

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

TERRY GENE BOLLEA professionally
known as HULK HOGAN,

Case No. 12012447 CI-011

Plaintiff,

vs.

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

Defendants.

**PLAINTIFF'S STATEMENT OF FACTS ESTABLISHED AT TRIAL
IN SUPPORT OF PLAINTIFF'S COMBINED OPPOSITION TO MOTION
FOR NEW TRIAL OR, IN THE ALTERNATIVE, FOR REMITTITUR AND
TO MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT**

Plaintiff, Terry Bollea professionally known as Hulk Hogan ("Mr. Bollea"), submits the following Statement of Facts Established at Trial in Support of Plaintiff's Combined Opposition to Defendants, Nick Denton ("Denton"), A.J. Daulerio ("Daulerio") and Gawker Media, LLC ("Gawker") (collectively, "Gawker Defendants"), (1) Motion for New Trial or, in the Alternative, for Remittitur; and (2) Motion for Judgment Notwithstanding the Verdict:

Overview of the Parties

A. Terry Bollea.

1. Terry Bollea was raised in a low income neighborhood in Port Tampa. RT 1340: 7-23 (Bollea) After graduating from high school, he pursued a career in music. RT 1342: 14-17; 1343: 12-1344 12; 1345: 5-1346: 3 (Bollea). He also worked construction jobs and as a longshoreman to makes ends meet. RT 1345: 9-1346: 13 (Bollea). He eventually pursued a career in professional wrestling, and fought his way into the business in the mid-1970's. RT 1347:4-1348:14 (Bollea); RT 1351:21-1352:13 (Bollea). During his early wrestling career,

Mr. Bollea traveled extensively to find work and struggled to earn a living. RT 1351: 1801355:6 (Bollea). In the late 19070's, he finally broke through in the wrestling industry with the World Wide Wrestling Federation (now WWE), in New York. RT 1355: 7-1357: 4 (Bollea).

2. Professional wrestling is entertainment, not a sport, and Mr. Bollea created his "Hulk Hogan" character to entertain wrestling fans. RT 1364:3-23 (Bollea). Wrestling promoters employ writers to develop characters. RT 1368:25-1369:11 (Bollea). Mr. Bollea took the professional name "Hulk Hogan" in or about 1978 or 1979. RT 1356:3-22 (Bollea). He developed a distinctive way of talking and acting as "Hulk Hogan," which included using expressions like "Hey Brother". RT 1361:14-20 (Bollea).

3. The Hulk Hogan character portrayed by Mr. Bollea is larger than life. Hulk is an all- American good guy hailing from Venice Beach, California. RT 1357:5-11 (Bollea). He is loud, uses slang like "brother" or "dude," exaggerates by making claims that he wrestled an elephant or rode a tiger shark, and engages in exaggerated braggadocio about his sex life. RT 1366:15-24 (Bollea); RT 1368:10-24 (Bollea); 1566:20-1571:17 (Bollea); RT 1633:1-19 (Bollea).

4. In contrast, Terry Bollea is not loud and argumentative. RT 1371:23-1372:15 (Bollea). Mr. Bollea was born in Georgia and grew up in Port Tampa. RT 1339:7-10 (Bollea); 1340:5-10 (Bollea). Mr. Bollea wears a bandanna because he is self-conscious about his appearance, while Hulk Hogan rips off the bandanna in the wrestling ring. RT 1372:16-1373:22 (Bollea).

5. Mr. Bollea recognized that his success and the celebrity associated with portraying Hulk Hogan meant that when he interacted with the public he would give up a lot of privacy, but he believed that he still was entitled to keep private certain aspects of his personal life. RT 1602:23-1604:9 (Bollea).

6. As Hulk Hogan became more popular, Mr. Bollea stayed in character even when outside his home, except for certain occasions when he was with his close friends and his children. RT 1369:12-1370:2 (Bollea); RT 1371:10-22 (Bollea); RT 1604:10-1607:2 (Bollea).

7. Mr. Bollea married Linda, his first wife, in December 1983. RT 1379:25-1380:5 (Bollea). They had two children, Nick and Brooke. RT 1339: 15-20 (Bollea). Problems in the marriage escalated in 2004. Linda ultimately filed for divorce in November 2007. RT 1381:3-13 (Bollea).

8. Because he was a celebrity, aspects of Mr. Bollea's sex life received media attention. RT 1985:18-1986:9 (Houston). For example, an affair between Mr. Bollea and Ms. Christiane Plante was covered by the press. RT 1624:24-1625:6 (Bollea). Mr. Bollea wrote about that dalliance in a book (credited to Hulk Hogan) *My Life Outside the Ring*. RT 1623:7-1624:8 (Bollea). At the time Mr. Bollea wrote about his relationship with Ms. Plante, it had already been reported in the *National Enquirer*. RT 1668:1-10 (Bollea). *My Life Outside the Ring* also discussed the breakup of Mr. Bollea's first marriage. RT 1986:10-12 (Houston) But *My Life Outside the Ring* contained no mention of Heather Clem. RT 1668:10-13 (Bollea). Mr. Bollea did not include any naked pictures of himself in the book and never put out a sex tape depicting him and Ms. Plante or any other woman. RT 1668:14-19.

9. Mr. Bollea starred in a one-hour television special portraying his relationship with his daughter's music career, which led to a reality television series, *Hogan Knows Best*, that aired from 2005 to 2007. RT 1381:14-1382:9 (Bollea); RT 1612:12-15 (Bollea). Mr. Bollea warned his family that there would be some loss of privacy and anonymity in doing the show. RT 1382:16-1383:6 (Bollea).

10. Although considered a "reality" show, the series did not accurately portray Mr. Bollea's life. The producers developed themes for episodes, such as "Hulk Hogan takes his

dog to a psychiatrist.” RT 1383:24-1384:10 (Bollea). The producers gave the family an outline of what they were supposed to say on the show while the cameras were running. RT 1384:11-1385:2 (Bollea). If the characters missed something, the scene had to be re-shot. RT 1385:7-12 (Bollea). Mr. Bollea remained in character as Hulk Hogan during the show. RT 1385:23-1386:13 (Bollea).

B. The Clems.

11. Bubba Clem, a radio “shock jock,” was Mr. Bollea’s best friend before the events that led to this lawsuit. RT 1376:3-4 (Bollea); RT 1376:11-1377:7 (Bollea); RT 1438:2-4 (Bollea). Mr. Bollea was best man at Mr. Clem’s wedding to Heather Cole (Clem), and was godfather to Mr. Clem’s son. RT 1438:25-1439:4 (Bollea). Mr. Bollea valued Mr. Clem as the “go-to guy” if he was having problems in his marriage. RT 1379:18-21 (Bollea).

12. Mr. Bollea appeared on Mr. Clem’s radio show between 50 and 100 times, but always in character as Hulk Hogan. RT 1440:1-4 (Bollea); RT 1441:5-12 (Bollea). Bubba Clem had a reputation of being rude and saying nasty things on the radio. RT 1329:14-18 (Cole); RT 1376:14-1377:14 (Bollea). His show also had a “pretty high percentage” of sexual content. RT 1733:19-1734:9 (Rice). At times, Mr. Clem was truthful when talking about his personal life on his radio show. At other times, he was not. RT 1331:23-1332:4 (Cole); RT 3463:14-16 (Cole).

13. Mr. Clem and Heather Clem had an open marriage in which they had sex with other people on occasion. RT 1330:25-1331:7 (Cole). Mr. Clem bragged about his “swinging lifestyle” on the radio. RT 1476:3-20 (Bollea).

14. Around 2006, Mr. Clem had a security camera installed in the Clems’ bedroom by David Rice, an employee of his radio show. RT 1332:13-1333:11 (Cole); RT 1730:14-21 (Rice); RT 1735:12-1736:5 (Rice); RT 1736:22-1738:22 (Rice). The manner in which this bedroom

camera was set up was not like the other security cameras in the residence that continuously recorded the outside the premises. The bedroom camera fed directly to a dedicated DVD recorder and would only record if someone pressed the record button. RT 1736:22-1738:22 (Rice); RT 1740:11-18 (Rice). Mr. Rice showed Mr. Clem how to operate the bedroom recording system. RT 1740:19-1741:5 (Rice). The bedroom camera was concealed. RT 1338:12-15 (Cole). It was very small and looked like a motion detector or smoke alarm. RT 1739:18-21 (Rice); Plf's Ex. 231; Plf's Ex. 248. The bedroom camera did not have an indicator as to whether it was recording. Instead, like a smoke detector, it had a red light that flashed continuously. RT 1739:24-1740:1 (Rice).

C. Nick Denton.

15. Denton is the founder and president of Gawker. RT 2019:8-13 (Denton). He hired, fired, and set the salaries of the editors, and set the budget levels for the sites. RT 2019:8-13 (Denton); RT 2907:13-2908:1 (Denton). The editors of all of the Gawker sites reported to Denton. RT 1851:3-10 (Daulerio); RT 2906:5-21 (Denton); RT 2907:2-12 (Denton).

16. Denton enjoys breaking the rules of mainstream journalism. RT 1853:17-25 (Daulerio). He believes that the journalistic standards governing print newspapers are irrelevant to the Internet era, prides himself on publishing things not permitted under those standards. RT 2030:22-2031:10 (Denton). Denton stated that Gawker may “inadvertently do good” or “inadvertently commit journalism,” but “[t]hat is not the institutional intention.” RT 2996:1-9 (Denton); Plf's Ex. 37.

17. Denton does not consider many things private. RT 1854:16-23 (Daulerio). Rather, Denton believes “invasion of privacy” is a term that people use when they don't like Gawker's coverage. RT 2031:11-2032:1 (Denton). Denton once said invasion of privacy can have “incredibly positive effects on society.” RT 3000:8-3001:5 (Denton); Plf's Ex. 115. He

also said that people “don’t give a f*ck, really” about privacy and that “every invasion of privacy is sort of liberating.” RT 3003:15-23 (Denton); RT 3004:15-3005:2 (Denton). Denton also claims to believe that people are happier when private information about them is disclosed. RT 3005:6-15 (Denton).

18. Denton claims that his social function is to disseminate information to inform and entertain Gawker readers, and that others should determine the bounds of social and journalistic norms. RT 2051:6-12 (Denton).

19. Denton did however concede that celebrities do not waive all of their privacy rights, and conceded that the gratuitous publication of explicit images of celebrities naked or having sex would not be protected by the First Amendment. RT 3007:23-25 (Denton); RT 3075:16-19 (Denton).

20. Denton’s editorial litmus test is whether the material is “true and interesting.” RT 2996: 10-13 (Denton). In fact, this test is the “guiding principal” of Gawker. RT 2996: 15-18 (Denton). Gawker was built on Denton’s ideals. RT 2999: 7-12 (Denton).

D. Gawker Media, LLC.

21. Gawker is an online media company that operates eight websites. RT 2018:25-2019:7 (Denton). Consistent with Denton’s directives, these websites publish sexual content, nude photos of private parts, and rumors, “[i]f it’s interesting”. Plf’s Ex. 225. Sex was a part of Gawker’s branding. RT 3068:15-22 (Denton)

22. Denton admitted that Gawker’s content can be “shameless” and “mean.” Plf’s Ex. 225. He characterized Gawker’s standards of publication as “raw.” Plf’s Ex. 225.

23. Gawker’s success and reputation is measured by the growth of its audience. RT 2909:7-15 (Denton). Gawker’s offices had a “big board” which displayed real time information on the traffic of all Gawker’s stories, and this information could also be accessed on any staff

member's computer. RT 1796:12-1797:3 (Carmichael); RT 1807:24-1808:11 (Cook); RT 1862:2-9 (Daulerio); RT 2910:29-2911:7 (Denton). Gawker also published a page view statistic directly on each web page/posting, right next to the writer's by-line. RT 2997:15-23 (Kidder). According to Gawker's expert, Peter Horan, Gawker's business is driven by spikes in traffic. RT 3379:11-14 (Horan). Unique visitors also attract new visitors to a website, and each first time visitor is a potential convert. RT 2331:13-21 (Horan).

24. Daulerio, as editor-in-chief, was motivated by driving as much traffic to Gawker.com as possible. RT 1797:24-1798:6 (Carmichael); RT 2868:21-25 (Carmichael). Gawker compensated writers with bonuses based on unique visitors to the stories they published. RT 1850:18-21 (Daulerio); RT 1860:16-1861:8 (Daulerio); RT 2022:21-2023:13 (Denton); RT 2292:24-2293:20 (Kidder); RT 2913:2-4 (Denton); RT 2913:20-2914:1 (Denton); RT 3161:19-3162:18 (Kidder).

25. Traffic attracted advertising revenue to Gawker. RT 2025:18-2026:14 (Denton); RT 2027:1-4 (Denton); RT 3014:25-3015:5 (Denton); RT 3015:21-3016:7 (Denton). Gawker discussed traffic with its advertisers as part of Gawker's sales pitch. RT 3122:22-3123:3 (Libby). The primary indication of value to Gawker is the traffic that it brings to its websites. RT 2471:18-2472:15 (Anderson). Traffic brings in advertising. RT 2869:4-7 (Carmichael). Traffic increases the value of the Gawker brand. RT 2520:14-24 (Anderson); RT 3122:10-21 (Libby). Traffic also can be monetized by Gawker in the future. RT 2521:20-2522:3 (Anderson). Exclusive stories that other outlets do not publish generate valuable traffic for Gawker. RT 2767:25-2768:6 (Daulerio).

26. Gawker knew that it was wrong and an invasion of people's privacy to publish explicit, pornographic materials without the consent of the participants. For example, Gawker's guidelines for users who comment on its websites forbid users from violating people's privacy

and posting pornography. RT 2309:14-2311:20 (Kidder); RT 2312:11-25 (Kidder); Plf's Ex. 233. Commenters who violated these guidelines were kicked off the platform. RT 2310:5-18 (Kidder). Gawker condemned the dissemination of revenge porn (*i.e.*, nude photos and videos distributed without the consent of the person depicted), and condemned another site, Tumblr.com, for refusing to take down photos from secret recordings made in a public bathroom. Plf's Ex. 38; Plf's Ex. 50; Plf's Ex. 67; Plf's Ex. 70; Plf's Ex. 71; Plf's Ex. 73; RT 2876:5-16 (Carmichael). Gawker also condemned the online publication of nude photos of women and even celebrities after those private photos were stolen by hackers. Plf's Ex. 50; Plf's Ex. 73.

27. Gawker Defendants ignored these guideposts of common decency when they had exclusive materials for their own websites. For example, Daulerio and Gawker paid \$12,000 for photos of Brett Favre's penis, which they published on Deadspin.com. RT 1865:20-1867:11 (Daulerio); Plf's Ex. 6. Daulerio did not recall Gawker making any determination about whether it was invading Mr. Favre's privacy by posting photos of his penis. RT 1867:15-18 (Daulerio). Gawker also published topless photos of Kate Middleton (the Duchess of Cambridge) in 2012, shortly before the Bollea post. RT 1799:19-21 (Carmichael); RT 3137:7-11 (Kidder); Plf's Ex. 7. Without first getting consent to do so, Gawker published a private nude video of actors Eric Dane, Rebecca Gayheart, and a third person in a hot tub. RT 2036:7-14 (Denton); RT 2991:16-2992:17 (Denton); Plf's Ex. 66. Scott Kidder, a Gawker executive, did not regret publishing the Dane-Gayheart video. RT 2305:1-6 (Kidder).

E. A.J. Daulerio.

28. Daulerio was the editor-in-chief of Gawker.com from January 2012 until February 2013. RT 1777:17-19 (Carmichael); RT 1851:21-1852:8 (Daulerio); RT 2287:18-2288:2 (Kidder); RT 2696:20-2697:15 (Daulerio). Before taking this role at Gawker.com, he was editor-in-chief of Deadspin, another Gawker website. RT 1777:20-25 (Carmichael).

Daulerio's duties as editor included overseeing the staff, hiring and firing, story planning, interacting with the other parts of the company, writing, and editing. RT 1852:9-13 (Daulerio).

29. Daulerio does not consider much to be private. RT 1854:16-23 (Daulerio). His journalistic ethics included reporting rumors, paying for news, and making the company money based on stories that were about sex. RT 1864:4-14 (Daulerio). Consistent with Denton's directives, Daulerio will publish anything that is true and interesting. RT 2766:2-8 (Daulerio).

30. Daulerio's propensity for publishing explicit content earned him the moniker "The World-wide Leader in Dong Shots." Plf's Ex. 8. In addition to posting photos of Brett Farve's penis, Daulerio posted on Deadspin.com a link to a video of a young woman having sex in a semipublic place. RT 2394:16-24 (Daulerio). Daulerio did not know if the sex was consensual, and he did not contact the original website that posted the video. RT 2394:25:2395:9 (Daulerio). The young woman wrote Daulerio and begged him to take down the video because it was taken without her consent. RT 2395:11-21 (stipulated summary of evidence). Daulerio initially refused. RT 2395:22-2397:9 (stipulated summary of evidence). Gawker executive Gaby Derbyshire wrote the young woman and took the position that the video was newsworthy and reiterated that the video would not be taken down. RT 2397:10-24 (stipulated summary of evidence). The video was eventually removed by Gawker. RT 2397:25 (stipulated summary of evidence).

31. Daulerio followed Denton's editorial litmus test, and followed Denton's rules. RT 2766: 2-12 (Daulerio) When asked if he thought any celebrity sex tape would not be newsworthy, Daulerio replied it would not be if it involved a child under four years of age. RT 1895:2-9 (Daulerio).

The Surreptitiously Recorded Video

A. Bubba Clem pressures his friend Mr. Bollea to have sex with Heather Clem.

32. For years, Mr. Clem repeatedly told Mr. Bollea that Heather Clem wanted to see Mr. Bollea naked and have sex with him. RT 1389:16-1390:1 (Bollea); RT 1390:18-1391:12 (Bollea). Mr. Bollea told them to “knock it off” but they continued to press him. RT 1390:18-1391:12 (Bollea).

33. In the summer of 2007, Mr. Bollea eventually gave in to his friend’s request. While she had not yet officially filed for divorce, Linda had by that time left Mr. Bollea, and told him she was not coming back and was going to file for divorce. RT 1391:15-1392:21 (Bollea). Mr. Bollea was at an all-time low because of this. RT 1593:25-1594:5 (Bollea). Mr. Bollea called his friend Mr. Clem, crying, and Mr. Clem invited Mr. Bollea over to his house, ostensibly to talk. RT 1393:3-6 (Bollea).

34. Mr. Clem seized upon this time of weakness, and asked Heather Clem to have sex with Mr. Bollea and she agreed. RT 1336:15-24 (Cole). Mr. Bollea went to Mr. Clem’s house, “one thing led to another,” and Mr. Bollea engaged in sexual relations with Heather Clem. RT 1393:7-12 (Bollea).

B. Bubba Clem secretly records Mr. Bollea having sex without Mr. Bollea’s knowledge or consent.

35. Mr. Bollea specifically asked Mr. Clem if he was recording Mr. Bollea’s encounter with Heather Clem, and Mr. Clem angrily denied that he would do such a thing. RT 1394:21-1395:1 (Bollea).

36. Mr. Bollea had no idea he was being recorded. RT 1447:21-1448:2 (Bollea). Mr. Bollea never noticed security cameras in the Clems’ bedroom. RT 1448:14-17 (Bollea); RT 1460:19-24.

37. Heather Clem did not remember any conversation where Mr. Bollea was told he would be recorded. RT 1336:25-1337:3 (Cole). To the best of Heather Clem's knowledge, Mr. Bollea did not know there was a camera in the bedroom. RT 1338:8-11 (Cole).

38. Mr. Bollea never consented to any recording. RT 1673:18-22 (Bollea).

Community Standards

39. The Society of Professional Journalists ("SPJ") promulgates a code of ethics that is utilized by journalists. RT 2074:17-2075:21 (Foley); Plf's Ex. 79. The code is intended to prevent journalists, who have a tremendous power to cause harm, from harming the public. RT 2074:12-21 (Foley). Online media is governed by the same ethical standards as print media. RT 2075:9-12 (Foley).

40. The purpose of journalism is to help the public make sense of a confusing world without unnecessarily hurting people. RT 2076:11-2077:4 (Foley). Seeking truth and minimizing harm are equally important goals of journalism. RT 2079:1-8 (Foley). The SPJ code of ethics prohibits "undue intrusiveness," which means in practice that journalists should not invade someone's privacy without a good reason to do so. RT 2086:15-2087:4 (Foley); Plf's Ex. 79. The SPJ code of ethics also prohibits pandering to lurid curiosity. RT 2087:21-2088:4 (Foley); Plf's Ex. 79. The code of ethics also requires that journalists weigh the consequences of publishing or broadcasting personal information. RT 2088:13-19 (Foley); Plf's Ex. 79.

41. It is possible to write stories about nudity and explicit content without pandering to lurid curiosity. RT 2096:14-24 (Foley). For instance, the *Tampa Bay Times* covered a criminal who secretly recorded women in showers and bathrooms with a detailed story and a video of him operating the recording device, but did not publish any explicit video of the victims. RT 2097:16-2100:15 (Foley).

The Circulation of the Sex Tape

A. In the spring of 2012, news media begins to report on the existence of a “Hulk Hogan sex tape.”

42. In March 2012, reports surfaced that there could be a “Hulk Hogan sex tape.” RT 1898:16-19 (Houston); RT 2706:24-2707:9 (Daulerio). Mr. Bollea gave an interview to TMZ where he and his lawyer, David Houston, put out the message that Mr. Bollea never consented to being filmed and never consented to the release of a sex tape. RT 1899:3-15 (Houston); RT 2735:23-2736:11 (Daulerio); Def’s Ex. 214. Mr. Houston threatened to prosecute anyone who disseminated a “Hulk Hogan sex tape.” RT 1901:22-1902:20 (Houston).

43. Mr. Bollea had a good relationship with TMZ. RT 1694:23-1695:5 (Wortman). TMZ never published video of Mr. Bollea naked or having sex; they only wrote about it and put up a grainy still picture. RT 1670:21-1671:1 (Bollea); RT 1671:8-10 (Bollea). All Gawker staff writers and members received an e-mail alert about a “Hulk Hogan sex tape” in March 2012. RT 1781:23-1782:7 (Carmichael); RT 2706:24-2707:9 (Daulerio); RT 2869:8-2870:11 (Carmichael).

44. On April 19, 2012, a website called “thedirty.com” published grainy still photographs purportedly taken from a recording of Mr. Bollea having sex in a private bedroom. RT 1908:22-1909:22 (Houston); RT 1960:9-21 (Houston); RT 1964:18-22 (Houston); RT 2709:6-20 (Daulerio); Def’s Ex. 57. Mr. Houston contacted thedirty.com and obtained their assurances that they would not publish any video of Mr. Bollea having sex. RT 1909:23-1910:17 (Houston); Def’s Ex. 75.

45. In the wake of publicity over a “Hulk Hogan sex tape,” two major distributors of pornography, Vivid Entertainment and Sex.com, contacted Mr. Bollea’s representative and offered to purchase and distribute such a video. RT 1913:14-1916:21 (Houston); Plf’s Exs. 15

and 16. Mr. Houston told both Vivid and sex.com that Mr. Bollea had no interest in distributing a sex tape and would seek to prosecute anyone who distributed one. RT 1913:14-1916:21 (Houston); RT 2000:7-17 (Houston).

B. Gawker receives the 30-Minute Video.

46. On September 27, 2012, Tony Burton, an agent for radio personality Mike Calta, contacted Daulerio and told him that he had a client who had a “significant” DVD that he wanted to send him. RT 1745:16-1747:1 (Burton); RT 1873:23-1874:7 (Daulerio); RT 1876:14-23 (Daulerio); RT 2710:8-17 (Daulerio); RT 2711:16-22 (Daulerio); Plf’s Ex. 230. Mr. Burton presumes he told Daulerio who his client was. RT 1750:14-18 (Burton). Mr. Burton also told Daulerio that his client was a fan. RT 1877:17-21 (Daulerio).

47. After obtaining Daulerio’s address to mail the DVD, Mr. Burton provided the address to Mr. Calta, and the DVD was mailed to Daulerio. RT 1751:21-1752:12 (Burton); RT 2713:5-9 (Daulerio); RT 2714:15-20 (Daulerio). Mr. Calta followed up with Mr. Burton on October 3, 2012, asking if Daulerio received the package, and Mr. Burton confirmed with Daulerio that the package was sent anonymously and received by Daulerio. RT 1753:1-1754:9 (Burton); Plf’s Ex. 230.

48. Sometime between September 27 and October 3, 2012, Mr. Calta informed Mr. Burton over the phone that the DVD contained a “Hulk Hogan sex tape.” RT 1754:24-1755:14 (Burton). Mr. Burton relayed this message to Daulerio in a phone call. RT 1873:23-1874:7 (Daulerio). According to Mr. Burton, Mr. Bollea and Mr. Calta were involved in a “radio war” at that time, and had exchanged insults on the radio. RT 1755:15-23 (Burton).

49. The video arrived at Gawker addressed to Daulerio, and his managing editor Emma Carmichael opened the package and watched a minute or two of it. RT 1783:5-18 (Carmichael); RT 1874:8-20 (Daulerio); RT 2715:5-14 (Daulerio); RT 2855:5-21 (Carmichael).

Ms. Carmichael reported to Daulerio the general gist of what was on the recording. RT 1875:11-17 (Daulerio); RT 2715:4-14 (Daulerio).

50. Daulerio reviewed the recording and immediately determined that Gawker would publish explicit portions of it. RT 1878:18-20 (Daulerio); RT 2716:22-2717:1 (Daulerio). Mr. Daulerio was amused by the recording. RT 2719:5-8 (Daulerio).

51. It was evident that the camera that recorded the video was positioned from a high angle and far away from the bed. RT 1791:5-10 (Carmichael); RT 2870:20-23 (Carmichael). Daulerio understood from watching the video that it was taken from a hidden camera. RT 1879:21-23 (Daulerio). Mr. Bollea and Heather Clem did not look at the camera. RT 1791:11-13 (Carmichael); RT 1879:24-1880:3 (Daulerio); RT 2871:2-5 (Carmichael).

52. Prior to posting, Daulerio did not investigate the motives of the person who sent Gawker the secret recording of Mr. Bollea; he did not care about the person's motives. RT 2775:19-2776:6 (Daulerio). Ms. Carmichael also did no investigation to determine if the source of the secret recording of Mr. Bollea was motivated by revenge or whether the recording was a revenge porn video. RT 2874:14-2875:1 (Carmichael).

53. Daulerio would have still published the Gawker Video even if he knew for certain that Mr. Bollea was secretly recorded without his authorization. RT 1880:19-22 (Daulerio). Daulerio did not care that the Gawker Video was secretly recorded. RT 2780:5-8 (Daulerio).

C. Gawker and Daulerio deliberately include explicit footage.

54. After deciding to post explicit excerpts from the footage, Daulerio instructed Gawker's video editor to edit the Gawker Video to show sexual intercourse as well as some conversation between Mr. Bollea and Heather Clem. RT 1784:8-14 (Carmichael); RT 1785:10-19 (Carmichael); RT 1878:21-1879:2 (Daulerio); RT 1880:23-1881:10 (Daulerio); RT 2720:25-

2722:1 (Daulerio); RT 2854:18-24 (Carmichael); RT 2857:13-23 (Carmichael); RT 2858:12-16 (Carmichael).

55. Daulerio also instructed his video editor to include images of Mr. Bollea's penis. RT 1881:16-21 (Daulerio); RT 2787:2-8 (Daulerio).

56. Daulerio knew that explicit images of Mr. Bollea's penis and his sexual positions were not newsworthy. RT 1882:4-8 (Daulerio); RT 1894:6-23 (Daulerio); RT 2790:3-17 (Daulerio).

D. Gawker writers and editors mock Mr. Bollea.

57. After Gawker received the DVD containing the 30-Minute Video, high-ranking Gawker employees mocked Mr. Bollea in internal communications. RT 1814:18-1815:1 (Cook).

58. Daulerio asked if Mr. Bollea's penis was wearing a "do rag" (bandanna). RT 1786:6-10 (Carmichael); RT 1815:20-25 (Cook); RT 1816:17-25 (Cook). Gawker editor John Cook replied by posting a photo of an uncircumcised penis, which he thought resembled a penis wearing a bandanna. RT 1818:2-5 (Cook). Mr. Cook also asked if Mr. Bollea had "blonde, silky pubes". RT 1787:25-1788:2 (Carmichael).

59. Ms. Carmichael joked that Gawker's editorial policy was there was to be no comments about the Gawker Video while the legal department "processes [Mr. Bollea's] giant... lawsuit," a double entendre reference to Mr. Bollea's penis. RT 1787:3-14 (Carmichael).

60. Gawker editor Max Read joked that Mr. Bollea made "[a] really tender leg drop" in the Gawker Video (a reference to Mr. Bollea's finishing move in wrestling). RT 1813:11-14 (Cook).

61. One week after Mr. Bollea filed suit, Ms. Carmichael and Daulerio supervised the creation of a second video of explicit excerpts from the 30-Minute Video, for possible publication. RT 2871:9-2873:14 (Carmichael).

E. Gawker publishes the Gawker Video.

62. On October 4, 2012, Gawker.com published the Gawker Video. RT 1793:4-6 (Carmichael); Def's Ex. 310. It included images of Mr. Bollea in a state of full frontal nudity, receiving oral sex, and engaging in sexual intercourse. RT 1784:15-18 (Carmichael); RT 1784:22-24 (Carmichael); RT 1785:3-6 (Carmichael); RT 1918:15-20 (Houston); RT 1970:8-10 (Houston); RT 2095:5-12 (Foley); Def's Ex. 310.

63. Mr. Bollea did not consent to Gawker using naked images of him for any purpose and did not consent to the posting of the Gawker Video. RT 1422:6-8 (Bollea); RT 1673:23-1674:5 (Bollea).

64. The Gawker Video was published unblocked and unblurred, even though Gawker had the technology available to block and blur the footage. RT 1792:4-6 (Carmichael); RT 1886:13-16 (Daulerio). Blocking and blurring was not even considered by Daulerio. RT 1885:17-1886:3 (Daulerio); RT 2727:16-25 (Daulerio). Blocking and blurring "did not seem like a necessary step". RT 1792:7-11 (Carmichael).

65. Gawker also had the option of running Daulerio's accompanying narrative without any video footage, but did not even consider doing so. RT 1884:13-18 (Daulerio); RT 1885:10-12 (Daulerio). Had Gawker posted the narrative without the Gawker Video, it would have generated fewer page views and unique visitors. RT 1885:13-16 (Daulerio).

66. Gawker's publication of the Gawker Video violated the SPJ Code of Ethics' prohibitions against undue intrusiveness and pandering to lurid curiosity, and its requirements that publications balance the public's need for information against the potential harm and show compassion for news subjects. RT 2087:8-17 (Foley); RT 2088:5-12 (Foley); RT 2088:20-2089:8 (Foley); RT 2091:7-11 (Foley); RT 2094:24-2095:4 (Foley); RT 2267:24-2269:1 (Foley).

67. It also violated the SPJ code's guideline that publications should abide by the same high standards they expect of others. RT 2269:2-11 (Foley). Gawker also violated the SPJ code by failing to contact Mr. Bollea or the Clems before publishing. RT 2145:1-2146:6 (Foley). The fact that a secretly recorded sex video involves a celebrity does not make it permissible under the SPJ Code of Ethics to publish explicit content from that video. RT 2270:4-7 (Foley).

68. The SPJ code prohibits publication of a secretly recorded sex video of a celebrity even if the celebrity had posed voluntarily for sexually explicit photographs in the past. RT 2273:18-2274:18 (Foley).

69. The fact that readers might wish to see a secretly recorded sex video does not make it newsworthy. RT 2275:24-2276:3 (Foley).

70. Daulerio wrote a graphic narrative to accompany the Gawker Video, consisting of a play-by-play of what he saw on the 30-Minute Video. RT 1879:3-8 (Daulerio); RT 2720:13-24 (Daulerio). Daulerio's incidental narrative entitled "Even for a Minute, Watching Hulk Hogan Have Sex in a Canopy Bed is Not Safe For Work but Watch it Anyway," with the metatag "NSFW," invited the world to watch Mr. Bollea have sex. RT 2730:6-20 (Daulerio); Plf's Ex. 2; RT 2776:23-2777:7 (Daulerio); RT 2862:5-7 (Carmichael).

71. The narrative acknowledges that Mr. Bollea was secretly filmed. Plf's Ex. 2. It further acknowledges that Mr. Bollea had an expectation of privacy, stating that a man seen on the video at the beginning of the recording (presumably Bubba Clem) "exits swiftly and allows Hulk and this woman their privacy." Plf's Ex. 2.

72. The narrative contains graphic descriptions of Mr. Bollea and the sexual encounter, such as "his erect penis which, even if it has been ravaged by steroids and middle-age,

still appears to be the size of a thermos you'd find in a child's lunchbox." Plf's Ex. 2. It also describes in explicit detail the sounds Mr. Bollea made while climaxing. Plf's Ex. 2.

F. Gawker Defendants admit the Gawker Video was not a matter of public concern

73. Daulerio recognizes in the narrative that his post was not news: "Because the internet has made it easier for all of us to be shameless voyeurs and deviants, we love to watch famous people have sex." RT 2777:16-18 (Daulerio); Plf's Ex. 2. In fact, the narrative states that the Gawker Video was something the public is not supposed to see. RT 2777:23-25 (Daulerio).

74. Daulerio's narrative contains no mention of any instances of Mr. Bollea writing or talking about his sex life in any public forum. RT 2791:17-2792:5 (Daulerio); Plf's Ex. 2. In fact, Daulerio was not aware of, and was not attempting to disprove, anything Mr. Bollea said publicly about his sex life. RT 2792:14-19 (Daulerio).

75. Denton admitted that the Gawker Video is "pornographic." RT 1871:7-1872:9 (Daulerio); RT 2050:12-25 (Denton); RT 2730:16-2731:4 (Daulerio); RT 2861:8-15 (Carmichael); RT 3035:3-6 (Denton).

76. Daulerio called it "super NSFW", because it was not just bare breasts. RT 1891:11-16 (Daulerio).

77. At the time the Gawker Video was published, there was not a question that a "Hulk Hogan sex tape" existed; so Daulerio admitted that its existence was not news. RT 1879:9-20 (Daulerio); RT 2785:22-2786:2 (Daulerio). The fact that Mr. Bollea had sex with his best friend's wife likewise was not a news hook for the publication of the Gawker Video. RT 1894:20-25 (Daulerio); RT 1979:5-1980:3 (Houston); RT 1980:20-1981:12 (Houston); RT 1982:17-1983:8 (Houston); Def's Ex. 413; Def's Ex. 515.

78. Daulerio admitted that he was not trying to expose Mr. Bollea as a hypocrite by posting the Gawker Video. RT 1892:17-1893:4 (Daulerio).

79. The only reason the Gawker Video was posted was to show the public its exclusive, explicit content for the first time. RT 1884:13-1885:3 (Daulerio); RT 2783:23-2784:3 (Daulerio).

80. Daulerio did not care that posting the Gawker Video was a morbid and sensational prying into Mr. Bollea's private life for its own sake. RT 2793:14-17 (Daulerio).

81. No one at Gawker gave any consideration as to whether publishing the Gawker Video would cause emotional distress to Mr. Bollea because they did not care. RT 1888:21-1889:1 (Daulerio); RT 3036:24-3037:3 (Denton).

G. Denton's participation in the publication of the Gawker Video.

82. Daulerio stated that "the reality is I work for Nick Denton, the founder of Deadspin's parent company, Gawker, who doesn't adhere to those [ethical] rules. If I worked somewhere else, would I do that? Probably not. But people want me to adhere to the rules of their job instead of what I'm asked to do here." RT 2766: 13-2767: 10 (Daulerio); Plf's Ex. 60.

83. Denton wanted and instructed his staff to get explicit exclusives that generated traffic. RT 2767: 25-2768: 6 (Daulerio). Denton even told his subordinates that "[t]he staples of old yellow journalism are the staples of new yellow journalism, sex, crime, and even better, sex crime." RT 3018: 11-3019: 4 (Denton); Plf's Ex. 59. Denton also instructed his staff to make story's to support images they wanted to post online. RT 3019: 5-19 (Denton); Plf's Ex. 59. However, Denton never instituted a policy requiring that parties consent before private sex tapes are published. RT 2043:9-20 (Denton).

84. Denton also instructed his staff to be "hustlers" for "provocative" materials that draw traffic and lead to advertisers showering Gawker with money. Plf's Ex. 81. Denton also

told his Gawker staff that scandals and sex sell. RT 3018:21-3019:4 (Denton); RT 3023:4-7 (Denton).

85. In the five months leading up to the Bollea post, there was a dearth of news. RT 3027: 3-7 (Denton).

86. Denton talked to Daulerio before the Bollea post, knew Daulerio was going to post the Gawker Video, and in his capacity as President of Gawker allowed it to be posted online. RT 2019:14-17 (Denton); RT 2039:25-2040:21 (Denton); RT 2983:6-2985:4 (Denton).

87. Daulerio followed Denton's rules about what to publish at Gawker. RT 2766:9-2767:14 (Daulerio).

88. Denton personally reviewed Mr. Houston's plea for human decency to take the Gawker Video down, and rejected it because it wasn't "persuasive." RT 3037: 10-16 (Denton). He did so without even bothering to review the Gawker Video or Daulerio's narrative. Denton admitted that his view as to whether the Gawker Video was newsworthy was in "retrospect." RT 2994:1-6 (Denton).

89. Denton was proud of and does not regret publishing the "pornographic" Gawker Video. RT 3035: 3-3036: 4 (Denton).

The Consequences of Publication

A. Mr. Bollea's pre-planned media tour

90. For months prior to Gawker Defendants' posting of the Gawker Video, Mr. Bollea was scheduled to embark on a national press tour for TNA Wrestling's "Bound for Glory" pay-per-view. RT 1409:20-1410:11 (Bollea); RT 1538:11-1; RT 1538:11-13 (Bollea); RT 1662:10-15 (Bollea); RT 1697:1-5 (Wortman); RT 1697:18-25 (Wortman).

91. When Mr. Bollea worked for TNA Wrestling, Hulk Hogan was portrayed as the general manager of the wrestling promotion and second in command; this was not his role in real life. RT 1692:23-1693:12 (Wortman).

92. TNA's publicist, Jules Wortman, pitched Mr. Bollea as Hulk Hogan for the press tour. RT 1708:3-14 (Wortman); RT 1716:8-12 (Wortman).

93. Mr. Bollea did interviews with Howard Stern, the Today Show with Kathie Lee Gifford and Hoda Kotb, The Big Lead, Huffington Post Live, Big Morning Buzz Live, TMZ, Showbiz Tonight, Sway in the Morning, and Piers Morgan Tonight. RT 1407:21-1408:11 (Bollea); RT 1466:25-1467:4 (Bollea); RT 1538:14-1539:17 (Bollea); RT 1704:6-13 (Wortman); RT 1704:21-1705:8 (Wortman), RT 1706:3-16 (Wortman).

94. Before the press tour started, Mr. Bollea asked Ms. Wortman to make sure that he wasn't asked about the Gawker Video; and she refused. RT 1719:3-7 (Wortman).

95. During the press tour, Mr. Bollea felt "numb" and "raw," his hands were shaking, and he was on "autopilot" and trying "to make sense of everything." RT 1408:12-1409:9 (Bollea); RT 1667:13-21 (Bollea).

96. Mr. Bollea's job with TNA Wrestling required him to be interviewed. Howard Stern's audience has the perfect demographic for wrestling. RT 1665:17-21 (Bollea); RT 1702:16-24 (Wortman). The Stern interview was expectedly more graphic than others. RT 1417:9-14 (Bollea); RT 1417:15-1418:7 (Bollea); RT 1665:1-16 (Bollea). Mr. Bollea did the interview in character as Hulk Hogan. RT 1557:17-23 (Bollea). Mr. Bollea did not volunteer the topic of sex on the show. RT 1558:15-22 (Bollea).

97. Despite all of the media outlets asking Mr. Bollea about the Gawker Video, none of them published its explicit contents. RT 1672:5-8 (Bollea); RT 1672:14-16 (Bollea).

B. Gawker uses the explicit footage to make money.

98. Daulerio knew the Gawker Video would generate traffic, and it did. RT 1888:17-20 (Daulerio); RT 1799:19-1800:12 (Carmichael); RT 2300:15-20 (Kidder); RT 2594:1-14 (Anderson); RT 2151:9-14 (Denton). In fact, it received 8 million page views and 4.8 million unique page views in 2012. RT 2300:21-2301:2 (Kidder).

99. Through June 30, 2013, the Gawker Video received 8,610,124 page views and 5,337,572 unique page views. RT 2303:14-22 (Kidder); RT 3166:3-14 (Kidder); RT 3167:8-10 (Kidder); RT 3189:5-18 (Kidder); Plf's Ex. 211; Plf's Ex. 217; Plf's Ex. 212; Plf's Ex. 213.

100. The Gawker Video was watched 2.5 million times on Gawker.com as of July 2013. RT 3175:23-3176:20 (Kidder). The average visitor stayed on the page for between 1 minute 47 seconds and 1 minute 52 seconds, just longer than the length of the Gawker Video. RT 2301:11-23 (Kidder); RT 2303:23-25 (Kidder). Fifty-seven percent (57%) of the people who viewed the Gawker Video watched it in its entirety, and 80 percent watched at least half of it. RT 3177:20-3178:4 (Kidder); RT 3178:11-14 (Kidder).

101. A spike in unique visitors to Gawker occurred around October 4 and 5, 2012, when the Gawker Video was posted. RT 2304:12-17 (Kidder). There were also spikes in search engine queries for "Hulk Hogan," "Heather Clem," "Hogan tape," and similar searches. Plf's Ex. 238.

102. Notably, there was also a spike during that same time period in the number of people who searched for "gawker" on search engines. RT 2469:20-2470:19 (Anderson); Plf's Ex. 18.

103. These spikes confirmed that Gawker derived value from posting the Gawker Video. RT 2470:20-2471:5 (Anderson); RT 3380:5-3381:16 (Horan).

104. Denton bragged to readers on Twitter about the traffic generated by the Gawker Video. RT 3021:24-3023:3 (Denton); Plf's Ex. 448; Plf's Ex. 449. In the year after it was posted, Gawker's audience increased by 38 percent. RT 3191:18-24 (Kidder). During that same period, Gawker's revenue increased by 30 percent. RT 3195:6-13 (Kidder).

105. Ms. Carmichael highlighted "royal boobs and sex tapes" as bringing the most traffic to gawker.com in 2012. RT 1801:7-22 (Carmichael). Denton told the entire Gawker editorial staff that Gawker "scored" in October 2012 with "Hulk sex." RT 1801:23-1802:8 (Carmichael); RT 2049:14-22 (Denton); RT 2305:15-2306:6 (Kidder); Plf's Ex. 127. The Gawker Video promoted Gawker's brand. RT 2039:17-24 (Denton). Denton acknowledged that Gawker traffic in October 2012 was at an "all-time high". RT 1802:17-1803:1 (Carmichael).

106. The Gawker staff, including Daulerio, received the maximum possible salary bonus for traffic in October 2012. RT 2024:11-17 (Denton); RT 2295:1-21 (Kidder); RT 2749:8-12 (Daulerio); RT 3163:13-18 (Kidder).

107. Even though the Gawker Video webpage itself carried no advertising, users who clicked on the links to other Gawker websites found on that webpage would have viewed advertisements and generated revenue for Gawker. RT 2288:13-22 (Kidder); RT 2292:13-23 (Kidder); RT 2308:9-19 (Kidder); RT 2337:2-7 (Horan); RT 2960:3-11 (Denton); RT 3145:22-3146:10 (Kidder); RT 3310:6-10 (Horan); RT 3312:20-3313:21 (Horan). Visitors who went to Gawker.com to see the Gawker Video would come back to the site later to view other content. RT 3314:3-21 (Horan).

108. Gawker's advertisers pay based on the number of people who see their ads, even if they do not click on them. RT 2288:23-2290:10 (Kidder); RT 2312:12-2313:11 (Gorenstein); RT 2324:2-5 (Gorenstein); RT 2337:8-18 (Horan).

109. Sex tape expert Kevin Blatt said that the mere mention of a new celebrity sex tape causes search engine optimization specialists and webmasters to start seeking out ways to generate revenue. RT 2357:11-16 (Blatt). When people hear of a new celebrity sex tape, they go online to search for it. RT 2357:17-2358:1 (Blatt).

110. Even Gawker's expert, Peter Horan, conceded that the Gawker Video was responsible for 20 percent of Gawker's revenue in October 2012. RT 3345:16-3346:7 (Horan).

111. Gawker promoted the Gawker Video on social media such as Facebook and Twitter. RT 2306:22-2307:2 (Kidder). Gawker invited readers to watch the Gawker Video on Gawker's Facebook page. RT 2334:4-21 (Horan); RT 3139:2-3140:6 (Kidder).

112. Gawker uses social media as a form of viral marketing to attract visitors to its websites. RT 2329:7-2330:1 (Horan); RT 2330:8-20 (Horan); RT 2331:22-2332:3 (Horan); RT 2332:11-14 (Horan); RT 2768:12-18 (Daulerio). Viral marketing also builds the Gawker brand. RT 3378:10-17 (Horan). Users click on the Facebook links and view Gawker content. RT 3377:11-19 (Horan).

113. Videos are a form of viral marketing. RT 2329:4-6 (Horan). Provocative stories are the most likely to go viral. RT 2332:4-10 (Horan); RT 2474:11-22 (Anderson); RT 2583:11-2584:1 (Anderson). Viral marketing is a valuable tool and a low cost advertising mechanism for companies. RT 2332:19-22 (Horan). The stories that go viral are of the most value to content driven websites like Gawker. RT 2474:11-22 (Anderson); RT 2583:11-2584:1 (Anderson). The Gawker Video was viral marketing for Gawker. RT 2336:17-2337:1 (Horan).

114. Mr. Bollea's valuation expert, Jeff Anderson, identified six content-driven websites that were comparable to Gawker.com, and based on his calculation of the value of the Gawker Video to Gawker.com on the value of additional traffic to those six websites, based on published financial data. RT 2475:13-2476:20 (Anderson); RT 2477:17-2479:12 (Anderson).

Mr. Anderson's comparables included Bleacher Report, a site similar to Gawker's Deadspin sports site, and BuzzFeed, which Denton himself identified as a competitor. RT 2592:5-2593:4 (Anderson). Mr. Anderson used Quantcast traffic statistics, the same statistics utilized and praised by Denton. RT 3011:25-3012-18 (Denton).

115. Between September 30, 2012, prior to the posting of the Gawker Video, and April 30, 2013, 6-1/2 months after it was posted, Gawker.com saw traffic increases that increased the value of the website by at least \$54 million. RT 2479:13-2482:5 (Anderson). Twenty-eight percent (28%) of that traffic was attributable to the Gawker Video, which increased the value of Gawker.com by at least \$15,445,000. RT 2479:13-2482:5 (Anderson).

C. The republication of the Gawker Video on other web sites.

116. Pornographic websites republished the Gawker Video alongside graphic pornography, including sites with names such as "SlutLoad" and "Deviant Clip." RT 1930:23-1931:11 (Houston); Plf's Ex. 5; Plf's Ex. 53; Plf's Ex. 165.

117. Mr. Houston estimates he sent out 60 cease and desist letters to such websites. RT 1931:12-16 (Houston).

118. The Gawker Video was viewed at least 99,149 times on youtube.com. RT 2405:17-2406:4 (Shunn); Plf's Ex. 161.

119. The Gawker Video was viewed at least 4,452,266 times on websites other than YouTube. RT 2409:18-2410:17 (Shunn); Plf's Ex. 162.

D. The fee to see even a minute of licensed celebrity sex tape.

120. Vivid Video, the largest distributor of licensed (i.e. authorized) celebrity sex tapes, charges \$4.95 for a four day trial to access its celebrity sex tape content. RT 2366:14-2367:11 (Blatt); Plf's Ex. 56; Plf's Ex. 62.

121. \$4.95 is the minimum amount anyone would have to pay to see licensed celebrity sex tape content. RT 2367:12-23 (Blatt); Plf's Ex. 56; Plf's Ex. 62.

E. Mr. Bollea suffers severe emotional distress.

122. Mr. Bollea was embarrassed, devastated and completely humiliated by the publication of the Gawker Video. RT 1423:21-1424:9 (Bollea); RT 1424:14-20 (Bollea); RT 1424:14-1425:21 (Bollea); RT 1425:22-1426:5 (Bollea).

123. The publication of the Gawker Video flipped Mr. Bollea's "world upside down" and his "whole life had changed." RT 1446:2-6 (Bollea); RT 1658:15-1661:6 (Bollea).

124. He was unable to sleep. RT 1661:7-19 (Bollea).

125. The publication of the Gawker Video was also an "overriding haunting" in Mr. Bollea's interactions with fans. RT 1596:13-1597:11 (Bollea); RT 1661:20-1662:9 (Bollea).

126. Ms. Wortman personally observed Mr. Bollea's emotional distress on the TNA press tour. RT 1715:15-20 (Wortman). Mr. Bollea cried during a break in an appearance on the Today Show, and host Kathie Lee Gifford expressed sympathy with him based on what she had gone through when her husband's personal life was scrutinized in the media. RT 1719:15-1721:10 (Wortman).

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