds
3 for Moreover, large round on the order of
4 \$20 million. And with my other partners
5 First Tuesday, because I was running the two
6 things pretty much in parallel, we sold the
7 company to an Israeli business called Yazam.
8 Q. And how much did you sell the
9 company for?
10 A. There were various numbers that
11 were bandied around depending on the
12 valuation of Yazam because the bulk, the bulk
13 of the purchase price was in Yazam stock. So
14 it could be anything between \$20 million and
15 \$60 million depending on the interpretation.
16 Q. How much did you receive as a
17 result of that sale?
18 MR. BERLIN: Let me object.
19 You can answer the question.
20 A. How much?
21 Q. How much did you --
22 A. I was, -- I had a quarter of, I had
23 a quarter of the company.
24 Q. And so that translated into either
25 5 or, or \$15 million?

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1 N. Denton
2 A. Well, there was some, you know,
3 it's -- it was a deal, so, and there had been
4 a round of, small round of funding before so
5 those investors had to be paid off first, but
6 after they were paid off I received a quarter
7 which was, depending on your valuation of the
8 Yazam stock, somewhere between nominally
9 between 5 and would it be 15, nominally.
10 Q. When you say "nominally," do you
11 have, do you have a recollection of what you
12 actually received?
13 A. What I actually received once it
14 was all said and done?
15 Q. Yes.
16 A. It was about a million dollars.
17 Q. And why was that?
18 A. Because Yazam collapsed like most
19 of the companies did and so its stock wasn't
20 worth anything.
21 Q. Okay. Were you involved in the
22 sale of Moreover Technologies?
23 A. Was I involved? I think I was
24 still on the board by the point which it was
25 sold in 2005.

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1 N. Denton
2 Q. And how much did the company sell
3 for?
4 A. It was on the order of --
5 MR. BERLIN: Let me object and you
6 can answer the question.
7 A. I can't remember exactly. I think
8 it was of the order of \$30 million.
9 Q. And how much did you receive as a
10 result of the sale?
11 MR. BERLIN: Same objection.
12 You can answer.
13 A. I can't remember exactly. But of
14 the order of a million dollars.
15 Q. Okay. Then beginning in 2000 what
16 else did you do that resulted in income to
17 you?
18 A. I, you know, I had a building in
19 London that I, I sold. When did I sell that?
20 Maybe 2001.
21 Q. Commercial or residential?
22 A. It was part commercial, part
23 residential.
24 Q. Okay. What did you do next
25 professionally?

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1 N. Denton
2 A. I started, I started a site called
3 Gizmodo, which is a gadget site, in August of
4 2002. For some reason I remember things in
5 August.
6 Q. Okay. Did you -- had you invested
7 in any other internet or technology companies
8 prior to starting Gizmodo, other than the
9 ones we've discussed already?
10 A. Prior to starting Gizmodo?
11 Q. Yes.
12 A. It's possible, but not that I
13 remember during that period.
14 Q. Okay. And what -- did you have a
15 title when you began Gizmodo?
16 A. Did I have a title?
17 Q. Yeah.
18 A. I don't think I gave myself a
19 title, no.
20 Q. Okay. And when you say you started
21 Gizmodo, exactly what did you do?
22 A. I hired somebody called Peter Rojas
23 to write the site. Oh, I actually forgot.
24 At the time I was also working on an
25 internet, an internet news aggregation

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1 N. Denton
2 service.
3 Q. Okay. Did that have a name?
4 A. We called it the Lafayette Project.
5 Lafayette was the street I was living on at
6 the time.
7 Q. Okay.
8 A. It later became something called
9 Kinja, which is also the name of the, the new
10 name of the Hungarian entity and the name of
11 our current big software project.
12 Q. Software.
13 A. You are going to have to excuse me
14 if I only remember some of these things --
15 Q. Oh, no, no.
16 A. -- as we talk.
17 Q. We're talking, we're talking --
18 A. It's quite a while ago.
19 Q. We're talking ten years ago and I
20 apprec --
21 A. It's a fascinating trip down memory
22 lane for me.
23 Q. Well, I'm glad, I'm glad to hear
24 it. The Lafayette Project, you mentioned it
25 was a street you were living on in, in what

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1 N. Denton
2 city?
3 A. In New York.
4 Q. In New York, okay. You moved, when
5 did you move from San Francisco?
6 A. In 2002.
7 Q. So Gizmodo was start --
8 A. I mean, you can't really say I was
9 actually living in San Francisco because I
10 was going back and forth so much between
11 San Francisco and London and New York and
12 Budapest. I guess my primary residence had
13 been in San Francisco. But my mother had
14 been sick and so I was going back to England
15 a lot for, for that, and to Budapest where
16 she was from.
17 Q. All right. But Gizmodo was begun
18 as an entity in New York?
19 A. It was.
20 Q. Okay.
21 A. Well, as a website.
22 Q. As a website, of course. And how
23 long did you continue to -- well, I take it
24 that you continued to have some supervisory
25 control over Gizmodo ever since?

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1 N. Denton
2 A. Yes.
3 Q. There came a time obviously when
4 there were other internet entities that you
5 created?
6 A. Um-hm.
7 Q. And can you tell me about the
8 history of those?
9 A. We have eight major sites currently
10 and in the last ten years we've probably
11 launched eighteen. We tend to cull
12 properties. We try to be ruthless about
13 culling properties, so that the ones that
14 work we invest in, the ones that don't we
15 fold or fold into the larger more successful
16 entities.
17 Q. When you invest in an entity, how
18 do you determine whether it is working or
19 not?
20 A. Usually audience is the measure
21 that I look at first.
22 Q. And how do you measure audience?
23 A. Currently through a service called
24 Quantcast, formerly through a service called
25 Site Meter.

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1 N. Denton
2 Q. Now, Quantcast provide a number of
3 metrics?
4 A. Yes.
5 Q. Which metric is critical to you in
6 determining whether a site is working or not?
7 A. Is now or has been generally over
8 the last ten years?
9 Q. Yeah. Let's talk, let's talk,
10 let's talk about how your view of that has
11 evolved.
12 A. Okay, with pleasure. We began
13 looking at page views I think largely because
14 that was the default measure that Site Meter
15 provided. Site Meter was the first
16 measurement service that we used, and
17 page views was just, it was just the
18 standard.
19 And because the popularity of
20 articles could be measured and the appeal to
21 readers we tied, early on, we tied
22 compensation of writers to that measurement,
23 the degree to which they were satisfying
24 readers. In time, I can't even remember
25 exactly when it would have been, but it would

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1 N. Denton
2 have been a few years later, we switched to
3 uniques as a measure of that reader
4 satisfaction. Unique is a distinct
5 individual who's read either a site or an
6 article.
7 We would tend to tie, we did at one
8 point tie compensation -- we tried pretty
9 much everything. We did at one point tie
10 individual offered compensation to the unique
11 visitors to the articles that they wrote.
12 Every method has its flaws.
13 The page view method tended to
14 encourage slide shows. So articles based
15 on -- do you know what a slideshow is? It's
16 just kind of a series of photos that you
17 would forward through and that generates a
18 lot of page views, but not really reader
19 satisfaction.
20 So I think it's I felt it was, it
21 was a forced measure of reader satisfaction.
22 Q. I see.
23 A. The individual --
24 Q. And is that something that
25 encouraged -- that your writers were then

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1 N. Denton
2 economically incentivized to do in order to
3 boost their page views?
4 A. Yeah.
5 Q. Because that was tied?
6 A. Every incentive system has its
7 perverse effects.
8 Q. Sure.
9 A. And that was the particular
10 perverse effect.
11 Q. Right.
12 A. One could probably have countered
13 that by including other measures, but if you
14 include too many measures in a performance
15 metric then it tends to confuse the writer or
16 salesperson or lawyer or whoever it is and
17 can result in them not, just not paying
18 attention to the metrics at all. So
19 simplicity is, is a value.
20 The individual unique measure, so
21 this is the unique visitors to individual
22 articles written by a particular author. So
23 that, I can't remember how long we tried that
24 for, but that tended to result in too
25 individualistic approach by the writers and,

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1 N. Denton
2 so, and competitiveness within the
3 organization, excessive competitiveness, so
4 looking at their own individual interests
5 over the interests of the brand and the
6 general reader satisfaction.
7 So we settled a few years ago, and
8 actually really haven't changed it much
9 since, we settled on unique visitors for the
10 sites as a whole for the month and setting a
11 target which was based on a weighted, based
12 on an average, a trailing average of that
13 previous performance and given as a
14 percentage of the site's payroll. And that's
15 provided us with a reasonable balance,
16 incentive to satisfy readers, but at the same
17 time an incentive to work together to satisfy
18 readers.
19 Q. Okay. I appreciate the
20 explanation. That's very helpful. In terms
21 of the decision to employ the metric of
22 unique visitors for the site per month, I
23 take it that that was fully in effect in
24 October of 2012 when the Hulk Hogan sex
25 story?

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1 N. Denton
2 A. It was.
3 Q. Okay. And the trailing average you
4 talked about, that's the average for the
5 prior six months; is that your understanding?
6 A. I think, I think sometimes we did
7 twelve months, but it's either been six
8 months or twelve months.
9 Q. And that then serves to become the
10 target based upon which the, the compensation
11 of the writers on the site is based?
12 A. Exactly.
13 Q. And the maximum additional
14 compensation that can flow to all the writers
15 on the site during any given month is
16 20 percent --
17 A. Typically.
18 Q. -- above the target?
19 A. Typically.
20 Q. Okay. What, what are the
21 exceptions to that rule?
22 A. I think for Gizmodo we had a
23 shortage of ad inventory during the holiday
24 season and we lifted that cap.
25 Q. What do you mean "a shortage of ad

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1 N. Denton
2 inventory"? What do you mean by "a shortage
3 of ad inventory"?

4 A. Th site was very popular amongst
5 advertisers and we couldn't satisfy all the
6 advertiser business and so we incentivized
7 the writers more strongly.

8 Q. Okay. Given the metric that you've
9 chosen, to what extent are you able to
10 correlate ad revenue received in a given
11 month to the unique visitors for the site?

12 A. We don't really.

13 Q. Okay. You've never attempted to,
14 to correlate those two measures?

15 A. There's a correlation in the most
16 general of senses, which is that we have done
17 well by satisfying our readers, we're
18 profitable and growing and we do satisfy our
19 readers. If you look at the, if you look at
20 those metrics and those two phenomena, reader
21 satisfaction, our reputation amongst readers
22 for, for telling the truth, for being
23 authentic, for being conversational, for
24 being real, that's been correlated with
25 financial success, yes.

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1 N. Denton
2 Q. Okay. Let's, if we can, sort of
3 round out your professional career at this
4 point. What -- how would you describe your
5 career and the positions you've held
6 professionally since beginning Gizmodo?

7 A. How would I describe it?

8 Q. Yeah, how would you?

9 A. Could you be any more specific?

10 Q. Well, I was hoping you could. You
11 mentioned obviously that there, there -- that
12 over the last ten years you've launched
13 eighteen sites?

14 A. Roughly.

15 Q. Right. And by the way, some of
16 those sites have appeared, then disappeared
17 and then reappeared?

18 A. Yeah.

19 Q. One of those, I take it, is
20 Defamer; is that correct?

21 A. It is, yes.

22 Q. And what, what, what caused you,
23 for instance, to, to have that site disappear
24 and then reappear?

25 A. Our new software platform allows

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1 N. Denton
2 for smaller sites to, to satisfy a niche
3 audience while syndicating that same content
4 to a larger site that might bring advertising
5 revenue to that particular content.

6 Q. You mentioned a new software
7 platform. Gawker suffered a, an attack, a
8 cyber attack at some point?

9 A. Um-hm, several points, yeah.

10 Q. Okay. Was that what prompted the
11 creation --

12 A. No.

13 Q. -- of a new software platform.
14 Defamer ceased to exist when and then
15 reappeared when?

16 A. I can't remember exactly.

17 Q. Are there any other sites that have
18 disappeared and then reappeared?

19 A. A site called Valleywag which is
20 Silicone Valley gossip.

21 Q. And are the reasons why it
22 disappeared and reappeared the same?

23 A. The same, the software, the
24 publishing software changes the economics of
25 niche publishing.

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1 N. Denton
2 Q. Any other sites or subsites that
3 have come and gone and then come again?

4 A. Not that I can remember.

5 Q. Can you identify for me the sites
6 that have disappeared entirely and have not
7 yet reemerged?

8 A. Probably not, no.

9 Q. Any of them?

10 A. OddJack.

11 Q. That was a gambling related site?

12 A. Yes.

13 Q. Any others?

14 A. Gridskipper. Well, that was
15 actually sold. In fact, both OddJack and
16 Gridskipper were actually sold. Gridskipper
17 I think for a nominal amount.

18 Q. How much was OddJack sold for?

19 MR. BERLIN: Objection.
20 You can answer the question.

21 A. I can't remember.

22 Q. Millions or tens of millions?

23 A. No, no.

24 Q. I'm sorry, we didn't --

25 A. No, no.

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1 N. Denton
2 Q. Less than a million dollars?
3 A. I think so.
4 Q. Any other sites that have been sold
5 by you?
6 A. A music site called Idolator.
7 Q. And when was that sold?
8 A. I can't remember.
9 Q. Do you know how much it was sold
10 for?
11 A. Under a million dollars.
12 THE WITNESS: Sorry.
13 MR. BERLIN: Sorry, you've got it
14 let me object. I object to the question
15 and answer. You can answer the
16 question.
17 Q. Do you recall when either
18 Gridskipper or OddJack were sold?
19 A. Not exactly, no.
20 Q. Within the last year or --
21 A. No.
22 Q. All right. Any other sites that
23 have disappeared from the Gawker family?
24 A. Yes, but I can't remember them
25 right now.

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1 N. Denton
2 Q. Focusing for a moment on
3 Gawker.com, are there any stories that have
4 appeared on Gawker.com that you are
5 particularly proud of?
6 A. Let me think what I'm most proud
7 of. There was a very good takedown of
8 Col Allan recently by -- Col Allan, the
9 editor of the New York Post, by Tom Scocca.
10 The Trayvon Martin coverage particularly by
11 Cord Jefferson was excellent.
12 It's an excellent site. It's
13 particularly good right now.
14 Q. Are there any stories that have
15 appeared on Gawker.com that you regret --
16 MR. BERLIN: Objection.
17 Q. -- having published?
18 MR. BERLIN: Sorry. Objection.
19 You can answer the question.
20 A. There are plenty. Not, not that I
21 can recollect right now but...
22 Q. None that you recall?
23 A. If we sat here and talked about it
24 or I went and browsed through the site or my
25 e-mails I could, I could give you some. But

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1 N. Denton
2 yes, we, we have high editorial standards, we
3 have some of the best writers in the business
4 and we have a mix of articles from ones that
5 I'm extremely proud of through to ones that I
6 think could do with improvement.
7 Q. Okay. I take it you obviously have
8 in mind the article we're here discussing
9 today, the Hulk Hogan sex video article.
10 That's not one you regret publishing, is it?
11 A. No.
12 Q. Let me do this if we might. I'd
13 like to read to you some descriptions that
14 others have written about Gawker.com and ask
15 you if you agree or disagree with those
16 descriptions.
17 The first --
18 MR. BERLIN: Can I have, can I just
19 have -- what other people say about
20 Gawker.com is irrelevant. So can I have
21 a standing objection to these questions.
22 MR. MIRELL: Yes, of course.
23 MR. BERLIN: And then I'm happy to
24 have the witness answer.
25 Q. Sure. First descriptor, snarky,

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1 N. Denton
2 do you agree with that or disagree?
3 A. It has been described as that. At
4 its best it is not that.
5 Q. Do you recall having said that you
6 did agree that was an appropriate
7 description?
8 A. Sorry?
9 Q. Do you recall having said that that
10 was an appropriate description?
11 A. Do I recall having said that it
12 was? I said that at its best it is not.
13 Q. Okay. Do you recall having said to
14 anyone at any time that it was snarky, that
15 that was a fair description?
16 A. It can be. Some articles can be
17 snarky.
18 Q. Sexual?
19 A. Sexual?
20 Q. Do you believe that that's an
21 appropriate description of Gawker?
22 A. Sexual in what sense, the site, its
23 writers, the content?
24 Q. The content on the site?
25 A. The content?

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1 N. Denton
2 Q. Yes, I'm referring to the content
3 on the site.
4 A. Text content, the visual content?
5 Q. The site as a whole?
6 A. It reflects as much sexual activity
7 as exists in our society and the society
8 Gawker writes about.
9 Q. The site uses nude photos of
10 private parts?
11 A. Sorry?
12 Q. The site uses nude photos of
13 private parts?
14 A. You are going to have to excuse me.
15 These are descriptions by, these are your
16 descriptions or the descriptions of --
17 Q. By others. By others.
18 A. For instance, what was the source
19 of that?
20 Q. I'm asking you whether you agree or
21 disagree with it irrespective of what the
22 source might be.
23 A. Do we run photographs of private
24 parts? Well, we obviously did so in the case
25 of Deadspin and we, I presume, we have in the

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1 N. Denton
2 case of Gawker.
3 Q. That the site reports rumors that
4 don't always check out?
5 A. We report what we know and what we
6 hear and we set the record straight when we
7 find things don't check out.
8 Q. That the site is shameless?
9 A. We're not ashamed of what we do.
10 Q. That the site is irresponsible?
11 A. I think most journalists, a
12 thousand journalists that are responsible,
13 but they fail in their primary mission which
14 is to inform readers.
15 Q. That the site is mean?
16 A. It can be and I don't like it when
17 it is.
18 Q. That the site is malicious?
19 A. No.
20 Q. That the site is evil?
21 A. I don't believe that.
22 Q. Limit show you an article I'll ask
23 the reporter --
24 MR. BERLIN: Can I just interject?
25 MR. MIRELL: Sure.

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1 N. Denton
2 MR. BERLIN: And state on the
3 record, none of those -- I'm not aware
4 of any of the articles that you just
5 quoted from or potentially quoted from
6 having been produced to us by the
7 plaintiff in response to the discovery
8 requests and I would like to just put on
9 the record a request that if you are,
10 you know, to come in and ask the witness
11 about articles that haven't been
12 produced is questionable to begin with,
13 but to the extent that those things have
14 not been produced I would renew our
15 request, which has already been made and
16 is the subject of pending motions
17 practice, that they be produced promptly
18 to us.
19 MR. MIRELL: To the extent they
20 have not we're happy to do so. But I, I
21 cannot, I cannot and do not represent at
22 this point that that article has not
23 been produced to you.
24 A. Pretty much everything that could
25 be said has been said about us. So we could

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1 N. Denton
2 just kind of take a list from adjectives from
3 a dictionary and just kind of read through,
4 it would pretty much have the same effect.
5 Q. Well, but that's the whole point.
6 I mean, one doesn't necessarily believe
7 everything one reads?
8 A. Sure.
9 Q. So my point here today is to try to
10 understand from you whether --
11 A. Which ones I agree, that's fine.
12 Q. -- whether the buzz out there is
13 true, partially true, completely untrue and
14 that's the goal of this exercise today.
15 A. I understand.
16 Q. So let me ask the reporter to mark
17 as our exhibit next in order Exhibit 40.
18 During the last two days we've accumulated 39
19 previous exhibits, that's why we're starting
20 today with No. 40. Nothing magical about it.
21 (Exhibit 40, document, marked for
22 identification, as of this date.)
23 A. Thanks.
24 Q. This is, this is an article that
25 appeared quite some time ago in 2006 in

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1 N. Denton
2 The Guardian. You are familiar with
3 The Guardian newspaper obviously?
4 A. I am, yes.
5 Q. And do you recall sitting for an
6 interview with Mr. Silver of The Guardian
7 back in 2006?
8 A. No.
9 Q. Let's take a look first at
10 something that we previously touched on
11 earlier today. If you'd look at the third
12 paragraph on the first page. I should note
13 this is a five-page document and the
14 paragraph I'm referring you to begins, "he
15 left the FT in 1998."
16 When you are done reading that
17 paragraph let me know?
18 A. I am.
19 Q. Okay. This article says that the
20 First Tuesday was sold in approximately 1992.
21 Is that -- does that accord with
22 your recollection -- I'm sorry in 2002, does
23 that accord with your recollection?
24 A. I don't see where it says that.
25 Q. He sold the first, the sentence

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1 N. Denton
2 reads, he sold the First Tuesday four years
3 later?
4 A. Oh, four years later. Yeah, that's
5 wrong.
6 Q. When was that?
7 A. It was 2000.
8 Q. Okay.
9 A. See, can't, can't believe
10 everything you read.
11 Q. That's sort of the point I suppose.
12 Okay. \$15 million reportedly sold for, is
13 that an accurate number?
14 MR. BERLIN: Objection, asked and
15 answered. You can answer the question
16 if you can.
17 A. I have nothing more to say.
18 Q. The sale of Moreover Technologies
19 for \$30 million, is that accurate?
20 MR. BERLIN: Same objection.
21 You can answer.
22 A. I have nothing more to say.
23 Q. Okay.
24 MR. BERLIN: If I may, when I
25 object that a question's been asked and

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1 N. Denton
2 answered, you are free to answer the
3 question again, I am just noting the
4 objection for the record.
5 A. We had already discussed that so...
6 Q. Okay. And the parenthetical
7 following \$30 million says there you stressed
8 that there were other business partners and
9 investors, how many others in both companies?
10 A. I couldn't give you an exact
11 number. The business partners, there were
12 two or business partners, investors there
13 were maybe half a dozen.
14 Q. In we're talking about Moreover?
15 A. Yes, that's right. I presume
16 that's what you are referring to.
17 Q. Correct. I assume that that's what
18 the parenthetical is referring to?
19 A. Yeah.
20 Q. Okay.
21 A. Actually maybe the parenthetical
22 here is what's obviously sloppily written,
23 but maybe the parenthetical's referring to
24 both.
25 Q. All right. So just so we're clear,

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1 N. Denton
2 there were two business partners that you had
3 in Moreover?
4 A. And I had three business partners
5 in First Tuesday.
6 Q. And how many investors in each?
7 A. Like I said, Moreover Technologies
8 I think roughly half a dozen, maybe four
9 major. And then First Tuesday there was one
10 investor, one outside investor. Oh, maybe
11 two.
12 Q. All right. Then if you'd look at
13 the bottom of this page, the sentence that
14 begins at the bottom of the page, across the
15 board Gawker Media attracted 4.2 million
16 unique visitors in the U.S. in October.
17 That would have been October of
18 2006. Is that number roughly accurate?
19 A. I couldn't remember. It's -- I
20 hadn't remembered it being. We've grown a
21 lot.
22 Q. Incidentally, well what would that
23 number be today?
24 A. For, for the month?
25 Q. Yes.

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1 N. Denton
2 A. In the U.S. in October -- last
3 month we were 97 million globally, and I
4 forget what the U.S. total is, but 50 to
5 60 million. Should probably note a little
6 questioning tone there.
7 Q. And this is, this would be for the
8 month of September 2013?
9 A. That's right. And that's what I'm
10 referring to when I'm talking about the kind
11 of correlation between our reader
12 proposition --
13 Q. Sure.
14 A. -- and the growth the company has
15 experienced.
16 Q. And you talked about unique, unique
17 visitors to the site. The uniques that you
18 look at, the statistics you look at are
19 unique U.S. visitors; is that correct?
20 A. It depends.
21 Q. Okay. In deciding whether a site
22 is working or not is that the metric you use
23 or not?
24 A. In deciding the bonuses the U.S.
25 metric is the one we use, yeah.

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1 N. Denton
2 Q. And in terms of deciding whether a
3 site ought to be shut down or ought to be
4 sold, are there -- is there a different
5 metric that you typically use?
6 A. You know, all I really care about
7 is whether people respond to the site, you
8 know, whether they are engaged by it and
9 particularly whether smart and influential
10 people are engaged by the site. And so the,
11 the only way in which we would look
12 differently at the numbers would be, you
13 know, if a site was -- had great buzz, if
14 journalists were writing about it. You know,
15 if people that I respected were engaged by it
16 then that would cause me to -- Valleywag for
17 instance, is not huge, it's a site we
18 relaunched recently, but it's excellent and
19 New York Times and Slate, you know, and other
20 outlets are writing about it and it's having
21 influence and it's covering stories that
22 nobody else covers, so I'm proud of that
23 above and beyond the number.
24 Q. Continuing with the same sentence
25 that we were just looking at there's the

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1 N. Denton
2 parenthetical, mostly drawn from the
3 advertiser beloved 16 to 34 demographic?
4 A. So which one are we looking at?
5 Q. I'm sorry, it's now the top of the
6 second page.
7 A. Yeah.
8 Q. But it's a continuation of the same
9 sentence. Is that the demographic that --
10 A. I've actually never really heard of
11 a 16 to 34 demographic. I think people
12 usually refer to the 18 to 34 demographic.
13 It's a very sloppy piece; we wouldn't really
14 put up with this kind of standard.
15 Q. All right. Well, since you are not
16 editing The Guardian today all I can do is
17 read from the story. So is, is the, is the
18 18 -- let's correct them.
19 Is the 18 to 34 demographic the
20 demographic that mostly interacts with
21 Gawker Media's sites?
22 A. Our readers tend to be younger,
23 both on the average of the American
24 population and younger than the web average
25 and certainly for their age they tend to be

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1 N. Denton
2 upscale, better educated and wealthier and so
3 they are desirable to advertisers and that
4 also motivates the kind of articles and
5 content that we put out.
6 Q. Do you -- by the way, are you
7 familiar with a reality television show on
8 which Hulk Hogan was featured?
9 A. I was not, no. There was some
10 mention of it in one of the conversations
11 I've had in preparation for this deposition.
12 Q. Do you have any knowledge of the
13 demographic to which that show was directed?
14 A. No.
15 Q. So let's jump down a couple of
16 graphs on page 2 to the paragraph that begins
17 "a self-confessed internet addict."
18 Do you see that?
19 A. Um-hm.
20 Q. Okay. And if you'd read the entire
21 paragraph because I want you to have the
22 context, but I'm -- I'd like you to -- I'd
23 like to talk to you about the final sentence
24 of that paragraph.
25 A. Yeah.

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1 N. Denton
2 Q. Okay. So the sentence reads, the
3 stories they can't publish because they are
4 too sensitive or because they have been told
5 off the record or because they have only one
6 source, but they can't be stood up.
7 I would like to parse that a little
8 bit. So first, are you -- is what you are
9 meaning to say is that Gawker Media generally
10 or Gawker.com in particular will publish
11 stories regardless of their sensitivity?
12 A. We are less sensitive to
13 sensitivity than traditional newspapers.
14 Q. Okay.
15 A. Our site Deadspin has a tag line, I
16 don't know whether you've seen it, it says
17 without access, favor or discretion. That
18 pretty much captures the essence of
19 Gawker Media.
20 Q. And that's a tag line that, though
21 it appears on the Deadspin website, is
22 applicable more or less across the board?
23 A. Yes, I would own those words.
24 Q. Okay. And you'd certainly own them
25 with respect to a description of Gawker.com?

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1 N. Denton
2 A. Yes.
3 Q. And because they have been told off
4 the record you are prepared to publish
5 stories even though someone has told you
6 please keep this off the record?
7 MR. BERLIN: Objection.
8 You can answer the question.
9 A. We tend not to. There are several
10 definitions of off the record. We try to
11 preserve the integrity of our sources in
12 order to, to maintain a flow of information
13 to ourselves and to our readers by extension.
14 Q. Do you have an understanding of the
15 terms and any distinction between the terms
16 background and deep background?
17 A. Journalists are generally very
18 confused about those terms. There's actually
19 an interesting article in Slate that's worth
20 referring to, which I've occasionally sent
21 around, which tries to clarify the definition
22 of those phrases.
23 Usually it's best to, I find, to be
24 just very clear and explicit about, you know,
25 this is some information which you can use,

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1 N. Denton
2 but you can't indicate the source, or this is
3 information where you can source it
4 generally, but just don't let me be caught,
5 or here's some information that you can't use
6 at all unless you independently discover it,
7 or sometimes even here's some information
8 which you can't use at all, at all, which is
9 usually something that I would never agree
10 to.
11 Q. So in all of those different
12 categories and I appreciate the distinctions
13 you are drawing, is Gawker.com prepared to
14 publish articles containing information that
15 falls within all of those categories?
16 A. Falls within all those categories,
17 such as?
18 Q. Such as the final category you
19 identified where someone tells you you
20 cannot -- I will talk to you, but you cannot
21 use this information at all, are there
22 circumstances under which Gawker would say
23 notwithstanding what you've told me we're
24 going to publish anyway?
25 MR. BERLIN: Let me, let me just

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1 N. Denton
2 object and you can answer the question.
3 A. I can speak for myself and in an
4 imperfect way I am and my, my journalistic
5 ethics are reflected in the organization, I
6 would not normally agree to actually even
7 receive information under those conditions.
8 Q. But short of that Gawker would be
9 prepared to publish information that it
10 received off the record?
11 MR. BERLIN: Objection.
12 You can answer the question.
13 A. Publish information with the source
14 included? Do you mean, are you talking about
15 burning a source?
16 Q. Well, that -- I was going to use
17 that term as a follow-up.
18 A. We might as well be explicit about
19 this.
20 Q. Is that something you'd be prepared
21 to do in the right sort of circumstances?
22 A. I think journalists are actually
23 surprisingly, surprisingly rigid and ethical
24 when it comes to the protection of sources, I
25 guess because the information business, the

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1 N. Denton
2 primary mission to serve readers, to share
3 information, depends on being trustworthy to
4 sources. If a source has lied to us
5 the -- that protection is to some extent
6 waived.
7 Q. Are you familiar -- this is a bit
8 of a digression, but, are you familiar with a
9 story that Mr. Daulerio wrote involving ESPN?
10 A. Many, many stories, but none of
11 which I'm particular -- I don't particularly
12 read them. I'm not very interested in the
13 topic.
14 Q. Are you familiar with a story he
15 wrote where the motivation on his part for
16 writing the story initially resulted from his
17 believing that he had been lied to by a
18 publicist at ESPN?
19 MR. BERLIN: Let me just object to
20 the characterization on the question,
21 but you can answer the question if you
22 can.
23 A. He like many journalists is angry
24 when lied to. If your primary business is
25 the truth and dissemination of the truth then

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1 N. Denton
2 being lied to, yes, will tend to aggravate.
3 Q. Okay.
4 A. But it's actually often a danger of
5 a journalist to be provoked by that.
6 Q. If you -- if as a journalist you
7 were provoked by a publicist lying to you or
8 not being forthcoming, would it be
9 appropriate, in your view, to then publish
10 articles that were not fully sourced in an
11 effort to retaliate against that publicist
12 for having been less than forthcoming?
13 A. I--
14 MR. BERLIN: Let me just object for
15 all manner of reasons to the question
16 and you can go ahead and answer.
17 A. I don't believe in punishing
18 aberrant sources or punishing corporate the
19 enemies. I think it weakens our essential
20 proposition.
21 Q. Do you have any understanding of
22 whether that was actually done by
23 Mr. Daulerio in the case of the ESPN
24 publicist?
25 A. No.

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1 N. Denton
2 MR. BERLIN: Objection.
3 You can answer the question.
4 Q. All right. Then back to our
5 document if we could, Exhibit 40. The next
6 phrase in that sentence is "or because they
7 only have one source."
8 Mainstream journalists frequently
9 say that they will publish only once a story
10 is confirmed by two sources, is that what you
11 have in mind here?
12 A. I mean, it looks -- like I said, I
13 didn't remember this piece, but it looks,
14 after looking at that in context it looks
15 like I'm, I'm talking about what journalists
16 find interesting and then when we're talking
17 about what conversations should be reflected
18 in publication I'm talking about stories that
19 people, that people are already interested
20 in. If you look at the next paragraph
21 actually the, the essence of what I'm saying
22 is not, is not hinging on the number of
23 sources that are involved in the publication
24 of the story.
25 Q. Well, let me be more direct then.

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1 N. Denton
2 Is, is it permissible in Gawker.com to
3 publish a story that is based only upon the
4 word of one source?
5 A. Yes.
6 Q. And that has happened on numerous
7 occasions?
8 A. Yes.
9 Q. Okay. Whether or not that's the
10 practice within the mainstream journalistic
11 community or not that's something that has
12 gone on day in and day out at Gawker,
13 correct?
14 MR. BERLIN: Objection, asked and
15 answered. Go ahead and answer if you
16 can.
17 A. I'm not sure what principles of
18 mainstream media still exists after the last
19 couple of decades of embarrassment and
20 financial failure.
21 Q. But suffice to say that Gawker
22 doesn't require more than one source in order
23 to publish a story?
24 A. I think we have higher standards
25 than mainstream media.

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1 N. Denton
2 Q. Suffice to say, though, that Gawker
3 does not require more than one source in
4 order to publish a story?
5 A. It depends on the story.
6 Q. You've published numerous stories
7 involving the word of one source, correct?
8 A. Yes.
9 Q. Okay. And then finally help me if
10 you could with this, "they can't be stood
11 up."
12 That may be, that may be a
13 Britishism or not, but can you tell me what
14 you meant by stood up?
15 A. That one doesn't have the
16 confidence to put it on the front page of a
17 newspaper like the Financial Times because
18 the degree of certainty might be 80 percent
19 or rather than 99.9 percent.
20 Q. What degree of confidence would you
21 expect to have in any given Gawker.com story?
22 MR. BERLIN: Let me, let me object.
23 I mean, we've now -- we're now using a
24 lot of time focusing on the accuracy of
25 publishing which is not an issue in this

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1 N. Denton
2 case. And, you know, I, I object to
3 taking up this witness's time going
4 down -- I mean, you know, you want to
5 ask him a few questions it's fine, but I
6 would like to ask counsel to focus on
7 the issues that are actually before the
8 court in this case so that we don't
9 unnecessarily take up this witness's
10 time.
11 Q. My goal is not to unnecessarily
12 take up your time. My goal is to understand
13 the process by which stories are published or
14 not published at Gawker.com.
15 So in the case you've indicated
16 that, that there's, there are degrees of
17 confidence that one has in particular in the
18 accuracy of particular stories, correct?
19 A. Yes.
20 MR. BERLIN: Same objection.
21 You can answer.
22 Q. What is the degree of confidence,
23 what is the minimum degree of confidence that
24 you need to have in a story before you would
25 permit it to be published in Gawker.com?

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1 N. Denton
2 MR. BERLIN: Same objection.
3 You can answer the question.
4 A. The internet is different
5 than -- do you mind if I --
6 Q. Please.
7 A. -- talk around a little bit.
8 Q. Sure.
9 A. Just in order to answer the
10 question fully. The internet is a different
11 medium than print. If once a newspaper is
12 published and delivered the content can't be
13 retracted, you can't physically remove that
14 newspaper from the subscriber's home and any
15 correction, update, is less unlikely to be
16 seen by the person that read the original
17 story and, therefore, the standards of
18 accuracy for every individual piece in print
19 newspapers have to be higher as a result of
20 the medium.
21 The standard of accuracy that I
22 measure internet sites by, internet news by
23 and by extension our news, the news that we
24 put out, is the standard of accuracy over the
25 course of the whole story, and by over the

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1 N. Denton
2 course of the whole story I mean the story
3 together with any updates or corrections or
4 submissions by the source or the subject that
5 would cause us to like to clarify the, the
6 original piece that we had written. It's,
7 it's a fluid evolving thing, it's not a, it's
8 not a print article.
9 And my belief is that the
10 individual articles published on the internet
11 might be seen to have generally lower
12 standards of accuracy than print, but over
13 the course of the story the internet gets to
14 the truth better and more effectively than
15 traditional media. Is that clear?
16 Q. That's very helpful. I do
17 appreciate that. What I'd, what I'd like to
18 try to focus on, though, is the initial
19 decision to publish. And what I take from
20 your answer is that you are comfortable
21 having a lower confidence level than
22 traditional print media in terms of when you
23 decide to publish a story or not, because
24 over the course of the life of the story
25 errors can be identified, corrections can be

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1 N. Denton
2 run, updates can be run and that makes the
3 story then truer or more acceptable, correct?
4 MR. BERLIN: Objection.
5 You can answer the question.
6 A. I don't look at any story as just
7 being one event so, so yes, I do look at, I
8 do look at the entirety of a story.
9 Q. Okay.
10 THE VIDEOGRAPHER: Excuse me. I
11 have three minutes left on the tape.
12 MR. MIRELL: Why don't we take a
13 break then to allow him to change the
14 tape.
15 THE VIDEOGRAPHER: The time now is
16 11:19 a.m. This marks the end of tape
17 No. 1. Going off the record.
18 (Recess taken 11:19 a.m. until
19 11:31 a.m.)
20 THE VIDEOGRAPHER: The time now is
21 11:31 a.m. This marks the beginning of
22 tape No. 2. We are back on the record.
23 Q. You give me just a moment. Okay.
24 Just before our break -- Mr. Denton, you
25 understand, by the way, that you are still

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1 N. Denton
2 under oath?
3 A. I do.
4 Q. Just before our break we were
5 talking about the, the portion of the
6 quotation from you.
7 A. This is in this Guardian.
8 Q. In The Guardian article. The
9 quotation is accurate, is it not, by the way,
10 the final sentence of that second full
11 paragraph on page 2?
12 MR. BERLIN: Objection.
13 You can answer.
14 A. I couldn't tell you.
15 Q. In terms of standing up --
16 A. There's several things in the
17 article which are not accurate so, like I
18 said, it looks like a sloppy job.
19 Q. In terms of the last phrase in the
20 article, they can't be stood up, is there
21 anything more that you can tell me about what
22 you, what you meant by using that
23 phraseology?
24 MR. BERLIN: Objection.
25 You can answer.

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1 N. Denton
2 A. I think I told you what I meant.
3 Q. All right. There are occasions
4 when over the course of a story's life you
5 have come to the conclusion that for one
6 reason or not there are aspects of the story
7 that should no longer appear or should be
8 corrected, correct?
9 A. Yes.
10 Q. Okay. Do you have a recollection
11 of an incident involving Fred Durst,
12 D-u-r-s-t?
13 A. I remember him sending some flowers
14 to my apartment. I think that's the only
15 thing I remember about that particular,
16 particular story.
17 Q. Let me go back and ask you to take
18 a look at something that I'll ask the
19 reporter to mark as Exhibit 41.
20 (Exhibit 41, document, marked for
21 identification, as of this date.)
22 Q. I apologize for the way in which
23 the article appears on the second page. I
24 don't mean to be making this difficult for
25 you to look at, but due to the limitations of

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1 N. Denton
2 technology at the location where we're at
3 I -- that's the way this appears.
4 A. Happens to the best of us.
5 Q. The paragraph I particularly want
6 to draw your attention to, though, is the
7 paragraph that does appear clearly as the
8 second graph on the first page.
9 MR. BERLIN: Let me just note an
10 objection to the extent that you are
11 giving us an exhibit that you can't
12 really read, I object on that basis, but
13 we can certainly try and answer your
14 questions as best we can.
15 Q. Sure. First, Mr. Denton,
16 do you recall this as an article that you
17 wrote?
18 A. No.
19 Q. Okay. The reason why I ask that is
20 the first sentence refers to "our wise
21 Hungarian goat herding ancestors," and I
22 don't mean to suggest that your ancestors
23 were necessarily goat herders, but they were
24 Hungarian and so it occurred to me that
25 perhaps this was an article you had penned

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1 N. Denton
2 even though the signature appears to be
3 XOXO Gawker?
4 A. This is not my style of humor.
5 Q. Okay. Do you recall an incident
6 where Gawker.com linked to a video of
7 Mr. Durst's penis?
8 A. I remember a story involving Fred
9 Durst, I don't really remember anything else
10 about it.
11 Q. Well, do you believe that it is
12 incorrect that the video that was linked to
13 was removed from Gawker.com's website within
14 two hours after he complained?
15 A. I have no reason to believe that's
16 incorrect.
17 Q. Okay. Do you have any reason
18 to -- can you tell me why Gawker chose to
19 remove the video of Mr. Durst's penis after
20 two hours and has refused to remove, absent a
21 court order, a video containing the penis of
22 Hulk Hogan?
23 MR. BERLIN: Objection.
24 You can answer.
25 A. No, I can't remember the

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1 N. Denton
2 circumstances of this particular story.
3 Which, which year was it? Jess -- this is
4 Jessica Cohen. She would have been editing
5 Gawker in 2005.
6 Q. Have your standard --
7 A. Eight, eight years ago.
8 Q. Have your standards with respect to
9 the display of penises changed in those eight
10 years?
11 MR. BERLIN: Objection.
12 You can answer.
13 A. Let me think. We have a larger
14 audience and we are a more important part of
15 the news for a moment than we were eight
16 years ago. Gawker eight years ago, if this
17 was eight years ago which it was roughly
18 eight years ago, Gawker eight years ago was
19 as you can probably tell from the tone of
20 this note was pretty more irreverent, jokier
21 that it is now.
22 Q. Was it more responsible then --
23 MR. BERLIN: Objection.
24 You can answer.
25 Q. Was it more responsible or less

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1 N. Denton
2 responsible?
3 MR. BERLIN: Objection.
4 You can answer the question.
5 A. It was, like I said, more humorous
6 and more irreverent. I don't know whether I
7 could really point to distinction in
8 responsibility or sense of responsibility.
9 Q. Well, I guess I'm trying to
10 understand why it is that Gawker would have
11 leapt in 2005 to remove a video link of
12 someone's penis when requested to do so by
13 the penis-holder and not have done so in 2012
14 when requested to do so by counsel for
15 Hulk Hogan?
16 MR. BERLIN: Can I -- let me object
17 on two grounds. First I want a general
18 objection, but second, I don't think the
19 premise to the question, the part
20 that -- and this is why I objected on
21 the part that you can't read. If you
22 read the part that I can read at the top
23 suggests that, on the second page,
24 suggests that a request was made only
25 after they removed this.

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1 N. Denton
2 So I don't, I don't know that it's
3 intentional, but it seems that the
4 question is based on a false premise.
5 MR. MIRELL: Well, I'm not sure
6 that's true. What I read is three days
7 after we had already taken the video
8 down they received a cease and desist
9 letter. So Gawker on its own chose to
10 take this, chose to remove this video.
11 Q. So --
12 MR. BERLIN: Which was not the part
13 of your question, that's why I object.
14 Q. Let me, let me try to rephrase the
15 question.
16 Why would it be that Gawker,
17 whether requested to or not, would have
18 elected in 2005 to remove a link to a video
19 of someone's penis and yet steadfastly
20 refused to remove a link in 2012 to a
21 video -- let me start over again just so the
22 question's clear.
23 Why is it that Gawker would have
24 chosen to remove, whether voluntarily or at
25 someone's request, a video of someone's penis

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1 N. Denton
2 in 2005 and yet refused to remove a video
3 containing someone's penis in 2012?
4 MR. BERLIN: Let me, let me again
5 object to the question. I believe the
6 witness has previously testified he has
7 no recollection of this story, so asking
8 him to compare something in this case to
9 a story he doesn't recall seems patently
10 unfair. He can answer the question if
11 he can.
12 It would seem to me that if you
13 want to ask him why they didn't take
14 down the video at issue in this case
15 that that's a fair question, you ought
16 to ask that. That's the end of my
17 objection and you can answer the
18 question if you can.
19 A. Can I answer generally?
20 Q. Sure. We can go from there.
21 A. Because I don't have any particular
22 recollection of, of this piece. And I should
23 note we, we publish eight sites, each site
24 has, what, sixty, fifty, sixty articles a
25 day, sometimes more, we published over the

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1 N. Denton
2 course of ten years, it's going to be
3 impossible for me to remember every single
4 article, you know, even some of the prominent
5 ones.
6 The -- what do we, what do we look
7 at when we're publishing a story. We look
8 at, we look at whether there's a larger
9 story, like a larger story than simply the
10 gratuitous shot of private parts or a sex
11 act. We look at whether there is a -- we
12 look at whether there's any hypocrisy,
13 whether the, whether the actions revealed by
14 a photograph or a video in contrast with that
15 person's public persona, their, the way they
16 market themselves, what that persona
17 represents.
18 So we tend to look at the gap
19 between somebody's public persona and what is
20 revealed to be their behavior.
21 Q. Okay. And is what you are saying
22 that in this case you didn't have any, or,
23 you are unaware of any particular instance of
24 hypocrisy here?
25 MR. BERLIN: Objection.

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1 N. Denton
2 A. I'm unaware of this piece so...
3 Q. Okay. But you got flowers from
4 Mr. Durst?
5 A. I actually can't even remember how
6 or why. Maybe he was trying to make up with
7 us after or he realized that there was no
8 mileage in, in fighting with us.
9 Q. Do you have a view, by the way,
10 generally of how the prominence or not of a
11 particular celebrity affects a decision to
12 publish or not publish a particular story?
13 A. Prominence definitely plays a role,
14 yes. The degree to which somebody is a
15 public figure, you know, is absolutely a
16 factor in whether we'd publish a story which
17 might seem intrusive.
18 Q. Beyond whether or not someone is a
19 public figure is, assuming we're talking
20 about public figures generally, is there a
21 distinction that you make in terms of the
22 stories that you will publish based upon how
23 famous, to use one word, a particular
24 celebrity might be as compared to another
25 celebrity?

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1 N. Denton
2 A. We, as I hope I've started to make
3 clear, we put the reader interest above all
4 other goals, objectives. So to the extent
5 that our readers are typically younger,
6 upscale, educated readers, to the extent that
7 they find a particular celebrity intriguing,
8 you know, as measured by their interest in
9 the story, yes, we would tend to cover them
10 more.
11 Sarah Palin, for example, when
12 Sarah Palin came on to the scene in 2008
13 there was a very, very large public interest
14 in her, very large reader interest in her and
15 we absolutely responded to that. It works
16 the other way too. Sometimes there are media
17 figures that you think of as being big
18 personalities, like let's take Graydon Carter
19 or Rupert Murdoch, for instance, it actually
20 turns out that our readers are not as
21 interested as you might think in
22 Rupert Murdoch, so we've tended to write less
23 on him than might have been the case.
24 Q. Okay. So let me explore that for a
25 second. Do you know when Hulk Hogan ceased

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1 N. Denton
2 his career as a professional wrestler?
3 A. No, I don't.
4 Q. Do you know whether it was more
5 than a decade ago?
6 A. He, he's 60 now. I, I don't know
7 what the life span of a professional wrestler
8 is, wrestler is, but no, I don't know.
9 Q. Do you know what profession
10 Mr. Durst was engaged in in 2000 -- you've
11 indicated this was probably five years ago?
12 MR. BERLIN: Objection. I think
13 he's already testified he has no
14 knowledge of this other than getting
15 flowers, but try and answer it if you
16 can.
17 A. I've never seen Fred Durst, never
18 knowingly watched anything with him in it or
19 I don't know --
20 Q. Do you know who he is even?
21 A. No.
22 Q. If I told you that he was a member
23 of the band Limp Bizkit?
24 A. Oh, yes, that sounds familiar.
25 Q. Would that assist you in

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1 N. Denton
2 determining whether or not the activities of
3 a musician in a group such as that might be
4 of interest to your readership?
5 A. I actually wouldn't have thought
6 that he would be of huge interest to our
7 readership.
8 Q. Why is that?
9 A. Well, because I'm not very
10 interested in him, and I'm not the same as
11 our readers, but our -- my own interests do
12 provide some kind of guide as to what we,
13 what we cover and what kind of people we
14 cover.
15 Q. Okay.
16 A. Some kind, not exclusive.
17 Q. Okay. But you are not within the
18 demographic of your predominant readership?
19 A. No. Supposedly, no. I try to put
20 myself in that position.
21 Q. We all do. We all do.
22 Let me direct you to one additional
23 portion of this article.
24 A. Which article are we talking about?
25 Q. The Guardian article, Exhibit 40.

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1 N. Denton
2 A. Okay.
3 Q. At the bottom of the second page,
4 if you'd take a look at the final
5 paragraph on that page beginning "Denton
6 says"?
7 A. Yeah.
8 Q. And then the -- just to give you
9 context please read the top paragraph of the
10 third page.
11 A. Yes.
12 Q. Can you tell me what Gawker Stalker
13 was?
14 MR. BERLIN: Objection.
15 You can answer.
16 A. It was a, in its most famous
17 incarnation, it was a map showing celebrity
18 sightings around Manhattan.
19 Q. And when did that site first
20 appear?
21 A. In the March tryout of the
22 publication of this piece apparently.
23 Q. March of 2006?
24 A. I couldn't tell you.
25 Q. When was it taken down?

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1 N. Denton
2 A. Taken down?
3 Q. When was -- sorry, strike that.
4 Does Gawker Stalker still exist?
5 A. No.
6 Q. When was -- when did Gawker Stalker
7 cease to exist?
8 A. I don't remember, but it would have
9 been after 2008.
10 Q. Okay. And the point that you are
11 making, if I understand it, at the bottom of
12 the second page is that Gawker profited, not
13 necessarily economically but in terms of its
14 prominence and public recognition, from the
15 fact that George Clooney complained about the
16 existence of Gawker Stalker in a rather
17 public fashion?
18 A. Yes.
19 Q. And is it correct then that what
20 drives your decision to publish or not
21 publish stories or to create sites on which
22 information like Gawker Stalker might appear
23 is the reaction that it is likely to draw
24 from those who are the subject of the story
25 or who are offended by the site?

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1 N. Denton
2 MR. BERLIN: Objection.
3 You can answer the question.
4 A. Conflict is dramatic. People are
5 drawn to conflict and journalists,
6 publishers, lawyers and indeed professional
7 wrestlers all profit from that drama.
8 Q. Okay. And in deciding to publish
9 stories your, your hope is, at least in
10 certain cases, that people will publicly or
11 prominently object to something that you have
12 written or done?
13 A. No, I wouldn't say that.
14 MR. BERLIN: Let me object.
15 You can answer the question.
16 THE WITNESS: Sorry.
17 A. No, I wouldn't say that. Sometimes
18 that happens. I wouldn't say that's the
19 objective.
20 Q. Well, when that does happen though,
21 as in the case of George Clooney's objections
22 to Gawker Stalker, it certainly assists
23 Gawker, does it not in --
24 A. That --
25 MR. BERLIN: Objection.

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1 N. Denton
2 You can answer.
3 A. Sorry. Not every conflict. Often
4 conflicts or criticism can redound to our
5 advantage.
6 Q. Do you believe they redounded to
7 your advantage in the Hulk Hogan sex tape?
8 MR. BERLIN: Objection.
9 You can answer.
10 A. Not yet.
11 Q. Well, in terms of unique visitors
12 to the site as a result of the story's
13 appearance, do you believe that the
14 controversy over the appearance of the story
15 redounded to Gawker's advantage?
16 MR. BERLIN: Objection.
17 You can answer the question.
18 A. Our reputation for publishing the
19 stories and disseminating the information
20 that newspapers are often too cautious or
21 high bound to publish, that is absolutely to
22 our advantage to the extent that we satisfy
23 our readers, yes. We have grown. This
24 particular story I wouldn't say is -- has
25 been to our advantage yet.

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1 N. Denton
2 Q. Why do you say that and what do you
3 mean by yet?
4 MR. BERLIN: Objection.
5 You can answer the question.
6 A. The legal bills have
7 not -- financial benefit to the story is
8 nebulous at best, invisible at worst and in
9 any cases radically outweighed by the legal
10 costs and the costs to me, my time and
11 energy. As to the yet, this story isn't
12 over, this case isn't over.
13 Q. Let me ask you a more general
14 question with respect to stories that are
15 published by Gawker which potentially invade
16 the privacy of an individual.
17 If that individual seeks, comes to
18 Gawker seeking to have the story either never
19 published or to have the story taken down,
20 there is an inherent problem, is there not,
21 in terms of the individual having any
22 recourse in the event that Gawker chooses to
23 publish the story or chooses to keep the
24 invasive material online, is there not?
25 MR. BERLIN: Objection. You can

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1 N. Denton
2 answer the question if you can.
3 A. So, first of all, when you are
4 talking about Gawker you are talking about
5 Gawker.com?
6 Q. Yes.
7 A. And the inherent problem, or I'm
8 not quite sure what you are referring to.
9 Q. Well, it's difficult to, to
10 complain -- it's difficult to know what to do
11 if one is the subject of an invasion of
12 privacy once the invasion has already
13 occurred, would you agree with that?
14 MR. BERLIN: Objection and I want
15 to also object specifically to the use
16 of the term invasion of privacy which
17 has legal connotations. This witness is
18 not here giving legal.
19 MR. MIRELL: I appreciate
20 Mr. Berlin's objection, or I didn't mean
21 to interrupt.
22 MR. BERLIN: Let me finish the
23 objection, then I'm happy to have you
24 appreciate my objection, which is that
25 there's a legal construct called an

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1 N. Denton
2 invasion of privacy which is being
3 litigated in this case and I want to, to
4 the extent that the witness is going to
5 answer these questions over my
6 objection, which is I'm happy to have
7 him do, I want it to just be clear for
8 the record that he's answering with the
9 lay understanding of what that term
10 means, not with, you know, not giving
11 testimony that is speaking to the legal
12 issues in this case.
13 MR. MIRELL: Right.
14 MR. BERLIN: With that objection
15 you are free to answer the question.
16 Q. And that's precisely the sense in
17 which I meant to ask the question. Do you
18 have, do you have an understanding of what
19 I'm trying to get at or would you like me to
20 rephrase the question?
21 A. Maybe you could rephrase.
22 Q. All right. If what someone is
23 concerned about who is the subject of a
24 Gawker story that has already been published,
25 let's take that scenario...

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1 N. Denton
2 A. Yes.
3 Q. ...is that, is that your story
4 invades my personal privacy, if the
5 personally elects to seek to have Gawker take
6 the story down and Gawker refuses to do so,
7 do you recognize that there is an inherent
8 tension in attempting to then publicly
9 complain about an invasion of personal
10 privacy?
11 MR. BERLIN: Same objection. You
12 can answer the question if you can.
13 A. I understand that a public
14 complaint can draw greater attention to the
15 article that the person was complaining
16 about.
17 Q. Right. And that's -- you've said
18 it much more simply and elegantly than my
19 question.
20 Given that recognition on your
21 part, is it not true then that that
22 recognition becomes part of the calculus in
23 determining whether or not to publish the
24 story in the first place?
25 MR. BERLIN: Let me object for the

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1 N. Denton
2 same reason. You can answer the
3 question.
4 A. Now, are you saying that -- are you
5 saying that we would publish in the belief
6 that nobody would come after us for fear of
7 enhancing the attention paid to the piece?
8 Q. Actually I'm suggesting, actually I
9 think I'm suggesting the opposite.
10 A. Okay.
11 Q. That your decision to publish --
12 A. Yeah.
13 Q. -- is motivated at least in part by
14 the expectation or perhaps even the hope that
15 someone whose privacy you've invaded will
16 come after you in a public way in order to
17 enhance the visibility of the story and to
18 increase revenues to Gawker?
19 MR. BERLIN: Objection. You can
20 answer the question if you can.
21 A. That's not usually what goes
22 through my head, no. Sometimes when, when,
23 sometimes when a complaint is made, for
24 instance, in the case of George Clooney that
25 you drew attention to in the mention in

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1 N. Denton
2 The Guardian piece, you know, that was
3 actually a pretty, that was a pretty perfect
4 example actually because, you know, here you
5 had something which is entirely unanticipated
6 by us, and most things are unanticipated by
7 us, I'm quite happy with the high degree of
8 kind of risk and uncertainty, unanticipated
9 by us, absolutely worked to our advantage.
10 It was, it was actually a
11 ridiculous complaint on, on his part I think,
12 yeah.
13 Q. Did you anticipate -- well, let me,
14 let me ask you this. With respect to
15 Gawker.com what supervisory role do you
16 currently hold?
17 A. Well, I am the president of
18 Gawker Media. I appoint the editors of each
19 site under our control and I would terminate
20 them, I determine their salary levels, the
21 budgets for the sites.
22 Q. And you were in that capacity made
23 aware of the Hulk Hogan story, the sex tape
24 story before it was published, correct?
25 A. Yes.

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1 N. Denton
2 Q. And in considering whether or not
3 to publish the story, did you believe that
4 Mr. Hogan -- strike that.
5 In deciding whether to publish the
6 story or not, did you believe that Hulk Hogan
7 would not respond in any way to the
8 publication of the story?
9 A. Oh, I had no idea.
10 MR. BERLIN: Sorry. I need to
11 object because I don't think this is the
12 main point of your question, but the
13 preamble to your question asked about in
14 considering whether or not to publish
15 and I don't think there's been any
16 testimony on that, so I just wanted to
17 memorialize an objection to that and
18 then you can answer the question if you
19 can.
20 Q. Did you believe that the Hulk Hogan
21 sex tape story would go unmarked by Mr. -- by
22 Hulk Hogan?
23 A. I don't think -- people would
24 normally respond in some way.
25 Q. You believe they would?

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1 N. Denton
2 A. Yeah, people would normally respond
3 in some way.
4 Q. And did you anticipate that that
5 would be a public response in addition to a
6 private response?
7 A. I don't think I gave --
8 MR. BERLIN: Objection.
9 You can answer the question.
10 A. I don't think I gave the matter
11 that much, that much thought.
12 Q. Well, let's in deference to the
13 objection Mr. Berlin makes let's explore if
14 we can what the nature of the conversations
15 that were had with you concerning the
16 Hulk Hogan sex tape story before it was
17 actually published on Gawker.com.
18 Who spoke to you about the story,
19 what was said?
20 A. My recollection is hazy and I,
21 well, I'd have to tell you how I believed it
22 all went down based on how it usually goes
23 down.
24 Q. Okay.
25 A. Which is that I can't say this with

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1 N. Denton
2 absolute certainty. But I think that I had a
3 conversation with A.J. Daulerio on the fire
4 escape outside the 4th floor of the Gawker
5 office. Well, that's where we would normally
6 have these kind of conversations.
7 Q. This is not a place where you were
8 intending to do away with him or throw him
9 over?
10 MR. BERLIN: On behalf of
11 Mr. Daulerio, I object.
12 A. Did you find him charming?
13 Q. Lovely, lovely. But he smokes a
14 lot, is that why the fire escape is the
15 chosen locale, or?
16 A. I think he prefers informal
17 environments.
18 Q. Okay. All right. So tell me about
19 the conversation you had on the fire escape?
20 A. I have a recollection of a degree
21 of excitement on his part, excitement about
22 the story.
23 Q. Did he tell you what the nature of
24 the story was?
25 A. I don't think he went into any kind

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1 N. Denton
2 of great detail.
3 Q. Did he talk to you about having
4 obtained the sex tape DVD?
5 A. I presume so, but I can't remember
6 any distinct conversation.
7 Q. Did you review the sex tape video
8 either in whole or in part prior to the
9 publication of Mr. Daulerio's story?
10 A. No. I actually still haven't seen
11 it.
12 Q. Okay. And what did you as best you
13 recall say to him in response to his
14 excitement?
15 A. I actually can't tell you
16 specifically. I can tell you what I was
17 likely to have said to him based on other
18 stories.
19 Q. All right.
20 A. I would have encouraged him to
21 avoid gratuitous, gratuitous representation
22 of the tape by which I mean, for instance,
23 putting out the whole tape without making a
24 point. I don't like that. And I would have
25 advised him to consult with our counsel.

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1 N. Denton
2 Q. Okay. When you say, when you use
3 the word "gratuitous," do you mean anything
4 other than what you've just said in terms of
5 having the entire tape included or is there
6 something else, is there some, do you have
7 some other meaning to gratuitous?
8 A. I can tell you what my, my personal
9 feeling is about these kind of stories and it
10 is to some extent reflected in our general
11 editorial policy.
12 Q. Okay.
13 A. Which is that I believe we all,
14 well, I hope that we all have sex and that
15 celebrities are humans and that, that if
16 we're going to make a point we need to
17 include as much detail as gives the story
18 kind of color and meaning, but, but not so
19 much that we're simply revelling in somebody
20 else's embarrassment. I don't like it when
21 anyone stands in judgment over, over others
22 for behavior that they are likely to have
23 pursued themselves. Seems hypocritical to
24 me.
25 Our enemy's hypocrisy, so we have

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1 N. Denton
2 to be particularly on the lookout for it
3 ourselves. Does that, does that make sense?
4 Q. Yes, it does. And my question then
5 following on that is whether you think that,
6 that the excerpts of the video or the
7 narrative that Mr. Daulerio wrote that
8 accompanied the video crossed any lines of
9 with respect to how you perceive the way in
10 which matters like this should be treated?
11 A. It was as I understand a roughly
12 short excerpt of the video. As I said, I
13 haven't seen it. The text I actually read
14 for the first time last week and having read
15 it last week I thought its tone was, it was
16 sweet, as sweet as in sympathetic.
17 I didn't, I didn't feel it was
18 gratuitous. I was not embarrassed by it.
19 Q. The narrative went into some great
20 detail about what was depicted on the
21 entirety of the 30 minute videotape, correct?
22 A. It's --
23 MR. BERLIN: Objection. The
24 witness has already testified he hasn't
25 watched the 30 minute tape, but subject

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1 N. Denton
2 to that objection you can answer the
3 question.
4 Q. Is that your recollection or
5 understanding?
6 A. It was a well written story with as
7 much detail as the story needed.
8 Q. And do you believe that the detail
9 depicted in the excerpts that were included
10 with the story were necessary?
11 A. I think, I think every story, you
12 know, whether it's children's book or the
13 bible or an article requires a certain amount
14 of, you know, anecdote and description in
15 order for it to, in order for it to work, to
16 communicate. In a children's book the color
17 of the ball would be described. The
18 descriptions are essential to a story and so,
19 yes, I believe that this particular story had
20 about as much description as was, was needed
21 for the communication of the broad idea.
22 Q. And given that fact, then, the use
23 of the excerpts themselves was superfluous
24 and gratuitous, was it not?
25 MR. BERLIN: Objection.

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1 N. Denton
2 You can answer.
3 A. The act of being?
4 Q. The actual minute forty-one seconds
5 of the video?
6 A. Photographs of video have
7 communicative power that words often don't.
8 Even for our audience which is a reading
9 audience and even for our sites which tend to
10 be certainly sort of text driven, there's a
11 power to an image.
12 The Trayvon Martin story, the
13 teenager who was killed by a vigilante. When
14 you saw a photograph of him wearing his, I
15 think it was him wearing his hoodie, but
16 basically him looking like a black teenager,
17 that was a photograph we actually -- we
18 actually ran the photograph of him dead,
19 something which was controversial and I'm
20 glad that we did because that communicated
21 that, you know, he's, he was just a skinny
22 teenager. And so photographs and video do
23 have a power that sometimes words lack.
24 Q. Well, let's pick up on that for a
25 moment. Do you have an understanding of

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1 N. Denton
2 there being a distinction between rights
3 privacy for the living and rights privacy for
4 the dead?
5 MR. BERLIN: Object to the extent
6 that the witness is being asked, you
7 know, for legal concepts, but you can go
8 ahead and answer the question if you
9 can.
10 A. I actually can't, no. I'm not
11 familiar with all the legal concepts.
12 Q. Okay. Are you unfamiliar with the
13 fact that as a matter of law in the
14 United States individuals who are deceased no
15 longer possessed rights to personal privacy?
16 A. It would not surpr --
17 MR. BERLIN: Let me just make the
18 same objection, then you can answer.
19 A. It would not surprise me, but I'm
20 not, I'm not specifically aware of the law.
21 Q. Okay. So, so the fact that someone
22 is dead or alive in terms of your decision
23 about whether or not to publish a story that
24 potentially invades their privacy is
25 irrelevant?

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1 N. Denton
2 A. No. That --
3 MR. BERLIN: Let me -- same
4 objection. You've got to just give me a
5 second to put my objection on the record
6 and then you may answer the question.
7 A. No. We absolutely apply different
8 standards to people who are, who are dead.
9 I'm just saying that I'm not aware of the
10 legal concepts.
11 Q. All right. Going back to the
12 Hulk Hogan sex tape store for a moment. Is
13 it your view that the number of page views
14 and the number of unique visitors would have
15 been different if Mr. Daulerio's story had
16 run without the video excerpts?
17 MR. BERLIN: Objection.
18 You can answer.
19 A. I assume that the interests would
20 have been lower, yes.
21 Q. By what order of magnitude?
22 A. I couldn't say.
23 MR. BERLIN: Objection.
24 You can answer.
25 Q. You've been in this business quite

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1 N. Denton
2 a while, Mr. Denton. Do you have any sense
3 of how much less interest would have been
4 generated if video excerpts were not part of
5 this story?
6 MR. BERLIN: Objection, asked and
7 answered. You can answer it again, if
8 you'd like.
9 A. Like I said, the, the communicative
10 power of a story depends both on the
11 argument, the point being made and the
12 description. The video and the image are
13 part of the description. And I would -- I
14 couldn't give you a number, but it would be a
15 significant decline in the level of interests
16 or the ability of the reader to comprehend
17 the point.
18 Q. Can you quantify in any way what
19 you would define as a significant decline?
20 MR. BERLIN: Objection, asked and
21 answered now twice.
22 A. No, let's stick to significant.
23 Q. You can't provide me with any
24 better quantification than that?
25 MR. BERLIN: Objection, asked and

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1 N. Denton
2 answered now three times.
3 A. Would you like to venture your
4 definition of significant and then I could, I
5 could tell you, or?
6 Q. Well, would you say that it would
7 have generated less than 50 percent of the
8 interests that it ultimately did?
9 MR. BERLIN: Objection, same
10 objection. I've lost count how many
11 times we've asked, but same objection.
12 You can answer if you can.
13 A. I wish that this was more of a
14 science. I wish I could predict exactly what
15 framing of an article would communicate the
16 point most effectively. I'm constantly
17 surprised by, by how things happen.
18 I'm constantly surprised by the
19 stories that do excite reader interest and do
20 move people and communicate ideas and
21 surprised by stories which I think are
22 fantastic and important that go nowhere. If
23 anyone works it out please let me know.
24 Q. All right. But you haven't worked
25 it out any further at this point, all right.

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1 N. Denton
2 All right. Couple of other points on
3 The Guardian story that you still have in
4 front of you, Exhibit 40. Let's take a look
5 at the paragraph, the fourth full
6 paragraph on page 3 begins with the word
7 "delighted with."
8 A. Where is that?
9 Q. Do you have it?
10 A. Um-hm.
11 Q. Why don't you read that paragraph.
12 A. Yeah.
13 Q. Recognizing that the article was
14 again authored in December of 2006, some time
15 ago, the sentence that appears, the first
16 quote from you, so far there has been no such
17 thing as too far with our titles.
18 Do you see that?
19 A. Um-hm.
20 Q. Was that true as of December of
21 2006?
22 A. Was that true?
23 Q. Was that -- is that a true
24 statement by you?
25 A. It's I'm quoted as saying that.

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1 N. Denton
2 Q. Did you believe in December of 2006
3 that that was true?
4 A. I have no reason to believe that
5 this quote is inaccurate, except for the fact
6 that the article is sloppy.
7 Q. Do you believe that this is the
8 case today?
9 A. What, that?
10 Q. "So far there has been no such
11 thing as too far with our titles?"
12 A. I mean, I guess it depends on your
13 definition of too far and which standards one
14 is applying, whether it's journalistic
15 standards or legal standards.
16 Q. Well, I'm asking you in terms of
17 your -- I assume this is, this is your view
18 and so I'm asking you whether you believe
19 that there has been no such thing as too far
20 with our titles as of today?
21 A. Well, I mean, looking at this
22 quote, assuming that this quote is accurate
23 and I don't have a reason to believe it
24 isn't, the too far is in reference to the
25 standards, the journalistic standards that

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1 N. Denton
2 have been set down by print newspapers,
3 journalistic standards that I think are
4 irrelevant or even damaging in internet era,
5 and I'm absolutely proud that we will go
6 further than they will and they have and they
7 did.
8 Q. Okay. So I'm trying to just get an
9 answer to my question. So with that
10 understanding of "too far" as you've just
11 provided, do you believe that as of today
12 there has been no such thing as too far with
13 our titles?
14 MR. BERLIN: Objection.
15 You can answer the question.
16 A. While we have published a range of
17 stories from ones I'm delighted by and proud
18 of, to stories that I would prefer hadn't
19 seen the light of day, that generally I like
20 the fact and our readers like the fact that
21 we will push stories and we will publish
22 things that we know to be true, things we
23 believe to be true that other newspapers,
24 other news organizations, more traditional
25 news organizations, usually for reasons of

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1 N. Denton
2 access or forced proprietary, will avoid.
3 Q. So you've taken stories farther
4 than the mainstream press would, do you
5 believe you've taken them too far in any case
6 since this article was authored?
7 MR. BERLIN: Objection. I believe
8 that's been asked and answered. You can
9 answer or add if you like.
10 A. I'm proud of our editorial
11 standards. I'm proud of most of our stories.
12 Yeah, I'm glad that we revealed that the
13 mayor of Toronto had smoked what appeared to
14 be a crack pipe, a story that the Toronto
15 newspapers, it's not a small town, the
16 Toronto, the Toronto newspapers sort of had
17 ignored.
18 I'm glad that we ran the Manti Te'o
19 story about his fake girlfriend, fake
20 girlfriend who the mainstream outlets had
21 taken as being fact just because he said so.
22 So I'm, I'm glad that we do those stories,
23 yes.
24 Q. So those are examples of stories
25 where you don't believe that Gawker went too

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1 N. Denton
2 far?
3 A. No. I believe that --
4 Q. And I'm just trying to understand
5 here what you are saying.
6 A. Yeah.
7 Q. To -- with respect to when you use
8 the word "our titles," do you mean the sites
9 themselves or our specific posts?
10 A. Sites themselves.
11 Q. Okay. And that would apply to all
12 of the sites within the Gawker Media family?
13 A. It would, yes.
14 Q. Okay. Just look if you would at
15 the last on that page beginning "in the end."
16 A. Yeah.
17 Q. Do you believe that the
18 description, it's putting rumor out there and
19 seeing what sticks, is an accurate
20 description of what Gawker.com does?
21 MR. BERLIN: Objection.
22 You can answer the question.
23 A. It's not how I would have
24 characterized it.
25 Q. Regardless of whether that's how

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1 N. Denton
2 you would have characterized it or not, do
3 you believe it's accurate or not?
4 A. I think it's --
5 MR. BERLIN: Objection, objection.
6 You can answer.
7 A. -- incomplete.
8 Q. And what would be necessary to
9 complete it?
10 MR. BERLIN: Objection.
11 You can answer.
12 A. Probably the last five minutes of
13 this conversation.
14 Q. Okay.
15 A. Which I am enjoying by the way.
16 Q. Me too, me too.
17 A. It's a great experier -- it's a great
18 opportunity to, to remind myself of our core
19 values.
20 Q. Okay, good. Give me just one
21 moment, let me just see if there's anything
22 else we need to address with this.
23 Does the term traffic whoring mean
24 anything to you?
25 A. Yes.

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1 N. Denton
2 Q. What is that?
3 A. How would I characterize that? An
4 article that is cheap, that is gratuitous,
5 that seeks only to, to provoke without truly
6 informing. Empty calories would probably be
7 the kind of closest metaphor would probably
8 capture it best.
9 Q. Okay. On page 4 of The Guardian
10 story, Exhibit 40, there's a quote from an
11 unidentified writer which ends with the
12 sentence, we are paid to get traffic and that
13 dictates what stories you do.
14 Do you see that, that's the end of
15 the second full paragraph on the fourth page?
16 A. Yeah.
17 Q. Do you agree with that writer's
18 characterization?
19 MR. BERLIN: Objection.
20 You can answer.
21 A. No.
22 Q. Why not?
23 A. The, the bonuses which are
24 dependant on traffic only represent a maximum
25 of 20 percent of the site budget and the

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1 N. Denton
2 majority of the compensation is fixed base
3 salary. So I think it's, it's an
4 oversimplification. It's a dramatization.
5 Q. You don't believe that that's the
6 perception of the writers who work regularly
7 for the Gawker.com site?
8 MR. BERLIN: Objection, calls for
9 speculation. You can answer it.
10 A. Actually A.J. Daulerio was probably
11 an interesting case in point because his, his
12 policy was always to look, look at the
13 entirety of what the site produces and what
14 the sites writers produce and don't
15 necessarily expect every single writer or
16 every single article to produce traffic. And
17 when we're talking about traffic we're
18 talking about reader interest.
19 Q. Yes.
20 A. So it's our proxy for reader
21 interest.
22 Q. Sure.
23 A. And success in delivering the, the
24 real value that we have for readers.
25 Q. And, and also is a metric that's

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1 N. Denton
2 used in terms of what revenues you derive
3 from advertising?
4 MR. BERLIN: Objection.
5 You can answer the question.
6 A. Not directly, no.
7 Q. But indirectly?
8 A. The unique visitors for a site, for
9 a month, that would help to determine whether
10 an advertiser includes you in a buy, in a
11 buy.
12 Q. And whether you meet certain
13 targets for numbers of impressions?
14 A. Sorry?
15 Q. And whether you meet certain
16 targets for numbers of impressions?
17 A. We -- at least since we moved to
18 uniques we don't measure or track or reward
19 based on impressions.
20 Q. You don't reward your employees
21 based on that?
22 A. No.
23 Q. But the contracts that you sign
24 with advertisers are premised upon the
25 numbers, numbers of impressions, correct?

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1 N. Denton
2 A. They are, yes.
3 Q. I think we can put the article
4 aside for the moment.
5 MR. BERLIN: Is it possible to have
6 a break?
7 MR. MIRELL: Sure.
8 THE VIDEOGRAPHER: The time now is
9 12:26 p.m. This marks the end of tape
10 No. 2. Going off the record.
11 (Recess taken 12:26 p.m. until
12 12:44 p.m.)
13 THE VIDEOGRAPHER: The time now is
14 12:44 p.m. This marks the beginning of
15 tape No. 3. We're back on the record.
16 Q. Okay. We're back on the record,
17 Mr. Denton, and you recognize you are still
18 under oath?
19 A. Yes.
20 Q. In the last answer you gave me you
21 spoke about you mentioned A.J. Daulerio and
22 we've spoken about him before. Mr. Daulerio
23 is not currently the editor of Gawker.com,
24 correct?
25 A. Yes.

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1 N. Denton
2 Q. And who is?
3 A. John Cook.
4 Q. Okay. And you and Mr. Cook had an
5 interview earlier this year with Eriq Gardner
6 of the Hollywood Reporter?
7 A. Seems vaguely familiar.
8 Q. Okay. Let me take -- ask you to
9 take a look at a document I'll have marked as
10 Exhibit 42.
11 (Exhibit 42, document, marked for
12 identification, as of this date.)
13 Q. And ask you whether you recognize
14 Exhibit 42 as a copy of the article that
15 Mr. Gardner wrote as a result of his
16 interview with you and Mr. Cook.
17 A. It looks like it.
18 Q. So at this point I just have sort
19 of one area that I wanted to address with
20 you. If you would turn to the top of page 2,
21 the question that's asked is: What have you
22 learned along the way, and you begin by
23 responding by saying, we removed a lot of
24 obstacles to free journalism and yet, and
25 then Mr. Cook interjects the following, there

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1 N. Denton
2 is still the desire to be right, that is
3 still important to me and to everyone we work
4 with. We want to get it right. Our
5 standards for getting it right are different
6 from larger, comma, more established
7 institutions, comma, and we do not just throw
8 out every tip that we get on the site,
9 period. We evaluate and report, period.
10 A. Yeah.
11 Q. And then you respond, that is a
12 disagreement between us, period. That's a
13 disagreement between me and a lot of our
14 journalists is that I would like more of the
15 tips to be published, maybe not published
16 under John's name but published under a
17 tipster's name or under a tipster's anonymous
18 handle, I would like them to be published,
19 period.
20 So I'm just trying to identify the
21 specific nature of the disagreement that's
22 reflected in this little colloquy here.
23 A. Sure.
24 MR. BERLIN: Go ahead.
25 Q. Can you enlighten me?

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1 N. Denton
2 MR. BERLIN: Objection.
3 You can answer.
4 A. As we have discussed before there
5 is a tension between the accuracy of an
6 individual piece and the integrity of the
7 story as a whole as it appears online
8 together with updates, the full story. And
9 generally I believe in the, in the truth of
10 the full story and I want the full story to,
11 to get out and the way for it to get out is
12 to start with something, start by publishing.
13 And often our editors and journalists who are
14 closer to, what in English would describe
15 being closer to the coal face, they probably
16 still have more of the traditional print
17 concern for the strict accuracy of the
18 individual article.
19 Q. Is Mr. Cook's background in print
20 journalism or in internet journalism?
21 A. Both of us have a background in
22 print journalist. He was at the
23 Chicago Tribune and I was at the
24 Financial Times.
25 Q. Right. But prior to his being

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1 N. Denton
2 editor at the Gawker.com what was his
3 position?
4 A. He was at various other -- oh, he
5 was at Gawker.com.
6 Q. Right.
7 A. As a writer.
8 Q. For how long?
9 A. Thinking three years maybe.
10 Q. So is it the case then that he has
11 not internalized the culture and that this
12 disagreement still exists among you?
13 A. I think he's -- we meet somewhere
14 in the middle. It's obviously been the
15 tension hasn't been sufficient to break the
16 connection between us. I value him highly.
17 Q. Okay. One of the other differences
18 between internet journalism, if I can call it
19 that, and traditional journalism is the
20 immediacy of the media, correct?
21 A. Yes.
22 Q. Is it -- there's an old AP saying I
23 think, get it first, get it right, but be
24 sure to get it right. Have you ever heard
25 that?

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1 N. Denton
2 A. I couldn't have told you. Thank
3 you for telling me. You think it was AP.
4 Q. I think it was an Associated Press
5 saying. But have you ever heard that said?
6 A. I think I have, yes.
7 Q. That's not, that's not a
8 proposition that you subscribe to, is it?
9 MR. BERLIN: Objection.
10 You can answer.
11 A. I'm actually not completely sure
12 what that proposition is so...
13 Q. Get it first --
14 A. Yeah.
15 Q. -- get it right, but be sure to get
16 it right?
17 MR. BERLIN: Same objection.
18 Go ahead and answer.
19 A. No. I probably care more about
20 getting it right than getting it first.
21 Q. Well, let me ask you this: When it
22 comes to stories as to which --
23 A. You know, I care about getting it
24 right first, that's what I care about. Being
25 the first to get it right, to get the whole

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1 N. Denton
2 story, that's what I, that's what I care
3 about. Thanks. Thanks for helping me to
4 discover myself.
5 Q. Okay. Well, we're helping each
6 other here, Mr. Denton. Let me just ask you
7 though, when it comes to stories which
8 Gawker.com has the inside track, by that I
9 mean it has an exclusive --
10 A. Yeah.
11 Q. -- on a particular story, if the
12 concern is that others might break the story
13 first is there not pressure to publish as
14 soon as possible?
15 A. Yes.
16 Q. Okay. And that's regardless of the
17 fact that you may not be the first to get it
18 right, that you may get it wrong at the
19 outset, correct?
20 MR. BERLIN: Objection.
21 You can answer.
22 A. Typically in order to be the first
23 to get it right you need to be the first out
24 of the gate.
25 Q. Okay.

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1 N. Denton
2 A. Not always.
3 Q. Okay.
4 A. If you get out the gate and you get
5 it wrong then you've probably you've damaged
6 your credibility and you've damaged your
7 value as, as a conduit for information.
8 Q. All right. But there is you
9 recognize a significant amount, an
10 increasingly significant amount of
11 competitive pressure to publish first?
12 MR. BERLIN: Objection.
13 You can answer.
14 A. I don't know whether I would really
15 say that's the case. We have more, more
16 online competitors now than we did, but the
17 newspapers are weaker.
18 Q. Okay. Who do you consider your
19 online competitors?
20 MR. BERLIN: Objection.
21 You can answer.
22 A. You know, that's a very -- it's a
23 rapidly changing landscape as I'm sure you
24 know. And we have direct close competitors
25 such as BuzzFeed, but I'd look at Twitter,

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1 N. Denton
2 Tumbler and other information networks as
3 being probably larger threats to our
4 existence, models for our emulation.
5 Q. What about organizations like TMZ?
6 A. Like TMZ, I've never liked TMZ
7 much.
8 Q. You don't consider them a
9 competitor to Gawker?
10 A. Do we compete for -- you know, I
11 don't even think we compete for advertising
12 revenue all that much. I think our client
13 base is quite different. And I respect what
14 they've achieved.
15 I certainly respect their contacts
16 and sources and police among law firms, that
17 they certainly have access to information
18 that we don't have in L.A. Do you rate them?
19 Q. I'm sorry?
20 A. Do you rate them?
21 Q. I take the fifth.
22 A. Okay. But my, my broader point is
23 that the competition that we face is actually
24 not traditional competition in any, in any
25 sense, that the world in which we operate is

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1 N. Denton
2 a world of anonymous Twitter accounts and,
3 and information, you know, whether it's a sex
4 video or any other kind of information that
5 spreads through e-mail virally, that is not
6 disseminated, published in a traditional
7 fashion.
8 Q. Okay.
9 MR. MIRELL: Mr. Berlin, could I
10 ask you to pull Exhibit 24 for the
11 witness.
12 MR. BERLIN: You've got the
13 actuals.
14 MR. MIRELL: Oh, yes.
15 A. Aha.
16 Q. Exhibit 24, Mr. Denton, is an
17 article from Digiday, do you recall seeing
18 this article before today?
19 A. Certainly not in print but...
20 Q. Online?
21 A. I mean, I recall giving the
22 interview. I don't think I ever read it
23 through to, to the end.
24 Q. The headline is Nick Denton's beef
25 with BuzzFeed. Do you have a beef with

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1 N. Denton
2 BuzzFeed?
3 MR. BERLIN: Objection.
4 You can answer.
5 A. Yes.
6 Q. And what is that in summary?
7 MR. BERLIN: Objection.
8 You can answer.
9 A. I don't think that they as a
10 company or German Peretti, the founder, as an
11 individual has any purpose.
12 Q. You, you identified them though as
13 a competitor of yours --
14 A. Yes.
15 Q. -- in the answer you just gave. In
16 what since then do you regard them as a
17 competitor?
18 A. They are a competitor of traffic
19 and they are a competitor for advertising
20 revenues and a competitor for talent,
21 editorial talent.
22 Q. If you would take a look at the
23 question and answer that begin at the bottom
24 of the first page. The question is: So how
25 much money are you making from alternative

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1 N. Denton
2 revenue sources like affiliates, and then
3 your response is, we don't make many
4 commercial bets, but affiliate revenue from
5 Amazon and others. The original business
6 model of Gawker Media is finally coming into
7 its own.
8 Can you just describe for me
9 briefly what you meant by "finally coming
10 into its own"?
11 A. The growth rate is in the triple
12 digits at the moment. And the \$15 million in
13 transactions on Amazon, that is a measure of
14 a business line that is coming into its own.
15 Q. And that business model is fed by
16 individuals who click onto web pages that
17 contain advertisements for particular
18 products that can be purchased through
19 Amazon?
20 A. It's more direct than that. That,
21 that would be revenue generated by purchases
22 on Amazon, a book or a, an electronic device
23 that was mentioned in one of our articles
24 would generate a link and a promotion of a
25 purchase and the reader could purchase the

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1 N. Denton
2 article, it would feel as if they were
3 purchasing the article, purchasing the
4 product actually on the, on the article or
5 from the article.
6 Retail and media are to some extent
7 merging. It was part of the original promise
8 of the web; it's taken some time to realize.
9 Q. Understood. Just one other thing
10 on this document, perhaps two others. But
11 one, at the bottom of the second page where
12 the paragraph begins "the Gawker Stalker
13 map"?
14 A. Yeah.
15 Q. The quote from you is, it propelled
16 Gawker forward, won us notoriety, drew in
17 advertisers even.
18 Is that a correct statement?
19 A. It is, as is the fact that it's a
20 regret. I'm happy to explore the tension
21 between that if you want.
22 Q. Okay. Well, perhaps, perhaps over
23 lunch. Let me just ask you briefly since you
24 mentioned it about the quotation concerning
25 Trayvon Martin that appears on the third

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1 N. Denton
2 page of this document. The two questions and
3 answers at the top of that page, does that
4 accurately reflect what you told the author
5 of this article?
6 A. Yes.
7 Q. In both cases, correct?
8 A. Both of them, both of those
9 sentences seem familiar to me. This is a
10 more recent piece than some of the others are
11 you've shown me.
12 Q. It is.
13 A. From my recollection it's slightly
14 clear. You do know that I appear in a lot of
15 articles.
16 Q. I've noticed that.
17 A. It's hard to keep track.
18 Q. Yeah, well, you know, the price of
19 fame. Let me ask you that. I was probably
20 going to get to this later, but since you've
21 raised the subject.
22 Given that you've become a
23 celebrity yourself as a result of these
24 various articles and all of that, would you
25 have a problem with a live stream of the

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1 N. Denton
2 sexual activity that occurs in the bedroom of
3 your apartment?
4 A. I would obviously be embarrassed,
5 yes.
6 Q. Why?
7 A. Why? Because I don't want any
8 folds of fat to be exposed to the public, it
9 would be embarrassing.
10 Q. Is that the only reason for the
11 embarrassment? And I'm sure -- you appear to
12 me quite lean, certainly by comparison, and
13 so I'm confident that would not be a
14 significant issue.
15 A. I suppose it depends, depends on
16 the circumstances of, of the tape. I think
17 there are some, been some sex tapes that have
18 added to the luster of celebrity, a
19 personality like Paris Hilton or
20 Kim Kardashian, that have been the basis for
21 a career, and there's certain tapes that
22 have, that have been actually even filmed
23 with a view to their possible dissemination
24 that. You know, that's the, that's the
25 celebrity media industrial complex that we

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1 N. Denton
2 all exist within.
3 Q. Okay. But --
4 A. But some are just simply
5 embarrassing.
6 Q. So I'm just trying to understand
7 what the nature of the embarrassment might
8 be, I mean, aside from your physical
9 appearance concerns. Is there anything else
10 about setting up a live stream of sexual
11 activity occurring in your apartment's
12 bedroom that would be embarrassing?
13 A. I think it would probably be
14 embarrassing if, I think that if it seemed to
15 be exhibitionist, that, you know, if, if the
16 act was filmed with a view to some sort of
17 dissemination I would have thought that would
18 be, it would seem a little weird to people.
19 You know, if there were large numbers of
20 videos with many different sexual partners,
21 to the extent that some people had a view on
22 fidelity or promiscuity or within that local
23 environment that that was not seen as being
24 acceptable behavior then I could see that
25 that would be embarrassing.

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1 N. Denton
2 If there were sexual practices that
3 were depicted that were seen by people in
4 that community as being perverted or abnormal
5 and that would cause titering or worse forms
6 of disapproval, I could see that that would
7 be embarrassing. So I think it depends very
8 much on the context.
9 Q. Would it be more embarrassing or
10 objectionable if, hypothetically, your
11 boyfriend were to surreptitiously set up a
12 camera in your bedroom and begin taping your
13 sexual activities?
14 MR. BERLIN: Objection.
15 You can answer the question.
16 A. I would break up with him.
17 Q. You would find that beyond the
18 pail?
19 A. It wouldn't be a media question, it
20 would be a question of relationships and
21 trust.
22 Q. Do you know -- strike that.
23 Did you know prior to the
24 publication of Mr. Daulerio's article and the
25 promulgation of the sex tape video of

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1 N. Denton
2 Hulk Hogan whether that tape had been
3 surreptitiously recorded?
4 A. No.
5 Q. Did you endeavor to inquire about
6 that?
7 A. No.
8 Q. Would that have been at all
9 relevant to your publication decision?
10 A. I mean, to the extent that there
11 was a possibility that the tape had been made
12 with Hulk Hogan's knowledge and that it
13 wasn't necessarily the only such tape that
14 that would increase our interests in the
15 story as a media outlet, yes.
16 Q. Okay. Well, would the fact that it
17 was -- let's assume, assume for me, assume
18 for the moment that the tape was, was
19 produced and that the recording took place
20 without his knowledge, what I'm asking you is
21 whether if you knew that fact for certainty
22 at the time you published the story whether
23 that would have affected your decision about
24 whether or not to publish the story?
25 MR. BERLIN: Objection, asked and

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1 N. Denton
2 answered. You can answer it again.
3 A. Yeah, I think we're getting a
4 little bit too hypothetical here for me to be
5 able to give you any reasonable answer.
6 Q. Well, did you have any reason to
7 know -- strike that.
8 You did not know one way or the
9 other, I take it, at the time Mr. Daulerio
10 spoke to you about this story on the fire
11 escape that whether the tape had been
12 surreptitiously or knowingly recorded.
13 A. I think at that point I probably
14 only had general, a general experience to go
15 by.
16 Q. Okay. Did, did that fact, would
17 that fact have been relevant to you in terms
18 of a decision about whether or not to publish
19 the story including the excerpts from the
20 video?
21 MR. BERLIN: Objection, asked and
22 answered. You can answer it again.
23 Q. I'm having difficulty understanding
24 your answer so...
25 A. Okay. So I'm having difficulty

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1 N. Denton
2 actually dealing with the question.
3 Q. Okay.
4 A. Or not that it's not a reasonable
5 question, but I'm just trying to -- maybe you
6 could rephrase it.
7 Q. I'll try.
8 A. It's just very, very hypothetical.
9 I think I tried to, I tried to
10 explain -- sorry, I interrupted you.
11 Q. In making a decision about whether
12 to publish a story that includes a sex tape
13 video, is part of the decision-making
14 process, in your view, entail an
15 understanding of whether the tape reflects a
16 consensual or nonconsensual recording of that
17 sexual encounter?
18 MR. BERLIN: Objection. Including
19 this is I alluded to this earlier, the
20 premise of the question is making a
21 publishing decision, but I want to
22 object for that reason and also for the
23 reason the question's already been
24 asked, but you may answer the question.
25 A. Can I try to answer that in my own

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1 N. Denton
2 way?
3 Q. You can try and I may try to ask it
4 in my own way. Go ahead.
5 A. I have a phone with me here, we all
6 do, if somebody was to take that phone and I
7 was to know that that was -- that, that a
8 photograph or a video that happened to be on
9 that phone was actually just taken from me on
10 that table then, yes, that would be probably
11 at one end of a spectrum.
12 And usually when we get a video,
13 when somebody submits a video it's because it
14 has been, it has been -- at some point it has
15 been disseminated in some way and that
16 the -- there's a higher likelihood that it
17 was disseminated with the permission or at
18 the instigation of, you know, one of the
19 participants or somebody who was in this case
20 hosting the participants.
21 Q. Okay. Did you make any
22 assumptions -- strike that.
23 Let me first ask, did you ask
24 Mr. Daulerio when you had your conversation
25 with him about this video whether he knew if

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1 N. Denton
2 the tape had been recorded with the
3 permission of Hulk Hogan?
4 MR. BERLIN: Objection, asked and
5 answered. You can answer the question
6 again.
7 A. I advised him to consult with our
8 counsel, and I don't remember anything beyond
9 that.
10 Q. Okay. You don't remember making
11 any specific inquiries along those lines?
12 A. I wouldn't normally, no.
13 Q. And the reason you wouldn't
14 normally is because it is irrelevant to you
15 whether all the participants in a sex tape
16 have consented to the taping?
17 MR. BERLIN: Objection.
18 You can answer.
19 A. No. The reason why I wouldn't is
20 because I appoint editors and then I give
21 them large discretion over the stories that
22 they, that they run, and set broad guidelines
23 as to what we're looking for in a story,
24 broad guidelines that we have talked about
25 previously.

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1 N. Denton
2 Q. Okay. But the guidelines that you
3 establish first are not write guidelines, I
4 take it, correct?
5 A. I think probably some of them have,
6 have incarnation in our editorial wiki. But
7 that's, that is a document that I haven't
8 actually looked at in quite a while.
9 Q. That would be the only place they
10 would appear, correct?
11 A. No. There would be e-mails that I
12 would send to the editorial department, many
13 of which then are published publicly. I'm
14 sure if you look up, if you go to the
15 Romanesco site, a lot of them are on there.
16 Q. Have you ever, have you ever issued
17 a directive that says or guidelines -- I
18 don't mean to be pejorative in any
19 sense -- that says in words or effect, if you
20 are going to post a sex tape please determine
21 whether all of the participants in the sexual
22 encounter have consented to the taping?
23 MR. BERLIN: Objection.
24 You can answer.
25 A. That sounds probably more specific

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1 N. Denton
2 than I would normally get.
3 Q. You don't have a recollection of
4 having done that?
5 A. I don't have a recollection of
6 having done that.
7 Q. Okay. And is that something that
8 you as the, a president of Gawker Media
9 believe is something that should be done by
10 the editors of the various sites under the
11 Gawker Media umbrella?
12 MR. BERLIN: Objection.
13 You can answer the question.
14 A. I do believe that we should make
15 some judgment as to whether somebody's a
16 public figure and whether by extension their
17 acts have any relevance to the public.
18 Q. That's not exactly responsive to my
19 question. My question--
20 A. Sorry, I wasn't meaning to be
21 difficult.
22 Q. My question is more specific. Do
23 you believe it is appropriate for editors of
24 the sites under the Gawker Media family to
25 make inquiries before posting a sex tape

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1 N. Denton
2 video into the question of whether or not or
3 both the participants or all of the
4 participants in the production of the sex
5 tape were aware of it having been recorded
6 contemporaneously?
7 MR. BERLIN: Objection.
8 You can answer the question.
9 THE WITNESS: Can we talk?
10 MR. BERLIN: If it involves
11 something that might be privileged then
12 we should, we should inquire, so if
13 you'll excuse us.
14 MR. MIRELL: Okay, sure.
15 THE VIDEOGRAPHER: The time now is
16 1:12 p.m. Going off the record.
17 (Recess taken 1:12 p.m. until 1:17
18 p.m.)
19 THE VIDEOGRAPHER: The time now is
20 1:17 p.m. We are back on the record.
21 MR. BERLIN: Let me just since we
22 took a break, let me just say that I
23 believe I've addressed the witness's
24 question and I do not need to assert a
25 privilege objection at this time.

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1 N. Denton
2 Q. Okay. Do you have the question in
3 mind or would you like me to rephrase it?
4 A. Maybe you could rephrase it.
5 Q. Do you believe it is appropriate
6 for the editor of Gawker.com to post any
7 portion of a sex tape video without having
8 first ascertained whether all of the
9 participants in the sexual encounter were
10 contemporaneously aware of the tape having
11 been recorded?
12 MR. BERLIN: Objection.
13 You can answer the question.
14 A. We're never going to be aware of
15 all the circumstances of the filming of, of
16 anything. And no, we can't always determine
17 the circumstances in which a film was made.
18 Generally in my experience when at the point
19 of which we have received a video there is
20 usually the involvement of one of the
21 participants.
22 Q. Of one of the participants
23 potentially, right?
24 A. Um-hm, or potentially both.
25 Q. Okay. But going into the run-up to

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1 N. Denton
2 the publication of the subject article that
3 included the Hulk Hogan sex tape video
4 excerpts, you did not know one way or another
5 whether all parties to that encounter had
6 consented?
7 A. No.
8 Q. Let me ask you this. If you could
9 take a look at Exhibit 6 which I will provide
10 you a copy of while counsel is pulling his.
11 These are interrogatory responses that were
12 provided to us by your counsel and were
13 verified by Scott Kidder, who I had the
14 pleasure of speaking to yesterday.
15 Have you had an opportunity to
16 review these interrogatories in preparation
17 for your deposition?
18 A. No.
19 Q. Let me ask you to take a look at
20 page 6 of Exhibit 6 and you'll see that your
21 name is -- appears in a little box there on
22 that page?
23 A. Um-hm.
24 Q. And in the, in the box to the far
25 right of your name it says, Scott Kidder, see

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1 N. Denton
2 below, discussed with Nick Denton the
3 publication of the excerpts from the video.
4 Do you see that?
5 A. Um-hm.
6 Q. Is that a true statement?
7 A. Yes, I have no reason to believe
8 otherwise.
9 Q. Is there any reason why that box
10 does not include a reference to conversations
11 you had on the fire escape or anywhere else
12 with Mr. Daulerio?
13 A. I don't know.
14 Q. Okay. Can you -- have you told me
15 about the entirety of your conversations with
16 Mr. Daulerio about the publication of the
17 article that he wrote and the sex tape
18 excerpts that accompanied it?
19 A. I do remember one, one
20 conversation, might have been part of the
21 same conversation or it might have been a
22 subsequent conversation. I couldn't tell you
23 absolutely for sure this was prior to the
24 publication of the piece or subsequent, but
25 there was suggestion that there were, there

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1 N. Denton
2 was a source coming forward saying that there
3 were other tapes.
4 Q. Okay. Is that the only other thing
5 you recall talking with Mr. Daulerio about?
6 A. At this moment, yes, that's the
7 only thing.
8 Q. Okay. And do you have a
9 recollection of anything that was said by you
10 or by Mr. Kidder in your conversation with
11 him?
12 A. I mean, I usually say the same
13 thing: Don't be gratuitous, don't run too
14 much video, make a point, don't stand in
15 judgment. That's --
16 Q. That's the mantra?
17 A. Yeah.
18 Q. Okay. When I asked you earlier to
19 look at the Digiday article which is
20 Exhibit 24, you respond, you responded that
21 the quotes from you were accurate and one of
22 those quotes is if a story is worthwhile it
23 generates push-back. Do you recall that?
24 A. It sounds like something I would
25 say.

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1 N. Denton
2 Q. Is that, is that a view you have
3 that is in any way applicable to the
4 Hulk Hogan sex tape story?
5 A. The Hulk Hogan story is not one
6 that I would, I would point to as a prime
7 example of that.
8 Q. And why is that?
9 A. Why is that?
10 Q. It did generate push-back of a
11 sort?
12 A. When I'm talking about push-back
13 I'm talking about what I consider to be real
14 push-back, which is vast numbers of people
15 telling us that we're wrong, that we've done
16 something outrageous and so I'm, I guess I'm
17 really talking about reader push-back.
18 Q. I see. Do you have --
19 A. Or actually, you know, it could be
20 reader push-back or kind of institutional
21 push-back. And obviously we received
22 push-back from Hulk Hogan himself, but it
23 isn't as if there was a legion of fans or, or
24 a legion indeed of our own readers saying
25 we've gone too far.

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1 N. Denton
2 Q. What sort of -- when you say
3 "institutional push-back," what do you mean?
4 What do you have reference to there?
5 A. Let me think of an example.
6 Fox News for instance.
7 Q. Okay.
8 A. So we have -- we are one of their
9 primary antagonists. We cover stories that
10 most media outlets for fear of retaliation
11 will not touch. And Roger Ailes in his
12 organization, unlike us, they do believe in
13 rewards and punishment and they punish us
14 whenever they have the chance.
15 Q. Punish you by, by, in what way?
16 A. Well, for instance, we published a
17 list of gun owners in New York State as part
18 of the debate over gun massacres and faced
19 the institutional push-back of both gun lobby
20 and of Fox News, which I guess is sort of
21 partly associated with that side of the
22 political spectrum, and they published my
23 phone number, not my cellphone number
24 fortunately, and so I received not only the
25 usual barrage of e-mails but also hundreds or

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1 N. Denton
2 thousands of voicemails.
3 So that would be an example of the
4 kind of push-back that really tends to alarm
5 you when you are a little worried about
6 leaving your own home less there be some gun
7 rights fanatic outside.
8 Q. Right. But that's part of the, in
9 your view, that's part of the job in a sense
10 in that the story, the underlying story from
11 your point of view was one that was
12 worthwhile?
13 A. I like to think we have a great
14 tolerance for that kind of push-back than
15 most organizations and if you, if you don't
16 have that kind of tolerance then you
17 shouldn't really be in this profession.
18 Q. Let me ask you, changing to an
19 entirely different topic. Gawker Media
20 Group, Inc., the Cayman Islands company, are
21 there shareholders of that company?
22 A. Are there shareholders?
23 Q. Yes.
24 A. Yes.
25 Q. How many?

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1 CONFIDENTIAL - N. Denton
2 A. I don't know.
3 Q. Is it -- would it be in the 30 to
4 40 range?
5 A. Could be.
6 Q. If I were to identify some names
7 for you, would you be able to tell me whether
8 or not they were shareholders of the entity?
9 A. I would be able to tell you whether
10 some were.
11 Q. Okay. So let me just run through a
12 series of names, get over this quickly.
13 MR. BERLIN: Let me, let me if I
14 could, just I'd like to object to the
15 questions you are about to ask and if I
16 can have a standing objection --
17 MR. MIRELL: You may have a
18 standing objection.
19 MR. BERLIN: -- to questions that
20 are seeking ownership of Gawker Media
21 Group, Inc.
22 Q. If I can just give you the names
23 and then if you say yes, I'll assume they are
24 currently a shareholder of Gawker Media
25 Group, Inc., if you say no then they are not

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1 CONFIDENTIAL - N. Denton
2 or if you don't know then please indicate
3 that.
4 So Chris Batty?
5 A. I think he's sold out. I think we
6 bought up his shares.
7 Q. Choire Sicha, C-h-o-i-r-e,
8 S-i-c-h-a, I believe.
9 A. Choire.
10 Q. Choire.
11 A. Now, I don't really care about the
12 disclosure of these names but, but they
13 might.
14 MR. BERLIN: Well, we can
15 designate, we can designate that portion
16 confidential, but this is why I've
17 objected.
18 Q. That's fine. We can. We have a
19 procedure for designating a portion of the
20 record to be confidential and we treat it as
21 such during this line of questioning.
22 MR. BERLIN: Let me be very clear
23 about the nature of my objection so that
24 there's no misunderstanding. There's a
25 procedure in Florida to follow to seek

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1 CONFIDENTIAL - N. Denton
2 discovery of this kind of information
3 and we could and would be entitled to
4 object and not have this witness answer
5 those questions. In an effort to be
6 cooperative we will do so, but if at any
7 time the witness feels uncomfortable
8 about answering those questions we will
9 stop.
10 A. I mean, I don't mind about myself,
11 it's just for people who don't really have
12 anything particularly to do with this, this
13 case.
14 Sorry. Choire Sicha, I think he
15 still retains some of his equity holding.
16 Q. Okay.
17 A. But, I mean, I would have thought
18 probably be a little more efficient if we
19 just, couldn't we just give the share -- is
20 this the slightly out date share register? I
21 mean, I'm assuming by Chris Batty's inclusion
22 that.
23 Q. I'm attempting to ascertain whether
24 these people are or are not currently
25 shareholders.

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1 CONFIDENTIAL - N. Denton
2 A. Yeah. I, I would actually have to
3 refer to a document anyway so...
4 MR. DIETRICK: I'm not sure what
5 you are reading from.
6 MR. MIRELL: I'm reading from my
7 own notes.
8 MR. DIETRICK: I don't know if it's
9 out of date.
10 Q. So let me just do this as quickly
11 as we can.
12 A. Sure.
13 Q. I'll just read you the names. If
14 you, if you say yes --
15 A. Okay.
16 Q. -- I'll assume they are currently
17 shareholders. If you say no, I'll assume
18 they are not. If you don't know please
19 say --
20 A. Okay.
21 Q. -- you don't know.
22 MR. BERLIN: Let me just -- and
23 I'll do this, I'm happy to do this on
24 the record providing it's not waiving
25 any privilege. As I said on the record,

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1 CONFIDENTIAL - N. Denton
2 there's not a requirement under Florida
3 law to answer these questions at this
4 time.
5 THE WITNESS: Okay.
6 MR. BERLIN: If you feel
7 uncomfortable about answering them, I'm
8 happy to have you not answer them and
9 you should feel okay to say that. If
10 you want to answer them or feel you are
11 comfortable answering them you can.
12 A. I'm trying to be as helpful as I
13 can be.
14 Q. Michael Cascio, C-a-s-c-i-o.
15 A. Don't know.
16 Q. Brian Lam?
17 A. Don't know.
18 Q. Yourself?
19 A. I am a shareholder.
20 Q. Gaby Darbyshire?
21 A. Is, yes.
22 Q. Gabriel Jackman?
23 A. Yes.
24 Q. Tom Plunkett?
25 A. Yes.

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1 CONFIDENTIAL - N. Denton
2 Q. Lockhart Steel?
3 A. Don't know. Yeah, yeah, he must
4 be.
5 Q. Erin Pettigrew?
6 A. Don't know.
7 Q. Scott Kidder?
8 A. I assume so.
9 Q. John Duncan?
10 A. Yes.
11 Q. Matt Hamer?
12 A. Hamer.
13 Q. Or Hamer.
14 A. I assume so. I don't know.
15 Q. Is there anyone else who you recall
16 being a current shareholder of Gawker Media
17 Group, Inc. that I didn't identify?
18 A. My nieces, my niece and nephews.
19 Q. And what are their names?
20 A. Ava Weinbrecht, Luca Weinbrecht.
21 That's Ava is A-v-a, Luca is L-u-c-a, and
22 Remy is R-e-m-y.
23 Q. Weinbrecht?
24 A. W-e-n -- W-e-i-n-b-r-e-c-h-t.
25 Q. Okay. By which of the --

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1 CONFIDENTIAL - N. Denton
2 A. Oh, and I think there's a good
3 friend's son.
4 Q. I'm sorry?
5 A. There's a good friend's son that
6 I --
7 Q. S-u-n?
8 A. No, son, s-o-n. His newborn.
9 Q. Oh. And do you know that name?
10 A. Well, the family name is Fuhman.
11 Q. Okay. Anyone else whose names you
12 recall being current shareholders of Gawker
13 Media Group, Inc.?
14 A. Not off the top of my head right
15 now. I mean, assume that there are more
16 employees who would. But I, you know, I
17 can't remember exactly what the structure is,
18 so, and maybe they would show up in some
19 other, in some other form. But the major
20 shareholders I think you've captured.
21 Q. Okay. Do you receive compensation
22 from Kinja KFT, you personally?
23 A. Not to my knowledge, no.
24 Q. Do you receive compensation
25 personally from Gawker Media, LLC?

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1 CONFIDENTIAL - N. Denton
2 A. Can I ask Heather?
3 MR. BERLIN: You should just answer
4 what you know. If you don't know, you
5 should say you don't know.
6 A. You know, I can't remember exactly
7 which corporate entity I, I receive my salary
8 from.
9 Q. Okay. You are unclear?
10 A. I would have thought it would be,
11 it would be the L -- it would be the Gawker
12 Media LLC, yeah.
13 Q. All right. But you're -- if it is
14 not the Gawker Media, LLC --
15 A. Yeah.
16 Q. -- then it would be Gawker Media
17 Group, Inc.?
18 A. I don't think the Gawker Media
19 Group, Inc. actually does any business of
20 that nature. It's a holding company.
21 Q. What was your compensation from
22 Gawker, whichever entity it was, in the year
23 2012?
24 MR. BERLIN: Let me object. You
25 can answer if you'd like. And let me

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1 CONFIDENTIAL - N. Denton
2 again say on the record you are not
3 obliged to answer that question if you
4 don't want to.
5 Q. And by the way, this will still be
6 part of the confidential portion of the
7 transcript.
8 A. I think it was between 300 and
9 \$400,000.
10 Q. And annualizing your salary for the
11 year 2013, is your salary approximately the
12 same or more or less?
13 A. It's increased.
14 Q. What is it likely to be for the
15 year 2013?
16 A. Over 500,000.
17 Q. Do you currently own your Soho
18 loft?
19 A. I do.
20 Q. And did you purchase that with
21 funds that you received from Gawker's
22 operations?
23 A. No.
24 Q. I'll show you an article I'll ask
25 the reporter to mark this as Exhibit 43.

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1 N. Denton
2 (Exhibit 43, document, marked for
3 identification, as of this date.)
4 Q. This is part of the Nick Denton --
5 A. Cartoon, but okay.
6 Q. This is part of the Nick Denton
7 publicity, offensive I say facetiously.
8 A. This is offensive publicity.
9 Q. You don't particularly care for the
10 caricature?
11 A. Cartoon, no.
12 Q. No, all right. Is this an article
13 you've seen?
14 A. The price of public exposure.
15 Q. Fame. Did you see this, have you
16 seen this article before today?
17 A. I don't think I read it, no.
18 Q. Okay. This one is of relatively
19 more recent vintage, April of 2013?
20 A. Yeah.
21 Q. And you recall, though, giving an
22 interview --
23 A. I do.
24 Q. -- to Mr. Levy of Wired. If you
25 could just briefly look at the second page of

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1 N. Denton
2 this article where the question is asked of
3 you at the top of the page, are there posts
4 you've run over these ten years that you
5 regret. You carefully avoided answering that
6 question, but you did say in response, I
7 regret the stories we didn't do, the stories
8 that we knew about and talked about but
9 didn't have all of so didn't publish, and
10 then you go on to explain what you mean.
11 A. I think that's an answer.
12 Q. It is an answer. I agree that it
13 is an answer, right. We have a word for it
14 in the legal trade, objection, nonresponsive.
15 A. How mean.
16 Q. Well, what can I tell you. This is
17 the way --
18 A. It was a reasonable answer to a
19 reasonable question.
20 Q. Well, okay. So the question I
21 actually have is unrelated --
22 A. Okay.
23 Q. -- to the stories that you regret
24 running because we've already been over that
25 ground. I'm trying to get you to identify

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1 N. Denton
2 for me stories that you regret not doing?
3 MR. BERLIN: I think we already
4 asked and answered this question, but
5 you may answer.
6 Q. We answered the flip side?
7 A. It's an interesting topic.
8 MR. BERLIN: No, we answered the
9 question earlier in the deposition. You
10 asked him what questions he was proud of
11 and what questions, what stories he
12 regretted.
13 MR. MIRELL: I know. And now I'm
14 asking him what stories he regretted not
15 publishing.
16 MR. BERLIN: Then I withdraw my
17 objection. You can answer the question.
18 MR. MIRELL: Thank you, thank you.
19 MR. BERLIN: I misunderstood.
20 A. I'm on your side here.
21 Q. Thank you so much. We're working
22 together here.
23 MR. BERLIN: We'll have to talk
24 about that.
25 Q. I'll give you my card.

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1 N. Denton
2 A. I believe in total freedom and
3 information transparency. I want everybody
4 to know everything. And I think society,
5 this country that I moved to will be better
6 off if we could talk freely about everything.
7 So that's -- I'm an extremist when
8 it comes to that. That's why I love the U.S.
9 I love the presumption that, that expression
10 is free and I want to make fullest use of
11 that liberty and the liberty that the
12 internet provides.
13 There's still too many stories
14 which are kept within the guild of
15 journalists or insiders, stories that people
16 believe everybody knows and yet the general
17 public does not know, and I don't accept that
18 the public should have any less right to know
19 these, know that information, to talk about
20 that information as the people who are on the
21 inside who are talking, are discussing it
22 amongst themselves, often enjoying the
23 privilege that they have of better access to
24 information.
25 Q. And my question to you was what

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1 N. Denton
2 specific stories do you have in mind?
3 A. That was poetic. Wasn't that
4 poetic.
5 Q. It was, it was. I intend to frame
6 it, but beyond that.
7 A. Okay. For ins -- okay. Let's take
8 an example, Hollywood, actors who are gay.
9 Agents, lawyers, publicists, people know
10 Zachary, people knew Zachary Quinto was gay
11 before he came out in his interview in
12 New York Magazine.
13 Yeah, you know, I do not accept
14 that, that that distinction between the
15 insiders and the, the reading public can be
16 maintained any longer. Desirable to maintain
17 that distinction, it seems both untenable and
18 undesirable to maintain that distinction.
19 And so stories like that I wish were out
20 there.
21 I regret the fact that we were not
22 the ones to put it out there, that we didn't
23 do our bit to equalize the access to
24 information in this country. That's what I
25 regret.

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1 N. Denton
2 Q. Aside from outing gay celebrities
3 or their representatives, are there any other
4 generic categories of stories that you regret
5 not having published yet?
6 A. I'm trying to think of what would
7 the next big category be. Obviously the
8 outing of celebrities is something I feel
9 close to because I'm gay and I believe that
10 openness is good for, it's been good for me.
11 I do believe it's good for, it's good for
12 others.
13 I think probably the biggest
14 categories of stories that don't get, don't
15 get written are to do with sex and race, that
16 the, that the pressures of political
17 correctness, probably the biggest inhibition
18 that remains to free speech.
19 Q. Can you think of a story involving
20 race? I'm trying to understand your answer.
21 A. Well, for instance, it would be
22 hard to, it would be hard to write a story
23 about racial differentials in crime rates or
24 to, to venture an opinion about the, about
25 the different talents of men and women. That

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1 N. Denton
2 would be hard to express.
3 Q. Okay. Are there any stories that
4 Gawker has, that Gawker.com has declined to
5 publish other than stories involving the
6 outing of celebrities that implicate privacy
7 concerns?
8 MR. BERLIN: Let me object and you
9 can answer the question.
10 A. I'm sure that there have been some
11 stories that have not been published that do
12 touch on, or, might be seen by the subject as
13 being intrusion. But typically the
14 reluctance of the journalists would be more a
15 fear of public criticism of their actions.
16 Q. And what would be the cause of
17 public criticism? Trying to envision a
18 hypothetical here.
19 A. The story was unnecessary, it was
20 gratuitous, it was prejudice, it was
21 slut-shaming. That's -- it was, it violated
22 some tentative political correctness.
23 Q. And you don't believe that any of
24 those characterizations apply to the
25 Hulk Hogan sex tape video story or the

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1 N. Denton
2 excerpts that were published with it?
3 A. I can't remember my full list.
4 Q. I'll try to refresh your
5 recollection: Unnecessary, gratuitous or
6 slut-shaming.
7 MR. BERLIN: There were -- let me
8 object because there were other things
9 on the list. But let me also object to
10 the extent the witness has testified
11 already that he has not watched the
12 video and to the extent that you can you
13 can answer the question.
14 A. I don't think there's anything
15 slut-shaming about it. And I think the
16 concept of slut-shaming is actually probably
17 rather unfairly -- women are given more
18 protection than men are in the court of
19 public opinion, reader opinion, certainly
20 amongst more progressive readers.
21 Q. Mr. Berlin is correct. Well, first
22 let me ask you to just respond to the
23 question in terms of whether you believe that
24 the Hulk Hogan sex tape video and the story
25 that accompanied it was in any way

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1 N. Denton
2 unnecessary or gratuitous?
3 MR. BERLIN: I have the same
4 objection. You can answer.
5 A. I was -- I thought, I thought the
6 tone of the piece was actually was almost
7 perfectly judged. It was human and
8 humanizing. I don't believe there was any,
9 any real judgment. It showed, as far as I
10 can tell from the description that I read
11 last week, it showed Hulk Hogan as a person,
12 a celebrity.
13 You know, we have very distorted
14 views of celebrities, we have very distorted
15 views of their, of their importance as role
16 models. I think they are held up to a
17 ridiculous, a ridiculous standard, you know,
18 both of looks and morality. And I think the
19 general phenomena, not just on the internet
20 but it's something you can also see it in the
21 celebrity weekly, you know, they're people
22 like us, celebrities are just, they're just
23 like us.
24 You know, I think it's in Us Weekly
25 section. That's sort of the embodiment of

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1 N. Denton
2 this kind of trend in media. The celebrities
3 have been, either we've been brought up to
4 the level of celebrities, everybody has
5 become a celebrity and everybody has become a
6 public figure through their Facebook pages or
7 they have been brought back down to a human,
8 a more human level.
9 I think generally that's, that's
10 been a very, very positive force for society.
11 Q. Appreciate the commentary. Is the
12 answer to my question no then, that you do
13 not believe that any portion of the posting
14 was unnecessary or gratuitous?
15 A. I'm proud of that piece.
16 Q. The other point that was made by
17 you and that Mr. Berlin correctly pointed out
18 is you mentioned the word prejudice. Is
19 there any aspect of the Hulk Hogan story that
20 reflects inappropriate prejudice in your
21 view?
22 A. You know, I'm actually more
23 sensitive to non-standard form, forms of
24 prejudice.
25 Q. Well, that's sort of what I was

<p style="text-align: right;">Page 173</p> <p>1 N. Denton 2 trying to get at. 3 A. So I dislike the snobbishness of 4 the coastal elites towards middle America and 5 celebrities that represent middle America, 6 you know, even if the pan handle isn't really 7 in the middle of America. So I, I actually 8 don't -- I fight against that and I try to 9 ensure that our company fights against that. 10 And there, there is a regional 11 class conflict in, in this country and I 12 don't like it when there's any sign of that 13 in, in our pieces. I don't believe that this 14 piece actually showed that. 15 Q. Okay. All right. That's -- that 16 was my question. 17 MR. BERLIN: Is this a good time? 18 I was just about to ask you if this is a 19 good time for a break. 20 MR. MIRELL: It may well be. How 21 much time do we have? 22 THE VIDEOGRAPHER: Twenty-four. 23 MR. MIRELL: Why don't we go ahead. 24 Have a lovely lunch. 25 THE WITNESS: Are we going to</p>	<p style="text-align: right;">Page 175</p> <p>1 N. Denton 2 AFTERNOON SESSION 3 (Time noted: 2:46 p.m.) 4 NICK DENTON, resumed and 5 testified as follows: 6 EXAMINATION BY (Cont'd.) 7 MR. MIRELL: 8 THE VIDEOGRAPHER: The time now is 9 2:46 p.m. This marks the beginning of 10 tape No. 4. We're back on the record. 11 Q. Our somewhat leisurely pace of this 12 morning may pick up a little bit this 13 afternoon because we all have obligations and 14 places we need to be. So let me just try to 15 clean up a couple things initially. 16 When you left the Financial Times 17 was that departure voluntary? 18 A. It was. 19 Q. And when you were at the 20 Financial Times, did they run items without 21 confirmation? 22 A. Without -- 23 MR. BERLIN: Objection. 24 You can answer. Go ahead. 25 A. Without?</p>
<p style="text-align: right;">Page 174</p> <p>1 N. Denton 2 gossip over lunch. 3 MR. MIRELL: Happy to, happy to. 4 THE VIDEOGRAPHER: The time now is 5 1:47 p.m. This marks the end of tape 6 No. 3. Going off the record. 7 (Lunch recess taken 1:47 p.m.) 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 176</p> <p>1 N. Denton 2 Q. Confirmation? 3 A. Without confirmation? I suppose 4 there must have been some document, 5 document-driven stories that would have been 6 run on the basis of documents. The documents 7 would have to appear to be valid. 8 Q. Okay. 9 A. Generally. 10 Q. That would be a form of 11 confirmation, the documents more or less 12 identifying themselves as being legitimate or 13 confirmatory? 14 A. Yeah. Much the nature of a tape 15 that did not appear to have been doctored 16 would be hard to, hard to fake. 17 Q. Would the Financial Times print 18 rumors? 19 MR. BERLIN: Objection. 20 You can answer. 21 A. Parenthetically, yes. 22 Q. What do you mean? 23 A. Usually a story would not be based 24 on a rumor, but sometimes a rumor would be 25 inserted into a story that was otherwise</p>

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1 N. Denton
2 factual.
3 Q. Would the Financial Times run
4 clandestinely recorded nude photographs of
5 videos or sex tapes?
6 MR. BERLIN: Objection.
7 You can answer.
8 A. I guess if it -- I don't know of
9 any instance, but if it had a large impact on
10 the market capitalization of a company, if it
11 was a subject of interest to the financial
12 community, I'm guessing that they would. I
13 can't think of any examples.
14 Q. Okay. Did you ever object to the
15 Financial --
16 A. It is a very, it's a very dry
17 newspaper.
18 Q. I've seen it. I understand.
19 A. Pink, but dry.
20 Q. Did you ever object to the
21 Financial Times standards as too restrictive?
22 MR. BERLIN: Objection.
23 You can answer.
24 A. I could see why they apply to a
25 newspaper, a newspaper that had difficulty in

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1 N. Denton
2 evolving a story in a fluid fashion because
3 of just the mechanics of print and physical
4 distribution. I did feel that those
5 standards were archaic when applied to the
6 incident.
7 Q. You did not object to them, though,
8 at the time you were employed by the
9 Financial Times, did you?
10 MR. BERLIN: Objection, objection.
11 You can answer.
12 A. I don't know that I'd use the word
13 object. But I've been trying to find it, but
14 I can't find it. I wrote a memo in 1997, I
15 think, when I was first in San Francisco.
16 I was asked by the editor of the FT
17 given I was one of the more progressive tech
18 savvy journalists, asked by the FT to do a
19 memo on what the Financial Times should be
20 doing online and so I, I listed a whole bunch
21 of activities that I thought or facets of the
22 operation that I thought should change.
23 Q. Did that include journalistic
24 standards?
25 MR. BERLIN: Objection.

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1 N. Denton
2 You can answer.
3 A. It was I think probably more
4 general than that. It was applying to the
5 network nature of the news on the internet,
6 the fact that all stories were
7 collaborations, could be collaborations
8 between multiple, multiple institutions or
9 people. For instance, there was no point in
10 rehashing an article on the Wall Street
11 Journal, replicating it the following day and
12 reproducing the reporting, when a link would
13 do preferably fine on web.
14 Q. Did you believe while you were
15 employed by the Financial Times that they
16 produced good journalism?
17 MR. BERLIN: Objection.
18 You can answer.
19 A. I think they satisfied their
20 mission well.
21 Q. Did you believe that you performed
22 well as a journalist while you were at the
23 Financial Times?
24 MR. BERLIN: Objection.
25 You can answer.

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1 N. Denton
2 A. I was, I was a very good reporter.
3 I did have a talent for getting, getting the
4 story. I wrote a book based on my reporting
5 of the collapse of Barings Bank, the fraud
6 perpetrated by Nick Leeson. I did find some
7 of the strictures limiting on, particularly
8 on the incident in an internet age.
9 Q. But you were in general happy,
10 proud of the stories that you produced as a
11 journalist while working at the
12 Financial Times?
13 A. Yes.
14 THE WITNESS: Sorry.
15 MR. BERLIN: Never mind.
16 Q. Did you also serve as a reporter at
17 the Tattler?
18 A. At the Tattler.
19 MR. BERLIN: Objection.
20 You can answer. Go ahead.
21 A. Tattler, I was not a reporter. I,
22 I worked I think during some vacation at
23 college in their design department.
24 Q. You didn't write any copy for the
25 Tattler?

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1 N. Denton
2 A. I don't think so. I think it was
3 mainly design work.
4 Q. Okay. Are you familiar with an
5 incident involving Gawker concerning a sex
6 tape in which Rebecca Gayheart and Eric Dane
7 were involved?
8 A. I am.
9 Q. Let me show you a document we'll
10 have the reporter mark as Exhibit 44.
11 (Exhibit 44, document, marked for
12 identification, as of this date.)
13 Q. This is a three-page document that
14 prints a story from CBS News' website and I'd
15 ask you to just take a look at the first
16 page of the document and just refresh your
17 recollection about the content of the story.
18 I just have a few questions about it.
19 MR. BERLIN: And for the record,
20 while you were reading that, there's a
21 box at the bottom that appears to have
22 been added by the plaintiff's law firm,
23 which does not appear to be part of the
24 CBS News story.
25 MR. MIRELL: Correct.

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1 N. Denton
2 A. Yeah.
3 Q. Okay. So in this instance Gawker
4 had posted a video of Mr. Dane and
5 Ms. Gayheart with a third person, Kari Ann
6 Peniche, nude or topless in a hot tub,
7 correct?
8 A. Yes.
9 Q. And that video was posted without
10 the consent of any of those three
11 individuals, correct?
12 MR. BERLIN: Objection.
13 You can answer.
14 A. Yes.
15 Q. Do you know who took the video?
16 A. I vaguely remember, and this is
17 quite a while ago, I vaguely remember camera
18 being passed around.
19 Q. Do you know who brought the video
20 to Gawker?
21 A. I can't remember.
22 Q. Do you know whether Gawker paid for
23 it?
24 A. Did we pay for this one? We may
25 have paid for it.

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1 N. Denton
2 Q. Do you recall how much you paid?
3 A. No.
4 Q. Are you involved in the
5 decision-making process with respect to
6 whether or not to pay for a particular piece
7 of information or, or documents or materials?
8 A. Yes.
9 Q. And were you involved in the
10 decision-making process here?
11 A. I presume I was.
12 Q. There was a lawsuit that ensued as
13 a result of this posting, correct?
14 A. There was, yes.
15 Q. And that lawsuit ultimately settled
16 for an amount in the low six figures?
17 A. That is my recollection.
18 Q. The story indicates that Gawker's
19 position in this case was that the use of the
20 video was a protected fair use?
21 A. Um-hm.
22 Q. And yet you settled the case
23 anyway. Why did you settle?
24 MR. BERLIN: Objection.
25 You can answer if you can.

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1 N. Denton
2 A. I don't think I can really add
3 anything to the quote from Gaby Darbyshire
4 here to avoid the burden of further
5 litigation.
6 Q. You recall, do you not, that the
7 twelve-minute edited video that was posted
8 obscured everyone's private parts?
9 A. No, actually I didn't recollect
10 that.
11 Q. Do you have any reason to believe
12 that that statement which is found in the
13 last paragraph of the story is untrue?
14 A. No, I don't.
15 Q. Can you tell me why you found
16 it -- why you did not do the same thing with
17 the Hulk Hogan sex tape video?
18 MR. BERLIN: Objection.
19 You can answer.
20 A. No, I can't. Different sites,
21 different editorial regimes vary in the
22 treatment of stories like this, and the
23 stories themselves are usually quite
24 distinct.
25 Q. Well, let me ask you this: Is

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1 N. Denton
2 Hulk Hogan's penis more newsworthy than
3 Eric Dane's?
4 A. I wouldn't --
5 MR. BERLIN: Objection.
6 You can answer.
7 A. I wouldn't say so, no. I mean, I
8 guess it was Eric Dane's was, as far as I
9 remember, flatted, but apart from that I
10 don't remember any major distinction.
11 Q. But that does not change your view
12 about the newsworthiness or
13 non-newsworthiness of showing his penis in
14 whatever condition it might have existed and
15 that of Hulk Hogan?
16 MR. BERLIN: Objection.
17 You can answer.
18 A. Yeah.
19 Q. Thank you. When A.J. Daulerio --
20 A. Are we done with this?
21 Q. Yes, we are done with that document
22 for the moment.
23 When A.J. Daulerio left Gawker in
24 or about January of this year did he do so
25 voluntarily?

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1 N. Denton
2 A. He did.
3 Q. Had he ever been disciplined in any
4 way that you are aware of?
5 A. I mean, he must have been some way
6 or another because he's a buccaneering
7 fellow. No, but I can't remember any
8 specific instance.
9 Q. What do you mean by "a buccaneering
10 fellow"?
11 A. Buccaneering. Well, you've met
12 him. He's charming, he's extremely good at
13 his job. He doesn't subscribe to
14 conventional management practice.
15 Q. In what ways?
16 A. He decided he wanted to go to
17 Tahrir Square in Cairo because there was a
18 revolution going on, for instance, when he
19 had responsibilities as editor of Gawker. So
20 he is absolutely, like many journalists but
21 he's maybe a more extreme case than most, a
22 seeker of novelty and experience. He's more
23 of a charismatic or inspirational rather than
24 a managerial leader.
25 For instance, punctuality might not

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1 N. Denton
2 be his strong suit.
3 Q. We began his deposition at 11 a.m.,
4 so I can well appreciate.
5 A. I apologize on his behalf.
6 MR. BERLIN: As scheduled I might
7 add.
8 Q. As scheduled.
9 A. Oh, but --
10 Q. At his request, though.
11 A. In anticipation. I'd like to note
12 that I was here actually on the dot.
13 Q. I have no, I have no problem
14 whatsoever with your punctuality.
15 May I ask you to take a look at
16 Exhibit 5.
17 A. It is amongst the least of all
18 virtues.
19 Q. At least it is a virtue.
20 So here's Exhibit 5.
21 MR. MIRELL: Mr. Berlin, if you can
22 pull up your copy.
23 Q. This appears to be an e-mail
24 exchange between the two of you along with
25 others being copied. Do you recall this

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1 N. Denton
2 exchange?
3 A. This was an e-mail from me to all
4 of the staff of Gawker.
5 Q. Right. Which, which was preceded
6 by his e-mail to the staff as well, right?
7 A. Yes. Although I think, and looking
8 at the time stamps this would probably be the
9 case, that I had actually written my note in
10 anticipation.
11 Q. Okay. You used a few adjectives to
12 describe Mr. Daulerio in the first
13 paragraph you described him as infuriating?
14 A. And bold, yes.
15 Q. We'll get to, we'll get to several
16 of them. But let's take them one at a time.
17 What about, what about him did you find
18 infuriating?
19 A. Actually probably the most
20 infuriating thing about him was he wasn't
21 prepared to let his successes run. Second
22 most infuriating thing about him was I didn't
23 always understand what he was saying.
24 Sometimes it was more charisma than coherent.
25 Q. His successors were selected before

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1 N. Denton
2 his formal departure, I take it?
3 A. Yes, successor.
4 Q. Yeah, Mr. Cook, correct?
5 A. That's right.
6 Q. What was the overlap of time? In
7 other words, how much time was Mr. Daulerio
8 at Gawker after the point in time that he was
9 aware that a successor had been selected?
10 A. Oh, it would have been only a few
11 days. The whole process would have only been
12 a few days. That was it was probably, it was
13 probably all done that day actually. We're
14 fast.
15 Q. Okay. You also use the adjective
16 unpredictable?
17 A. Yeah.
18 Q. What do you mean by that?
19 A. For instance, his resignation then
20 at the, at the height when everything was
21 going well.
22 Q. When you say "at the height," of,
23 of something?
24 A. At the height of his tenure. He
25 had, he had come in, I guess was it -- he'd

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1 N. Denton
2 come in, he's overhauled the staff, he's
3 gotten rid of some writers, he brought new
4 writers in. He'd energize the team and they
5 were probably happier than they had been in
6 years, more productive.
7 Q. And you said also that he breaks
8 all the usual rules of orthodox management?
9 A. Um-hm.
10 Q. What did you mean by the usual
11 rules of orthodox management?
12 A. I mean, I think we just discussed
13 his punctuality for instance. His presence
14 in meeting, staff meetings was weak. He
15 wasn't good at holding a room.
16 His prescriptions to staff were
17 sometimes opaque. But he inspired loyalty.
18 He had a real devotion to the story. He
19 brought out the best in his writers. Like
20 most people, mixture of virtues and vices.
21 Q. Vices?
22 A. Yeah.
23 Q. Did he have any substance abuse
24 issues while he was working for Gawker?
25 A. He sometimes looked worse for wear

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1 N. Denton
2 when he came in in the morning. He's an
3 old-fashioned journalist. You know the
4 movies when they all come in, they are
5 drunks, but they get the story.
6 Q. Well, was he an old-fashioned
7 journalist or new-fashioned journalist in the
8 mode of Hunter S. Thompson?
9 A. I think that's a good question. He
10 had aspects of, of every -- he had aspects of
11 every area of journalism. I mean, I'd like
12 to think that the internet was kind of a
13 harbor driver of a new golden age,
14 buccaneering, truth-telling, fun, open.
15 Q. When you mentioned the words
16 breaking rules, the usual rules, did you have
17 in mind there any rules of reporting that
18 would be at all relevant to the -- his
19 handling of the Hulk Hogan story?
20 A. I wasn't thinking about the Hogan
21 story when I was writing this.
22 Q. All right.
23 A. In fact, actually looking at the
24 stories that I'm listing here, yeah, it's not
25 included. It's a good, it's a good memo.

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1 N. Denton
2 It's a good memo.
3 Q. If you do say so yourself.
4 A. Yeah. It helps when one's feelings
5 are genuine.
6 Q. Does Gawker ever vet stories for
7 defamation?
8 MR. BERLIN: Objection.
9 You can answer.
10 A. We would, yes, it would be certain
11 stories would be passed to counsel.
12 Q. And has Gawker ever been sued for
13 defamation?
14 MR. BERLIN: Objection.
15 You can answer.
16 A. We tend to get more often sued in
17 this country for copyright infringement.
18 Q. Do you have a recollection of
19 Gawker having ever been sued for defamation
20 specifically?
21 MR. BERLIN: Same objection.
22 You can answer.
23 A. I have, I have a vague recollection
24 of some company. You know, was it -- you
25 know, I shouldn't venture because it's faint

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1 N. Denton
2 memory.
3 Q. You don't have a specific
4 recollection of that?
5 A. No.
6 Q. Okay. Did you have any
7 understanding at any time about whether
8 Gawker believed that Heather Clem had had any
9 role in releasing the Hulk Hogan sex tape
10 video to you?
11 MR. BERLIN: Objection, calls for
12 speculation, but you can answer.
13 A. I don't remember. I don't remember
14 any such conversation, certainly, certainly
15 not before the publication.
16 Q. Were you, when -- strike that.
17 When you heard about the Hulk Hogan
18 sex tape initially from Mr. Daulerio were you
19 excited to hear that Gawker had obtained the
20 tape exclusively?
21 A. I actually, I wouldn't say I was
22 that excited by the story. I was really more
23 excited by, say, the Manti Te'o story or, or
24 the Toronto mayor story.
25 Q. As compared with the photos that

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1 N. Denton
2 Gawker ran of Kate Middleton's breasts, how
3 did that story compare to that?
4 A. In terms of level of excitement,
5 the fact is I'm actually not that personally
6 interested in stories which might be seen to
7 be salacious. I prefer stories that actually
8 have some kind of meaning, and I'd say the
9 Hogan story probably had a higher level of
10 meaning than, than the Middleton breasts
11 pictures.
12 Q. In any event, both stories served
13 to promote the Gawker brand; isn't that
14 correct?
15 MR. BERLIN: Objection.
16 You can answer.
17 A. I think both stories -- let me be
18 more precise. All the stories help to
19 promote our brand. Those stories helped us
20 to establish that we're willing to publish
21 what others were not and that Gawker.com and
22 Gawker Media titles were places to find out
23 what was really happening.
24 Q. If I can ask you to take a look at
25 Exhibit 36. What I'm showing you is a

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1 N. Denton
2 document that was -- two-page document,
3 Gawker 224, 225, which contains substantial
4 redactions that will be the subject of
5 further proceedings. But let me direct your
6 attention for the moment to the
7 paragraph that begins "anyway we waited,"
8 below the first set of redactions.
9 Do you see that paragraph?
10 A. Yeah.
11 Q. So the third sentence of that
12 paragraph reads, Gawker scored with royal
13 breasts --
14 MR. BERLIN: I'm sorry, do you
15 want, do you want him to read the, have
16 a moment to read the document before?
17 MR. MIRELL: He can, sure.
18 Q. What I'm going to ask about,
19 though, is just the single sentence that I'm
20 about to read.
21 MR. BERLIN: Sorry. I didn't
22 realize that. Take a moment if you need
23 to and then let him ask his question.
24 Q. The sentence I'm going to ask about
25 reads, Gawker scored with royal breasts and,

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1 N. Denton
2 paren, this month, closed paren, Hulk sex,
3 period.
4 Do you see that?
5 A. Yes.
6 Q. What did you mean by using the word
7 scored in that sentence?
8 A. That Gawker had published stories
9 which attracted a lot of attention and reader
10 interest.
11 Q. Did you mean to convey that they
12 also scored financially for Gawker?
13 A. No.
14 Q. Did you know at the time to what
15 extent any advertising revenues might have
16 been attributed to the publication of either
17 the Kate Middleton or Hulk Hogan stories?
18 A. Yes.
19 Q. What did you know?
20 A. None.
21 Q. When you say "none," you are
22 referring to the fact that both stories
23 appeared on their respective web pages
24 without any advertising?
25 A. That is the case. But above and

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1 N. Denton
2 beyond that, those stories in traffic terms,
3 those are what one calls spikes. And stories
4 typically, and these two stories weren't any
5 exception, they don't come along on any
6 predictable or any predictable fashion, in
7 any fashion that's subject to scheduling and
8 advertising deals are signed earlier with a
9 longer lead time and, therefore, the traffic
10 that comes from stories like this, even if
11 one was to have put advertising on it, would
12 not have resulted in any increase in revenue.
13 Q. Well, it is possible, is it not,
14 for one to click from a page that contains no
15 advertising to a page which does contain
16 advertising --
17 A. Yes.
18 Q. -- on the Gawker sites, correct?
19 A. Um-hm.
20 Q. And that click results in an
21 impression being created --
22 A. Yes.
23 Q. -- for advertiser purposes. And
24 have you attempted to quantify to what extent
25 those impressions clicked from the

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

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1 N. Denton
2 benefit in the sense that a greater number of
3 impressions were registered with respect to a
4 particular, could have been registered with
5 respect to a particular advertisement that
6 appeared on a, on a web page and that that
7 would then prospectively affect the
8 advertising rates that could be charged by
9 your company, correct?
10 MR. BERLIN: Objection.
11 You can answer the question.
12 A. The advertising buyers are based on
13 an impressions and impression guarantees and
14 any surplus impressions that are delivered to
15 an advertiser, even though that wasn't the
16 case here because the ads did not run, but
17 even in the event that ads had run or had run
18 on associated pages or pages that have
19 benefited from spillover traffic that that
20 would not have resulted in any extra revenue
21 to us because the guarantee had already been
22 reached and, therefore, any excess was
23 actually just simply cost associated with the
24 serving of those, of those ads.
25 Q. All right. But advertising rates

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1 N. Denton
2 are set by you or are set by Gawker Media
3 based upon traffic, correct?
4 A. We would give impression
5 guarantees, yes.
6 Q. And so to the extent that a
7 particular Gawker Media site has greater
8 traffic, it can, it can as the markets
9 dictate charge greater rates for advertising
10 on those more heavily trafficked sites,
11 correct?
12 MR. BERLIN: Objection.
13 You can answer.
14 A. The -- you can charge for
15 advertising at the level of the guarantees
16 and the advertising is not so sophisticated
17 as to allow for some spot market in the
18 advertising and, therefore, the, the relevant
19 level is actually the minimum expected
20 weekly, or sorry, daily total for Monday,
21 Tuesday, Wednesday, Thursday, Friday for that
22 particular site.
23 A spike, a large story that brought
24 in a lot of new, new people, a spike that did
25 not result in any sustained increase in

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1 N. Denton
2 readership would not have any impact on those
3 advertising rates.
4 Q. Have Gawker.com's advertising rates
5 remained static from October of 2012 to
6 today?
7 MR. BERLIN: Objection.
8 You can answer.
9 A. The -- I think we brought in new,
10 some new categories or packages and there's
11 always, there's always a certain amount of
12 innovation or change around that. But the
13 basic advertising rates are about \$10 percent
14 thousand impression have remained constant
15 for years.
16 Q. Have any new advertisers begun
17 advertising on Gawker.com during the period
18 from October of 2012 to the present?
19 A. I assume so, yes.
20 Q. Do you know how many?
21 A. No.
22 Q. Do you know who?
23 A. I couldn't name them offhand.
24 Q. Would Andrew Gorenstein be the one
25 who would be most familiar with that

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1 N. Denton
2 information?
3 A. Yes.
4 Q. Do you have a recollection,
5 Mr. Denton, of having used your love life to
6 promote the Hulk Hogan sex tape?
7 MR. BERLIN: Objection.
8 You can answer if you'd like.
9 A. I have a recollection of a gossip
10 item in Page 6 about my love life in which
11 the Hulk Hogan sex tape was mentioned, yes.
12 Q. Okay. And just for, just for
13 clarity sake and to be sure we're talking
14 about the same item, let me show you
15 Exhibit 11 and ask you whether that's the
16 Page 6 item from the New York Post that you
17 are referring to?
18 A. No, it's not.
19 Q. It's not?
20 A. No. This is another article which
21 is based on that Page 6 New York Post.
22 Q. This is from New York Magazine, I
23 take it, okay. And that's picking -- so
24 New York Magazine simply picked up The
25 Post --

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1 N. Denton
2 A. Summarized it.
3 Q. -- story, okay. Hypothetically,
4 Mr. Denton, if Gawker.com had posted the
5 entire 30 minute sex tape of Hulk Hogan you
6 believe that that would have invaded his
7 privacy, correct?
8 MR. BERLIN: Let me object. Object
9 to the extent that you are using
10 invasion of privacy as a legal term. If
11 you want to ask his lay understanding
12 that's fine.
13 A. I wouldn't have gotten to that
14 point because I would have objected based on
15 my sense of what was necessary for the story.
16 So the journalistic constraint would have
17 come into operation first.
18 Q. Is there a reason why this
19 videotape -- strike that.
20 Is there a reason why this sex tape
21 was edited down to I believe a minute,
22 forty-one seconds and the Eric Dane sex tape
23 ran for twelve minutes?
24 MR. BERLIN: Objection.
25 You can answer.

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1 N. Denton
2 A. You know, I guess there is a reason
3 which is that this happened later and we have
4 been, you know, feeling our way to what we
5 feel comfortable with, what our readers are
6 comfortable with, what society's comfortable
7 with. I did not like the length of the
8 Eric Dane tape, I thought it was unnecessary
9 and boring and unnecessary for the story.
10 And I think so I wouldn't say that's the sole
11 occurrence, but since then we've probably
12 become tighter in our editing of video and a
13 little tougher in our definition of
14 necessary.
15 Q. All right. Well, so you were
16 editing down the length of the Hulk Hogan sex
17 tape and posting just enough of it to show
18 that it was indeed a sex tape; is that
19 correct?
20 MR. BERLIN: Objection. I think
21 you mean that Gawker was.
22 MR. MIRELL: Yes.
23 MR. BERLIN: Okay. You said "you."
24 Q. I meant "you" in the royal you, in
25 Gawker.

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1 N. Denton
2 A. Sorry, can you say that again?
3 Q. Sure. You were editing down the
4 length -- strike that.
5 Gawker.com edited down the length
6 of the Hulk Hogan sex tape and posted just
7 enough of it to show that it was indeed a sex
8 tape; is that correct?
9 A. That would have been part of the
10 purpose of the video and the editing of the
11 video.
12 Q. Okay. But, but Gawker believed it
13 necessary to show Mr. Hogan's erect penis,
14 correct?
15 A. They showed as much of the video as
16 they felt necessary for the, for the story,
17 for the illustration of the story.
18 Q. And did not feel it necessary to
19 blur or obscure that organ, correct?
20 MR. BERLIN: Objection, asked and
21 answered. You can answer it again.
22 A. Yeah, I think I've answered it.
23 Q. The answer's yes, correct?
24 A. Sorry?
25 Q. The answer's yes?

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1 N. Denton
2 A. Sorry, could you repeat the
3 question again?
4 MR. MIRELL: Could you read it
5 back, please.
6 (Record read.)
7 A. Obviously there was a difference
8 between the way that we handled the Eric Dane
9 tape and the way that we handled this tape.
10 The stories were different and it was three
11 years -- two years later.
12 Q. The existence of the sex tape at
13 the time of Mr. Daulerio's post was not a, an
14 exclusive story to Gawker, correct?
15 MR. BERLIN: Objection.
16 You can answer.
17 A. I can't remember.
18 Q. Do you have a recollection at all
19 of whether or not the existence of the sex
20 tape had been publicized months before?
21 A. I'm aware from conversations that
22 I've had more recently that, that there was,
23 that there was mention of a tape going around
24 or that he'd even been asked about a tape
25 going around and he hadn't been sure about

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1 N. Denton
2 who had been on it.
3 Q. The news value, though, of this
4 particular article -- strike that.
5 The news value of this particular
6 posting by Mr. Daulerio was a consequence of
7 Gawker having physically obtained a copy of
8 the tape?
9 MR. BERLIN: Objection.
10 You can answer.
11 A. I mean, I would say the story,
12 story would have a news, news value with or
13 without the video. The video certainly helps
14 to communicate the story more powerfully.
15 Q. Would you have run a story about
16 this topic in October of 2012 if there had
17 not -- if the fact of a sex tape existing had
18 been publicized in April of 2012?
19 MR. BERLIN: Objection.
20 You can answer the question.
21 A. Sorry, I'm not --
22 Q. I'm trying to understand your last
23 answer and I'm sure it's my fault. If it is
24 correct that months before the sex tape was
25 provided to Gawker other news outlets had

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1 N. Denton
2 reported about the existence of the tape,
3 Gawker would not have run a story about the
4 tape at all unless it had actually obtained a
5 copy of the tape in October of 2012?
6 A. I think --
7 MR. BERLIN: Let me just object and
8 you can answer.
9 A. For us to run a story usually it
10 would have to be something new. If the fact
11 of the existence of the tape wasn't news then
12 it would have to be something else like, for
13 instance, that we had had sight of the tape
14 and could report on its contents or that we
15 actually did have a copy of it.
16 For instance, if you take the
17 Toronto mayor story, there we did not obtain
18 a copy of the tape, but one of our editors
19 saw it and recounted its contents. And that
20 wasn't -- there wasn't knowledge of a
21 specific tape before then, but it had been
22 passed around or the idea of it had been
23 passed around various newspapers.
24 Usually we'd have to, we would have
25 to require there to be some new element.

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1 N. Denton
2 Q. There would need to be some hook to
3 make it, to make news in October what had
4 already been disclosed in April?
5 A. We would not typ --
6 MR. BERLIN: Again let me object.
7 Object. Now you may answer.
8 THE WITNESS: Sorry.
9 A. We would not typically repeat,
10 simply repeat what had been reported
11 elsewhere months before.
12 Q. Okay. Although that has -- had
13 been at least an early criticism of Gawker,
14 right, that it was in the business of
15 republishing others' stories?
16 A. If you are in this business you get
17 criticized from all angles.
18 Q. And that was one of the criticisms
19 that Gawker has been subjected to, rightly or
20 wrongly, over the course of the years,
21 correction?
22 MR. BERLIN: Objection.
23 A. That we are an aggregator.
24 Q. Yes.
25 A. That's right. I think that

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1 N. Denton
2 criticism has moved on to others partly as a
3 result of some of these stories.
4 Q. Let me ask you to take a look at
5 Exhibit 7. And in particular I'm going to
6 direct your attention to the page, or pages I
7 should say, labeled 819 through 821. Those
8 pages represent the story -- strike that.
9 Those pages represent the posting
10 at issue, and I take it that this is a story
11 that you reviewed in preparation for your
12 deposition here today?
13 A. The story, sorry?
14 MR. BERLIN: He's, he's directing
15 you to page 819 which is the fourth or
16 fifth page, fifth page the exhibit.
17 Q. So I apologize since you weren't on
18 the same page literally. Those pages
19 represent the posting at issue, and I take it
20 that this is a story that you reviewed in
21 preparation for your deposition testimony
22 here today?
23 A. I did look at it, yes.
24 Q. Let me direct your attention to
25 the, to the headline which reads, even for a

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1 N. Denton
2 minute, comma, watching Hulk Hogan have sex
3 in a canopy bed is not safe for work, but
4 watch it anyway, closed quote.
5 You didn't write that headline,
6 did you?
7 A. No.
8 Q. Do you know who did?
9 A. I don't. The byline is
10 A.J. Daulerio.
11 Q. And do most authors of postings on
12 Gawker.com write their own headlines?
13 A. Not always. Sometimes they
14 collaborate with colleagues.
15 Q. Okay. If it makes any difference
16 I'll represent to you that Mr. Daulerio
17 indicated that this was his handiwork, but
18 the question I'm asking you is whether -- is
19 this. The story states that we are not
20 supposed to see this footage; is that
21 correct?
22 A. Sorry?
23 Q. The story states that we are not
24 supposed to see the footage?
25 A. Well, it says that it's not safe

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1 N. Denton
2 for work.
3 Q. And that's what NSFW, the initials
4 that appear above the headline, also stand
5 for?
6 A. Yes.
7 Q. Okay. Why are we not supposed to
8 see it?
9 A. Because we would, watching a
10 pornographic video in an office environment,
11 probably get fired. "We" being the reader.
12 Q. Okay. And the reader would be
13 fired because it would be offensive to do
14 that; is that correct?
15 A. To be seen by colleagues to be
16 watching such a video would be seen as
17 offensive, yes.
18 Q. And that would not necessarily be
19 true with respect to a garden variety video,
20 such as a cat playing the piano, the
21 archetypal internet video?
22 A. That is correct. You might be seen
23 as wasting time, you might be fired for that
24 reason, but not for being offensive.
25 Q. But in this headline Mr. Daulerio

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1 N. Denton
2 tells his readers to go ahead and watch it
3 anyway, do you know why he did that?
4 MR. BERLIN: Objection, calls for
5 speculation. You can answer.
6 A. I mean, I think he's being funny.
7 I think the meaning is relatively
8 transparent. I don't think I can translate
9 it.
10 Q. Do you think he was -- if someone,
11 if a hypothetical reader had accosted
12 Mr. Daulerio in the street with this article
13 and said gee, A.J., do you want me, do you
14 want me to watch this at work or don't you,
15 seem a little schizophrenic here, what do you
16 think he'd say?
17 MR. BERLIN: Objection, calls for
18 speculation. You can answer.
19 A. I think we're all a little
20 schizophrenic. We are all interested and
21 we're all a little bit embarrassed about our
22 interests. And I think he would probably
23 say, say that like you know you want to watch
24 it, you know you want to read this piece, so
25 don't pretend. That's I'm speculating wildly

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1 N. Denton
2 as to what he would say.
3 Q. Did you ever give any consideration
4 to whether or not the publication of the
5 Daulerio posting including the excerpts from
6 the sex video would be embarrassing to
7 Hulk Hogan?
8 A. No, I didn't.
9 MR. BERLIN: Objection.
10 You can answer.
11 A. Sorry. No, I didn't.
12 Q. And why not?
13 A. Because my job is to disseminate
14 information and to manage an organization
15 that disseminates information and that's our
16 social function, to satisfy readers'
17 interest, to inform and entertain them and
18 it's up to others to determine the boundaries
19 of accepted social journalistic and legal
20 norms.
21 Q. Did you ever give any consideration
22 to whether or not publication of this posting
23 would be upsetting to Mr. Hulk Hogan?
24 MR. BERLIN: Objection.
25 You can answer.

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1 N. Denton
2 A. For the reasons I just explained,
3 no, I didn't. I was focusing on our function
4 as journalists and transmitters of
5 information.
6 Q. Did you ever give any consideration
7 to whether this posting would cause, cause
8 Hulk Hogan to suffer emotional distress?
9 MR. BERLIN: Objection.
10 You can answer.
11 A. Can we take as read that that would
12 be my answer to most of these questions?
13 Q. Just say yes, just, if you would
14 answer the question no then we could move on,
15 for the reasons you indicated?
16 A. We are journalists, that is our
17 role in society. It is up to others to have
18 regard for their own emotional well-being and
19 up to others to, to decide and determine
20 social, legal and other norms.
21 MR. BERLIN: I don't know if
22 there's more of these questions, but if,
23 if your answer is similar it's okay to
24 say "no, for the same reasons."
25 I think that's consistent with what

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1 N. Denton
2 you were --
3 MR. MIRELL: That's fine.
4 MR. BERLIN: Okay. I'm trying to,
5 you know, help us here.
6 Q. So just one last question. Had you
7 known for certain that Hulk Hogan would have
8 suffered emotional distress as a result of
9 this posting you still would have published
10 it, correct?
11 MR. BERLIN: Objection.
12 A. For the same reasons as I
13 elucidated earlier, I focus on our role as
14 disseminators of information, our service to
15 readers and to the cause of transparency in
16 public life in America.
17 Q. The answer to my question is yes,
18 for that reason?
19 A. Yes, for that reason.
20 Q. Do you think that any celebrity sex
21 tape is newsworthy?
22 MR. BERLIN: Let me, let me object
23 and then go ahead and answer.
24 A. There's a spectrum. And the, the
25 more somebody holds themselves up as a pillar

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1 N. Denton
2 of society, as a father figure of
3 impeachable -- unimpeachable morality, the
4 greater the interest in any divergence
5 between their public and private personas.
6 Q. All right. Well, let's, let's
7 tease that out a little bit.
8 A. Okay.
9 Q. What about a celebrity who says
10 yes, I cheat on my wife all the time, there
11 are lots of sex tapes out there of me, if you
12 got ahold of one of those sex tapes would you
13 view that as newsworthy, worthy of
14 publication?
15 MR. BERLIN: Let me, let me object.
16 I think we're now past the point of
17 factual discovery. These are
18 hypothetical questions. This is not an
19 expert witness and --
20 MR. MIRELL: Well, I'm asking him
21 for his professional judgment as a
22 publisher.
23 MR. BERLIN: About facts that are
24 not at issue before this case, in this
25 case. So I'm happy to have him answer

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1 N. Denton
2 the question.
3 MR. MIRELL: Okay.
4 MR. BERLIN: But I want to object
5 strongly to this line of questions.
6 A. He objects strongly so...
7 MR. BERLIN: But no, but you may
8 answer the question.
9 Q. He's not instructing you not to
10 answer.
11 MR. BERLIN: I'm not instructing
12 you not to answer. You are free to
13 answer the question.
14 A. If someone like Hulk Hogan had an
15 open relationship, or no relationship, and
16 had broadcasts on the radio that he had lots
17 of sex and there were lots of videos of him
18 having sex, that would reduce the interest in
19 the video itself.
20 Q. Okay. So depending upon the
21 circumstances under that hypothetical it
22 might or might not be newsworthy?
23 A. It would be less newsworthy if he
24 was more honest, yes.
25 Q. Okay. Let's -- what about a

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1 N. Denton
2 celebrity sex tape that featured a sexual
3 encounter between Hulk Hogan and his wife
4 while the two of them were married?
5 MR. BERLIN: Same objection.
6 You can answer.
7 Q. Would that be newsworthy?
8 MR. BERLIN: Same objection.
9 You can answer.
10 A. It would be less newsworthy than a
11 tape of him having sex with a woman who was
12 not his wife.
13 Q. Okay. But it would still -- so the
14 cheating aspect of this isn't necessarily
15 what makes this newsworthy, celebrities
16 having sex is newsworthy in and of itself; is
17 that what you are saying?
18 MR. BERLIN: Objection.
19 You can answer.
20 A. I assume that most, I hope most
21 celebrities have sex because otherwise what
22 would the point of being a celebrity be. But
23 I don't think the fact of somebody having sex
24 alone is that interesting to me. I know
25 everyone has voyeuristic impulses, but

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1 N. Denton
2 we -- I don't particularly, and I hope that
3 that's reflected in the company's editorial
4 policy.
5 Q. Okay. Let me just try a couple of
6 other hypotheticals with you. Would it be
7 newsworthy to you if you were provided a sex
8 tape of Miley Cyrus having sex with a current
9 boyfriend?
10 MR. BERLIN: Objection, same, same
11 objection. You can answer.
12 A. Given the gossip that's going
13 around about her there would be another tape
14 that I would be more interested in.
15 Q. How about that one?
16 A. What?
17 Q. How about the one I just described?
18 A. Oh, that one. Her performance at
19 the -- it was the VMAs, wasn't it, I think.
20 Her performance at the VMAs was pretty sexual
21 and as a result of that I would assume, this
22 would be my best guess, there's no kind of
23 current, there's no kind of current story,
24 but I would guess that there would be more
25 interest in her sex life as a result.

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1 N. Denton
2 Q. Okay. What about a sex tape of
3 Hillary Clinton having sex with Bill Clinton?
4 MR. BERLIN: Objection, same
5 objection. You can answer.
6 A. I don't believe that they have sex
7 so that question --
8 Q. These questions are purely
9 hypothetical.
10 A. But now you are getting into realms
11 of absurdity.
12 Q. Do you believe that Barack Obama
13 has sex with Michelle?
14 A. I do.
15 Q. Do you believe if you had a sex
16 tape of the two of them, would that be
17 newsworthy?
18 MR. BERLIN: Objection.
19 You can answer.
20 A. I would have problems with that
21 one. I, I, I confess I would have problems
22 with that one, because I know that there
23 would be a lot of public interest, but I
24 wouldn't, I wouldn't like the story, not for
25 any reasons of political affiliation but just

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1 N. Denton
2 because there is no, there's no hypocrisy.
3 There's -- they seem like a loving couple and
4 if the tape does nothing but establish the
5 fact that they are a loving couple, I don't
6 see that it would have any real value in
7 changing perceptions or establishing any
8 truth. I would be torn.
9 Q. Okay.
10 A. I'd hope I do the right thing.
11 Q. Well, I'm not offering such a tape
12 so we don't have to worry about that issue at
13 the moment.
14 If Hulk Hogan had never made a sex
15 tape at all, had never been photographed in
16 that way --
17 A. Yeah.
18 Q. -- but had publicly criticized his
19 wife because of her alleged infidelity, while
20 he was having affairs of his own, you would
21 have viewed that as hypocrisy, right?
22 MR. BERLIN: Objection.
23 You can answer.
24 A. Adhering to one set of morale
25 standards while lecturing others on theirs --

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1 N. Denton
2 Q. Is hypocritical?
3 A. -- is hypocritical, yeah.
4 Q. And it's hypocritical whether or
5 not there's a sex tape, correct?
6 A. Yes, it is.
7 Q. And if someone made a sex tape with
8 his wife and never slept around, that person
9 would not be a hypocrite?
10 A. I'm getting a little --
11 MR. BERLIN: Let me just object and
12 then you can answer.
13 A. I mean, it's like a fun puzzle.
14 But I don't think they would be a hip -- so
15 let's get this straight. So he's faithful?
16 Q. Yes.
17 A. He makes a sex tape?
18 Q. Right. There's no hip --
19 A. This would be the Barack Obama,
20 Michelle Obama scenario.
21 Q. Sure.
22 A. So they seem like a loving couple,
23 they are a loving couple, this tape
24 establishes the fact that they are a loving
25 couple.

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1 N. Denton
2 Q. And there's no hypocrisy there?
3 A. There's no hypocrisy. There's
4 voyeuristic interest, but not much news
5 interest.
6 Q. Okay. So isn't it then the
7 reporting of the story rather than the
8 publication of the sex tape that exposes the
9 hypocrisy that you believe to be newsworthy?
10 MR. BERLIN: Let me object and you
11 can answer.
12 A. I think we touched on this earlier
13 on. The story is made up of an argument and
14 a description and the description is part of
15 every single story whether it's novel or the
16 bible or a, an article in a, in a newspaper
17 or in a blog. We describe, people visualize,
18 that's how we all communicate.
19 So I would say the video, at least
20 a portion of the video, is an essential part
21 of the whole story.
22 Q. All right. But if your goal were
23 to, were to inform your readers about
24 celebrity hypocrisy, one could write a story
25 about that fact without in this case having

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1 N. Denton
2 actually included a link to excerpts of the
3 video?
4 MR. BERLIN: Objection.
5 You can answer.
6 A. One could write an academic
7 treatise on hypocrisy and its results which
8 wouldn't be read and which wouldn't
9 communicate that notion to any meaningful
10 number of people, that wouldn't serve the
11 purpose of journalism. But we exist to
12 communicate not just you and me, but to
13 communicate to thousands of millions of
14 people.
15 Q. And you believe that to be the case
16 even though as you've said earlier today that
17 your, your readers are readers, that they,
18 that they read as opposed to necessarily
19 being creatures of a visual image, correct?
20 A. They are, they definitely have a
21 higher propensity to read than the average
22 internet user, yes. They are also human.
23 Q. Sure. Just a couple further
24 questions. Publishing a sex tape in this
25 case, in the case of the Daulerio posting,

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1 N. Denton
2 doesn't expose any hypocrisy on the part of
3 Hulk Hogan with respect to any alleged
4 steroid use by him, correct?
5 MR. BERLIN: Objection.
6 You can answer.
7 A. Not that I'm aware of.
8 Q. The article doesn't comment in any
9 way on his alleged steroid use, does it?
10 A. I'd have to refresh my memory.
11 Q. Okay.
12 MR. BERLIN: I object because I
13 actually don't think that's correct.
14 A. I think there may have been
15 something about, there may have been
16 something about the -- his muscles or.
17 Q. Well, why don't we do this, let's
18 let the article speak for itself.
19 A. Okay.
20 Q. And I'll move on, okay.
21 To the best of your recollection,
22 does the article speak to any claim by
23 Hulk Hogan's former wife Linda in her
24 autobiography that he sexually assaulted a
25 third-party woman?

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1 N. Denton
2 A. I'd have to look at the piece.
3 Q. Okay. All right. We'll again let
4 the article speak for itself.
5 A. Thank you.
6 Q. Trying to expedite matters here so
7 give me just a moment.
8 Are you aware, Mr. Denton, of any
9 interviews or public statements by Hulk Hogan
10 that talked about the size or shape of his
11 penis?
12 A. No, I'm not.
13 Q. Are you aware of any interviews or
14 public statements by Hulk Hogan about the
15 sounds he makes when climaxing?
16 A. I am not aware really of anything
17 about Hulk Hogan or any pronouncements or
18 even his former career beyond the fact that
19 he was a wrestler and TV personality.
20 Q. And just to complete the trilogy
21 here, are you aware of any interviews or
22 public statements by Hulk Hogan about any
23 sexual positions that he engages in?
24 A. I think I was recently made aware
25 of references to how many women he had slept

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1 N. Denton
2 with at certain stage of his life, but I
3 don't know whether that account included a
4 description of positions.
5 Q. Okay. Those are all matters that
6 are addressed though in the story, correct?
7 A. Can you refer me to the specific
8 parts and specific paragraphs and specific
9 mention?
10 Q. Let's see, with respect to the
11 shape, size of his penis, there's the thermos
12 bottle reference in the one, two, three, four
13 fifth graph?
14 A. That seems rather flattering.
15 Q. Okay. And if it's flattering does
16 that mean it's permissible to public?
17 A. I don't think it makes --
18 MR. BERLIN: Objection.
19 You can answer.
20 A. I don't think it makes a particular
21 difference.
22 Q. If it's flattering does that mean
23 it isn't an invasion of an individual's
24 privacy?
25 A. I don't think it makes --

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1 N. Denton
2 MR. BERLIN: Objection.
3 You can answer.
4 A. I don't think it makes a
5 difference.
6 Q. So take a look one, two three, four
7 five, fifth paragraph on the second page.
8 Do you see that?
9 A. Paragraph beginning?
10 Q. "You got a rubber."
11 A. Um-hm.
12 Q. That paragraph discusses the size
13 or shape of his penis, correct.
14 A. Among other things.
15 Q. Okay. Then in the paragraph below
16 that, the one begins then, comma, Hulk
17 grunts.
18 We're talking there about sounds he
19 makes when he's climaxing, correct?
20 A. Where is the -- oh, the following
21 paragraph.
22 Q. Yes.
23 A. Okay.
24 Q. And sexual positions he engages in
25 in the paragraph we were, we refer to

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1 N. Denton
2 initially, the one begins "you got a rubber"?
3 A. Yes.
4 Q. Okay.
5 A. Sorry, what was the question?
6 Q. The question was: Sexual
7 positions, that that's discussed as well in
8 the article, right?
9 A. There's a quote and then --
10 Q. In the paragraph beginning "you got
11 a rubber," there's a --
12 A. "I want you to climb on top of me."
13 Q. Hulk hurls his massive body,
14 do you see that, onto the canopy bed and the
15 woman climbs on top.
16 Do you see that?
17 A. Yes, I do.
18 Q. So all of those were matters that
19 had never been publicly disclosed, correct?
20 MR. BERLIN: Objection.
21 You can answer.
22 A. I -- what, his -- that he uses
23 condoms, or?
24 Q. The three items I just indicated to
25 you --

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1 N. Denton
2 A. Yeah.
3 Q. -- the shape, the size of his
4 penis, the sounds he makes when climaxing,
5 sexual positions he engages in, those were
6 exclusive as it were to Gawker, correct?
7 A. I don't know what reference is made
8 to any of those things in the past.
9 Q. Okay.
10 A. And this, this description of this
11 particular encounter --
12 Q. Yes.
13 A. -- was exclusive to Gawker, yes.
14 Q. And you have no information to
15 indicate that any of those facts had been
16 previously disclosed anywhere else?
17 MR. BERLIN: Objection.
18 A. Facts such as?
19 Q. The ones I -- the three I just
20 indicated.
21 A. The description of this encounter?
22 Q. Yes.
23 A. Yes, I have no reason to believe it
24 was described anywhere else.
25 Q. Or that the characteristics that

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1 N. Denton
2 are described were published anywhere else?
3 A. That, I don't know.
4 Q. Okay. At one point earlier today
5 you mentioned the term "public figure," do
6 you have -- what is your understanding of
7 what a public figure is?
8 MR. BERLIN: Objection. There's a
9 legal term, terminology that that phrase
10 represents. To the extent the witness
11 wants to testify about his own
12 understanding that's fine.
13 MR. MIRELL: That's all I'm asking.
14 A. I think to a larger extent whether
15 somebody's public or not depends on their,
16 their own choice, you know, choice they make.
17 Matt Damon by marrying a civilian,
18 somebody who is not in the acting profession,
19 and by living until at least recently in
20 Miami actually rather than Los Angeles
21 managed to protect himself from some of the
22 attention that his friend Ben Affleck
23 suffered by virtue of his relationship with
24 J. Lo.
25 And on a smaller scale, college

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1 N. Denton
2 students who publish every aspect of their
3 life on Facebook or Twitter or Instagram
4 become public by their own doing and choice.
5 But it is possible still to live a private
6 life if you don't record yourself, have
7 pictures taken of yourself, don't disseminate
8 them in social media or in groups of people.
9 Q. By the way, your last comment by
10 Miami versus Los Angeles, I have to ask a
11 proprietary question here. Are you
12 suggesting that Los Angeles is a free fire
13 zone?
14 A. I'm suggesting Los Angeles is
15 heavily populated by paparazzi and TMZ and
16 tabloid journalists, those that make
17 celebrity, but those that also can expose
18 those celebrities to intrusions they don't
19 find appealing.
20 Q. All right. Using your definition
21 of a public figure, do you believe that
22 Hulk Hogan was such a public figure at the
23 time that Mr. Daulerio's piece was posted?
24 MR. BERLIN: Same objection.
25 You can answer the question.

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1 N. Denton
2 A. Yes. Certainly by virtue the fact
3 that even I knew his name despite my lack of
4 interest in his chosen field that, yes, he
5 was a public figure.
6 Q. And do you think that by being a
7 public figure he waived his privacy rights?
8 MR. BERLIN: Objection.
9 You can answer.
10 A. No, I don't believe he waived his
11 privacy rights. But by virtue of being a
12 public figure he makes a choice to live less
13 privately than others.
14 Q. Well, Mr. -- like Mr. Damon
15 Mr. Hogan lives in Florida, right?
16 A. Yes.
17 Q. Does that say anything to you about
18 the extent to which he wishes to maintain a
19 private life?
20 A. You know, I suppose if he was in,
21 if he was in L.A. going to clubs on the strip
22 that he would probably be more in the public
23 eye, yes, and a story like this might have
24 gotten out sooner.
25 Q. Do you think there's anything

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1 N. Denton
2 private about Hulk Hogan that Gawker would
3 not report if it found out?
4 MR. BERLIN: Objection.
5 You can answer.
6 A. That's a hypothetical question that
7 I can't answer right now.
8 Q. If you had received a report,
9 though, that you believed -- this is totally
10 hypothetical -- that Mr. Hogan was in fact
11 homosexual, that would not be an impediment
12 to your publication, that's something that
13 you, you wish to be known for as it were,
14 outing celebrities?
15 MR. BERLIN: Objection.
16 You can answer.
17 A. There would be, in that
18 hypothetical instance, there would be a large
19 gap between his public and private persona,
20 probably even larger than if he was found
21 documented to be so promiscuous that he had
22 fucked half the women in the county in
23 Florida in which he lives.
24 Q. So what I guess I'm trying to get
25 at in this point is whether there are any

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1 N. Denton
2 facts or group of facts that you believe are
3 off limits when it comes to writing stories
4 about celebrities and their private lives?
5 MR. BERLIN: Objection.
6 Q. And here let me exclude their
7 hetero or homosexual or other sexual
8 preferences?
9 MR. BERLIN: Objection.
10 You can answer.
11 A. There's no, there are no absolute
12 rules. I would certainly have -- if somebody
13 was terminally ill with cancer and there was
14 no, there was no gap between public and
15 private truths then I would be highly
16 reluctant to -- I wouldn't see much value in
17 publishing that kind of story.
18 If they held some public position
19 of responsibility and they were in denial
20 about their illness and they weren't capable
21 of doing their job then that would change
22 things. So, as you know, you have to balance
23 these different factors.
24 Q. I think, I think FDR and JFK are
25 happy you were not alive during their

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1 N. Denton
2 lifetimes.
3 MR. BERLIN: Is it possible to take
4 a break?
5 MR. MIRELL: A brief one, sure.
6 MR. BERLIN: Yeah, that's fine.
7 THE VIDEOGRAPHER: I need to change
8 the tape anyway. We've got about eight
9 minutes left. The time now, the time
10 now is 4:00 p.m. This marks the end of
11 tape No. 4. Going off the record.
12 (Recess taken 4:00 p.m. until 4:07
13 p.m.)
14 THE VIDEOGRAPHER: The time now is
15 4:07 p.m. This marks the beginning of
16 tape No. 5. We are back on the record.
17 Q. Okay. We are back on the record
18 and you are still under oath, you understand
19 that?
20 A. Yes.
21 Q. Mr. Denton, would you look back at
22 the Hollywood Reporter story that we looked
23 at earlier today, Exhibit 42. That's it
24 there. And all I want to do it direct your
25 attention at this point to the headline which

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1 N. Denton
2 reads, Gawker's Nick Denton explains why
3 invasion of privacy is positive for society.
4 Do you believe that that headline
5 accurately summarizes your view of invasion
6 of privacy?
7 MR. BERLIN: Let me object again as
8 before to the extent that you are using
9 invasion of privacy in lay terms. I'm
10 happy to have the witness answer the
11 question. He's not a lawyer and to the
12 extent that the term has a legal meaning
13 he should not answer the question that
14 way. You may answer the question.
15 A. No, I don't think the headline is
16 particularly, particularly accurate summary
17 of my views. The only time I mentioned
18 invasion of privacy in this, I think, is in
19 the context of supposed invasion of privacy.
20 Invasion of privacy is, that's a term used by
21 other people or often used by those that are
22 uncomfortable with our coverage.
23 Q. Do you believe that defamation is
24 good for society?
25 MR. BERLIN: Objection.

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1 N. Denton
2 You can answer the question.
3 A. I believe that transparency is good
4 for society.
5 Q. Do you believe that copyright
6 infringement is good for society?
7 MR. BERLIN: Objection, same
8 objection, but you can answer the
9 question.
10 A. I believe that a liberal
11 dissemination of information is good for
12 society.
13 Q. If someone obtained a clandestine
14 tape of you having sexual relations, would
15 you be okay with them publishing it?
16 A. I would be embarrassed.
17 Q. Well, what is the difference
18 between you and Hulk Hogan in that regard, if
19 anything?
20 A. Very little.
21 Q. Okay. Do you review stories with
22 greater care when they are based upon
23 information or materials that have been paid
24 for by Gawker?
25 MR. BERLIN: Objection, assumes

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1 N. Denton
2 facts not in evidence.
3 A. No. I would say institutionally
4 we're probably more, more cautious about
5 people's motives if they've been paid. But
6 we'd also be cautious about people's motives
7 if they had an axe to grind and, frankly,
8 most sources have an axe to grind.
9 Q. What if you received something
10 anonymously, does that trigger any alarm
11 bells?
12 MR. BERLIN: Objection.
13 You can answer.
14 A. It's, yes, it would make some, it
15 would make us more suspicious, would make us
16 more careful.
17 Q. You know that in this case the
18 Hulk Hogan sex tape DVD was provided to you
19 anonymously, correct?
20 A. I do assume that's the case.
21 Q. Do you know what you did to be more
22 careful in terms of your vetting of the story
23 as a result of that fact?
24 MR. BERLIN: Sorry. I, I assume
25 that you mean when you say do you, that

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1 N. Denton
2 you mean Gawker.
3 MR. MIRELL: I do.
4 MR. BERLIN: Okay. You can answer
5 the question.
6 A. Typically if there's a document or
7 photograph or a video, assuming there are no
8 obvious signs of it being doctored, we'd
9 probably look for indication that it had been
10 doctored, but been my experience it's very
11 rare for anything to be, to be effectively
12 faked. In fact, I can't think, I can't think
13 of a single example offhand of any video or
14 image that misled us during our history.
15 Q. You are aware of the phenomenon of
16 other, maybe not you, Gawker not being
17 misled, but you are aware of Photoshop?
18 A. Yes.
19 Q. And other devices that permit
20 photographs or videotapes to be altered,
21 correct?
22 A. It's much harder to alter a
23 videotape than a photograph.
24 Q. When Gawker receives material
25 anonymously is it at all concerned about the

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1 N. Denton
2 motives of the anonymous provider?
3 A. Absolutely.
4 MR. BERLIN: Objection.
5 A. We're equally concerned about the
6 motives of, of a named provider. The only
7 difference is that with a named provider
8 those motives are a little bit easier to
9 untangle.
10 Q. Is there any particular care that
11 is, special care, that is given in the
12 instance of someone providing material
13 anonymously in that regard?
14 A. Generally I think I've -- haven't I
15 already answered that?
16 Q. You may have, all right. If you
17 believe you've answered it we'll move on.
18 Let me show you a document I'll ask the
19 reporter to mark as Exhibit 45.
20 (Exhibit 45, document, marked for
21 identification, as of this date.)
22 Q. This is a two-page letter bearing
23 Gawker numbers 143, 144. And let me -- I'll
24 give you an opportunity to review this, but
25 my initial question is whether you recall

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1 N. Denton
2 having ever seen this letter before today?
3 A. I don't recall it.
4 Q. Okay. Did you become aware at some
5 point of a cease -- excuse me -- a cease and
6 desist letter from counsel for Hulk Hogan had
7 been received by Gawker?
8 A. I don't recall specifically.
9 Q. You don't recall the specifics, but
10 you are aware that that occurred?
11 A. I have no reason to believe it
12 didn't occur.
13 Q. Okay. After this letter was
14 received why did Gawker not remove the sex
15 tape from its site?
16 A. Because we continued to believe in
17 its newsworthiness.
18 Q. Is there any reason why the
19 genitalia or other private parts of the
20 participants were not blurred by you after
21 receipt of this letter?
22 MR. BERLIN: Objection.
23 Go ahead and answer.
24 Q. There's a question pending. Do
25 you --

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1 N. Denton
2 A. Oh, sorry, what was the question?
3 MR. MIRELL: You want to read it
4 back.
5 (Record read.)
6 A. The letter didn't change our
7 thinking.
8 Q. And why not?
9 A. It wasn't persuasive.
10 Q. I'm sorry?
11 A. It wasn't persuasive.
12 Q. Oh, persuasive. Okay, I see.
13 Do you know how many people viewed
14 this posting of the Hulk Hogan sex tape and
15 the narrative that accompanied it after
16 receipt of Exhibit 45?
17 MR. BERLIN: Can I just object,
18 including that Exhibit 45 does not bear
19 a date on it so it would be difficult
20 for the witness to know when it was
21 received or sent.
22 MR. MIRELL: Fair enough.
23 Q. Whenever the letter was actually
24 sent or received, do you have, are you able
25 to -- let me, let me, let me not pursue that.

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1 N. Denton
2 Your counsel has raised a fair point.
3 Typically one would date a letter, but did
4 not happen I guess in this case.
5 Can you take a look at Exhibit 10?
6 I'll provide you with my copy.
7 MR. BERLIN: Exhibit 10 you said?
8 MR. MIRELL: Exhibit 10, yeah.
9 Q. This is an e-mail from, that Gawker
10 produced, Gawker 228 from Mr. Daulerio to
11 Mr. Cook on November the 2, 2012 which is
12 approximately a month after the original
13 story was posted. And my -- what I want to
14 do at this point is simply direct you to the
15 second to last paragraph which reads, which
16 has a sentence which reads as follows:
17 Thanks to those readers who enjoyed this
18 old school exhibition.
19 Do you see that?
20 A. What's -- I don't really
21 understand. I don't really understand this
22 e-mail.
23 Q. I can -- the only insight I can
24 provide you is that which I gleaned from
25 Mr. Daulerio which is that this is a post

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1 N. Denton
2 that was contemplated would be uploaded but
3 was not in fact. So, in other words, this is
4 a draft of, of a potential story.
5 A. Okay.
6 Q. And you'll see the words
7 subject -- you'll see the word draft --
8 A. Okay.
9 Q. -- next to the word subject. So
10 just to take you to the point in this where
11 I'm referring to and the only question I have
12 for you about this document is in the second
13 to last paragraph, third sentence reads,
14 thanks to those readers who enjoyed this old
15 school exhibition.
16 Do you see that?
17 A. Yes.
18 Q. Do you know what the term "old
19 school exhibition" means in the context of
20 this e-mail?
21 A. No.
22 MR. BERLIN: Objection.
23 You can answer.
24 Q. Do you have an independent
25 understanding of what old school exhibition

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1 N. Denton
2 might be?
3 A. No.
4 Q. Did you believe it to be a
5 reference to voyeurism?
6 A. I --
7 MR. BERLIN: Objection. He's
8 already answered this I think twice.
9 A. I don't know. Like I said before,
10 sometimes I don't understand A.J.
11 Q. Are you aware of any contact that
12 Gawker received from the Federal Bureau of
13 Investigation in connection with the
14 Hulk Hogan story?
15 A. No, I'm not.
16 Q. Are you aware of any contact that
17 Gawker received from any local law
18 enforcement authorities in the State of
19 Florida?
20 A. No, I'm not.
21 Q. You are aware that there was a
22 point in time when Judge Campbell in Florida
23 issued an order concerning the posting?
24 A. Yes, vaguely.
25 Q. And did you have any role

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1 N. Denton
2 whatsoever in responding to the court's
3 order?
4 MR. BERLIN: Objection.
5 You can answer the question.
6 A. I did.
7 Q. Okay. Is there anything that you
8 can tell me about your involvement in that
9 process that does not implicate any
10 conversations that you may have had with
11 counsel?
12 A. I mean, I think --
13 MR. BERLIN: And just let me also
14 object. To the extent that he's asking
15 you, you should only divulge
16 communications that were not in the
17 presence of counsel.
18 A. Oh. I mean, they were in the
19 presence of counsel, but I don't think they
20 are particularly sensitive.
21 MR. BERLIN: No, you don't want to
22 waive your privilege on other things
23 even if you think this is insensitive.
24 I'm, I'm going to direct you not to
25 answer.

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1 N. Denton
2 A. I'm try to think. I'm trying to
3 think whether there's some way I can answer.
4 MR. BERLIN: If there are pieces
5 that occurred not in front of your
6 counsel, you can and should answer the
7 question.
8 THE WITNESS: I can say what my
9 thinking was. Can I say what my
10 thinking was?
11 MR. BERLIN: If it's your thinking
12 and it's not divulging communications
13 that you had with your lawyer or that
14 they had with you, you are free to do
15 that.
16 A. My thinking was that you know, as
17 I've, as I've said before, the points of the
18 story is the point of the story, that the
19 video enhanced the story and was a
20 description, gave the story communicative
21 power. But I felt more comfortable defending
22 our right to have the written description of
23 the post and the subsequent discussion by
24 readers, by having that up and, and I didn't
25 see the urgency of restoring the video to the

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1 N. Denton
2 site. Is that okay?
3 Q. Sure. Was it helpful to
4 you -- strike that, strike that.
5 Did you also believe that the
6 damage had already been done insofar as
7 everyone who was likely to be interested in
8 seeing the video had already viewed it?
9 MR. BERLIN: Objection.
10 You can answer that if you can.
11 A. No, I wasn't really thinking about
12 that. I was actually trying to provide Hogan
13 with some way out of the mess that he's got
14 himself into.
15 Q. In your experience, once an item is
16 posted anywhere on the internet is it
17 difficult, if not impossible, to scrub the
18 internet of that information or image?
19 MR. BERLIN: Objection.
20 You can answer.
21 A. It's difficult, but I've seen it
22 done.
23 Q. Okay. Were you involved in the
24 decision-making to direct people to other
25 sites where the video was allegedly available

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1 N. Denton
2 after Judge Campbell issued her order?
3 A. No.
4 Q. The controversy involving the
5 publication of this posting was a publicity
6 gold mine for Gawker Media, was it not?
7 MR. BERLIN: Objection.
8 You can answer.
9 A. No, it wasn't.
10 Q. Do you believe it was -- that the
11 controversy surrounding this video was good
12 for Gawker's business?
13 MR. BERLIN: Objection.
14 You can answer.
15 A. In the very, very broadest of
16 sense, in the manner in which I've described
17 before, our reputation for telling what we
18 know within the law is the -- at the very
19 heart of our purpose and by extension our
20 business.
21 Q. I ask you do you -- would you agree
22 that -- give me just a moment here. See if I
23 need to pursue this.
24 Would you agree with the view that
25 the Hulk Hogan sex tape video posting was one

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1 N. Denton
2 of Gawker.com's best ever stories?
3 A. No, I wouldn't.
4 Q. Take a look, let me ask you to take
5 a look at a document I'll ask the reporter to
6 mark as Exhibit 46.
7 (Exhibit 46, document, marked for
8 identification, as of this date.)
9 Q. Exhibit 46 is a two-page document
10 Gawker 168 through 169 and the most recent
11 e-mail in the string is that from
12 Mr. Daulerio to Ms. Carmichael on October 15
13 of 2012. Do you know who Emma Carmichael is?
14 A. Yes.
15 Q. Who is she?
16 A. She was A.J.'s deputy at the time,
17 I believe.
18 Q. And do you see the sentence reading
19 "Hogan initial post may work too" at the top
20 of the page?
21 A. I do, yes.
22 Q. And that's a reference to the
23 subject article that's the subject of this
24 litigation, right?
25 A. Yes.

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1 N. Denton
2 Q. And do you disagree with
3 Mr. Daulerio's view that that post might work
4 too as one of Gawker.com's best ever stories?
5 A. He is -- so let me look here. This
6 is part of a chain. So his deputy
7 suggests -- no, in fact he talks about a few
8 stories.
9 He mentions a few stories, she then
10 expands the list to six, or seven depending
11 on how you count item number six, and then he
12 remembers also the Hogan post. So, I mean,
13 my reading of this e-mail would be that it
14 was among the stories that were prominent
15 during this period.
16 Q. And --
17 A. He's, he's answering it even though
18 the question is best ever stories, these are
19 all stories around that particular time.
20 Q. Okay. But those are responsive to
21 the origination of the e-mail string, which
22 was your e-mail --
23 A. Yeah.
24 Q. -- of October 13 asking for stories
25 over the years that defined your site?

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1 N. Denton
2 A. Yeah. And he's not -- well, in
3 fact Emma has, whose list is most complete,
4 has focused on the stories that have defined
5 A.J. Daulerio's tenure on the site, during
6 the site.
7 Q. Well, would you disagree with
8 Mr. Daulerio's view as expressed in
9 Exhibit 46 that the Hulk Hogan posting was
10 one of the stories that defined the
11 Gawker.com site?
12 MR. BERLIN: Objection. That's
13 been asked and answered now several
14 times.
15 MR. MIRELL: It's been asked, I
16 think.
17 MR. BERLIN: Before you even showed
18 him the document you asked him is it
19 your view that the Hulk Hogan story is
20 one of Gawker's best stories ever and he
21 said no.
22 MR. MIRELL: And I'm asking him now
23 about the specific language used in his
24 e-mail defined the site.
25 A. Neither of them have answered my

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1 N. Denton
2 question, so, and if I was sitting with them
3 here as you are with me I would ask the
4 question a little bit more precisely and
5 repeat the question and say I was referring
6 to Gawker.com over it's ten years as opposed
7 to just your tenure. The answers that
8 they've given refer to A.J. Daulerio's
9 actually relatively short tenure at the site
10 and the Hogan post is included actually
11 almost as an afterthought. So I think it
12 entirely coheres with my view of the Hogan
13 story as being important, but not a signature
14 piece.
15 Q. The afterthought as you regard
16 it -- well, let me not fence with you about
17 this.
18 A. Okay.
19 Q. We will move on.
20 A. Although it's fun.
21 Q. We'll move on. Time is short.
22 Are you aware of media inquiries
23 that arrived subsequent to the Daulerio
24 posting seeking to view the tape?
25 A. I assume that there were some.

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1 N. Denton
2 Q. Do you have any specific knowledge
3 of those?
4 A. No.
5 Q. There's one additional article I'd
6 like to direct your attention. This is a
7 multi-page document.
8 A. I haven't looked at that one for a
9 while.
10 Q. Well, we're going to --
11 A. You saved the best for last.
12 Q. I saved the best for last.
13 Exhibit 47 is a New Yorker story from
14 October 18, 2010.
15 (Exhibit 47, document, marked for
16 identification, as of this date.)
17 A. Thank you.
18 Q. I actually just have a few
19 questions about this story. And if you feel
20 like you need to read more of it than I'm
21 going to refer you to, please call that out.
22 A. Okay.
23 Q. But in the interests of time let me
24 just ask you first about one sentence or part
25 of a sentence that begins on the first

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1 N. Denton
2 page that reads, if you see it, "Gawker Media
3 was a deliberately fly-by-night operation
4 incorporated in Budapest where a small team
5 of programmers still work."
6 Do you see that?
7 A. Um-hm.
8 Q. Is a small team of programmers
9 still working in Budapest for Gawker?
10 A. It's a larger team.
11 Q. And how many individuals work in
12 Budapest?
13 A. Between thirty and forty.
14 Q. And what is their function?
15 A. Primarily software development.
16 Q. If you would turn to page 6 of 20,
17 what I'd like to refer you to at this point
18 are a series of quotations that begin after
19 the first full paragraph on that page. The
20 first one beginning with the words "he's
21 not," and concluding with the last sentence
22 on that page. Are there characterizations
23 contained within that section of this article
24 with which you disagree?
25 MR. BERLIN: Let me object. And

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1 N. Denton
2 let me urge the witness to go through
3 them one at a time so you give a precise
4 answer to this question.
5 A. The second item A.J. is being
6 funny, that's a joke.
7 Q. You think he's being facetious
8 there?
9 A. Yes.
10 Q. Okay.
11 A. I'd say the third, I wouldn't say I
12 have fun when people say horrible things
13 about me, but I don't mind so long as I'm
14 right in the end.
15 Ian Spiegleman is a disgruntled and
16 dysfunctional human being.
17 "Other people's emotions are alien
18 to him." I'm not -- not true.
19 I have a belief in my own opinions.
20 More Spiegleman.
21 "Does he have parents" I assume is
22 a joke.
23 Anna Holmes' quote about the
24 British finishing school shows American
25 naivety when it comes to the English class

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1 N. Denton
2 system.
3 More Spiegleman. I think pretty
4 much everything from Spiegleman I'd ignore.
5 And actually the one I disagree
6 with most is the nihilism comment from Moe.
7 I think I'm one of the most idealistic people
8 I know.
9 Q. There is one --
10 A. "He wants to be Warhol."
11 Q. Well, I'm going to ig -- I ask you
12 to ignore those. I am not asking you about
13 those. The, the second to last --
14 A. Yeah.
15 Q. -- comment here. I hesitate to ask
16 this but, I mean, this -- the implication is
17 that you suffer from Asperger syndrome; is
18 that a true statement?
19 MR. BERLIN: Objection.
20 You can answer if you want.
21 A. Let's say it's journalistic
22 license.
23 Q. Okay. All right. Because I didn't
24 want to walk away with a false impression by
25 hint of reading this article or reading too

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1 N. Denton
2 much into it.
3 A. Do you think I, do you think I have
4 signs of it?
5 Q. I have signs of many things and I
6 have -- I am not in a position to judge
7 anyone, please.
8 So let me just direct your
9 attention to one additional page of this,
10 page 17 of 20. It's the paragraph beginning
11 "Denton's greatest publishing feat," and it's
12 the parenthetical that appears about midway
13 down that paragraph, begins "his rule on"?
14 Do you see that?
15 A. Um-hm.
16 Q. The sentence reads in full, his
17 rule on, quote/unquote, bounties, as he calls
18 them, is that you should be willing to pay
19 \$10 for every thousand new visitors you hope
20 to attract.
21 Is bounties a term that you in fact
22 use?
23 A. Not currently.
24 Q. Okay. You did at the time --
25 A. Yes.

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1 N. Denton
2 Q. -- of this article. And is it your
3 view that a bounty of \$10 for every thousand
4 new visitors was appropriate?
5 MR. BERLIN: Objection.
6 You can answer.
7 A. It was a rule of thumb to ensure
8 that overenthusiastic editors didn't go too
9 far in trying to get the story.
10 Q. Okay. And that paragraph speaks
11 about the Gizmodo story concerning the
12 discovery of the prototype Apple phone?
13 A. Yes.
14 Q. You recall that?
15 A. I do.
16 Q. Do you agree with or disagree with
17 the comment that's made in the succeeding
18 paragraph by Joel Johnson?
19 A. I disagree.
20 Q. And about what do you, what do you
21 disagree about?
22 MR. BERLIN: Let me object also,
23 but go ahead and answer.
24 A. If you ask people what they
25 remember of that story, they remember the

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1 N. Denton
2 hapless Apple engineer who left his phone at
3 a bar, not just his phone but the prototype
4 of the wonder phone, the phone, the phone to
5 end all phones. And that was the story that
6 was on late night TV, on the TV news. It's
7 one of the great tech news stories of the
8 decade and an essential part of that story is
9 the story of the engineer who left the phone
10 at the bar.
11 Other engineers and those who
12 sympathized with him were -- felt more for
13 him and for his plight than they did have
14 appreciation of the full and colorful story.
15 Q. Okay. So you, you did not believe
16 then that by discussing the plight of the
17 hapless engineer that you were going -- you
18 were pushing things a little too far?
19 A. It was part of the story.
20 Q. Last, if you would turn to page 19
21 of 20 and there the third full
22 paragraph beginning with the words "Denton
23 also," has a sentence about midway through
24 the paragraph that reads as follows: His
25 ownership stake in the company is around 60

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1 N. Denton
2 to 70 percent. Do you see that?
3 A. Yes.
4 Q. Which company is being referred to
5 here, and is that, was that a correct
6 percentage as of the date of this article's
7 publication?
8 MR. BERLIN: Let me, before you
9 answer, let me object on the same
10 grounds as I objected to earlier on the
11 questions about shareholders,
12 specifically that this issue is not
13 properly before this -- has not been
14 properly raised pursuant to Florida
15 procedure.
16 If the witness is willing, I'm
17 happy to have him answer the question,
18 if he is not then we will stand on that
19 objection.
20 MR. MIRELL: Okay.
21 MR. BERLIN: And we'll also treat
22 that as confidential under the
23 protective order.
24 A. I can't remember what entity that
25 would have been, the name of the entity that

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1 N. Denton
2 that would have been a share in. It would be
3 the top entity of the structure as it
4 obtained then. I don't believe that the
5 Cayman Islands holding company was in place
6 at that time. But yes, that would have been
7 accurate.
8 Q. And is it accurate to say that as
9 of today your ownership interest in Gawker
10 Media Group, Inc., the Cayman Islands entity,
11 is in that same range?
12 A. No.
13 Q. What is it now?
14 A. It's slightly under 50 percent.
15 MR. MIRELL: Okay. Mr. Denton,
16 it's been a pleasure meeting you. I
17 have no further questions today.
18 Did you have any questions?
19 MR. BERLIN: I have no questions
20 for this witness.
21 MR. MIRELL: I am going as a matter
22 of form to ask that in light of pending
23 motions to compel that we reserve the
24 right to recall you as a witness for
25 further deposition should that become

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1 N. Denton
 2 necessary. I'm not at this point
 3 representing that that will or will not
 4 occur, but simply reserving our rights
 5 and I'm sure your counsel will reserve
 6 his rights to object.
 7 MR. BERLIN: We will memorialize
 8 for the record our objection to doing so
 9 for the same reasons that were expressed
 10 on the record yesterday at the end of
 11 Mr. Kidder's deposition.
 12 MR. MIRELL: If we can go off the
 13 record for a stipulation.
 14 MR. BERLIN: Why don't we just use
 15 the same stipulation unless you need
 16 to --
 17 MR. MIRELL: Just go off the record
 18 for a moment.
 19 MR. BERLIN: That's fine.
 20 THE VIDEOGRAPHER: All right. Let
 21 me -- I've got to do the whole spiel.
 22 MR. MIRELL: Oh, okay. I'm sorry,
 23 we will stay on the record then.
 24 THE VIDEOGRAPHER: All right.
 25 MR. MIRELL: And just for your

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1 N. Denton
 2 benefit the, the understanding is that
 3 once this deposition transcript is
 4 transcribed that it will be presented to
 5 your counsel who will make it available
 6 to you to read, review and, if
 7 necessary, correct.
 8 I would caution you that any
 9 corrections you make to this deposition
 10 transcript can be commented upon by us
 11 and may reflect adversely upon your
 12 credibility as a witness or upon any of
 13 the positions, legal positions or others
 14 that any of the defendants in this case
 15 may wish to take. So it behooves you,
 16 obviously, to take some care as I think
 17 you have during the day today to make
 18 sure that your answers are in fact fully
 19 and completely accurate and be aware,
 20 though, that if you do make substantive
 21 changes it can have those sorts of
 22 ramifications.
 23 THE WITNESS: Okay.
 24 MR. MIRELL: Thank you again for
 25 your time.

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1 N. Denton
 2 THE WITNESS: Thank you.
 3 THE VIDEOGRAPHER: The time now is
 4 4:46 p.m. This marks the end of tape
 5 No. 5. Going off the record.
 6 -o0o-
 7
 8 (Whereupon, the deposition of
 9 NICK DENTON was concluded at 4:46 p.m.)
 10
 11 _____
 12 NICK DENTON
 13
 14 Subscribed and sworn to before me
 15 this ___ day of _____, 2013.
 16
 17 _____
 18
 19
 20
 21
 22
 23
 24
 25

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1
 2 CERTIFICATE
 3 STATE OF NEW YORK)
 4 : ss.
 5 COUNTY OF NEW YORK)
 6
 7 I, Toni Allegrucci, a Notary Public
 8 within and for the State of New York, do
 9 hereby certify:
 10 That NICK DENTON, the witness whose
 11 deposition is hereinbefore set forth,
 12 was duly sworn by me and that such
 13 deposition is a true record of the
 14 testimony given by the witness.
 15 I further certify that I am not
 16 related to any of the parties to this
 17 action by blood or marriage, and that I
 18 am in no way interested in the outcome
 19 of this matter.
 20 IN WITNESS WHEREOF, I have hereunto
 21 set my hand this 3rd day of October,
 22 2013.
 23
 24 _____
 25 TONI ALLEGUCCI

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1 DEPOSITION ERRATA SHEET

2

3

4 Assignment No. 10071

5 Case Caption: BOLLEA vs. GAWKER

6

7 DECLARATION UNDER PENALTY OF PERJURY

8 I declare under penalty of perjury

9 that I have read the entire transcript of

10 my Deposition taken in the captioned matter

11 or the same has been read to me, and

12 the same is true and accurate, save and

13 except for changes and/or corrections, if

14 any, as indicated by me on the DEPOSITION

15 ERRATA SHEET hereof, with the understanding

16 that I offer these changes as if still under

17 oath.

18

19 NICK DENTON

20

21 Subscribed and sworn to on the ____ day of

22 _____, 20__ before me,

23 _____

24 Notary Public,

25 In and for the State of _____

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1	
2	EXHIBITS
3	EXHIBIT DESCRIPTION FOR ID.
4	Exhibit 44
5	Three-page document from CBS News'
6	website entitled Rebecca Gayheart,
7	"McSteamy" Eric Dane, Get Gawker
8	Settlement Over Threesome Video 181
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