

The Gawker-Hulk Hogan trial and the horror of work chats that stick around forever

by [Ethan Chiel](#)

This week, Hulk Hogan's multi-million dollar lawsuit against Gawker for posting his sex tape [finally](#) went to trial. The Florida jury trial, with its testimony on [penis size](#) and extramarital sex, is almost as NSFW as the video itself, an excerpt of which Gawker posted in 2012—and then took down after being sued. But what was really on our minds watching the proceedings [via livestream](#) is the reminder that every time you send an email to a coworker or type a message in an intra-office chat room you should imagine that someday your words will be read out loud in open court.

Campfire: Wednesday, October 3, 2012

CONFIDENTIAL

now THAT would be a sex tape!

Max R. i'm not sure you could design a headline that would make me less likely to click than "Watch Hulk Hogan Pop His Hip Back into Place Mid-Coitus"

Cord J. how old is he?

3:30 PM

A.J. D. Old enough to be impressed with himself for having sex so soon after lunch.
Which he talks about on tape.

John C. oof

Caity W. old enough that it could simply be a 3pm dinner

A.J. D. His penis is also wearing a little do-rag, too.

Kate B. he ate sashimi if you're wondering

Camille D. um?

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Via David Bixenspan (@davidbix)

A quick [refresher](#) for those not in on the legal Hulkmania: In 2012, Gawker posted an excerpt of a surreptitiously-recorded video of Hogan having sex in 2006 with Heather Clem, the now ex-wife of his friend, a radio jockey who goes by the name, Bubba the Love Sponge. Hogan (real name Terry Bollea) sued Gawker Media (as well as owner Nick Denton and former editor A.J. Daulerio, who wrote the post accompanying the video) for \$100 million.

Tuesday's session ended with the court watching a videotaped deposition of John Cook, who was a reporter at Gawker when the tape was posted and is [now Gawker Media's Executive Editor](#).

In 2012 Gawker used Campfire, a group chat program, for intra-office communication. That's not unusual; a lot of companies used Campfire, and many more now use it or something like it, such as Hipchat or Slack. As part of their preparation for the trial, Hogan's lawyers were allowed to [search Gawker's computers](#), as well as their emails and chat transcripts, for relevant information.

That led to the part of the deposition played yesterday, in which Cook was asked to explain a number of jokes and photos surrounding discussion of the sex tape in Gawker's Campfire chat. Among those was a joke about a "really tender leg drop," which Cook had to explain was a double entendre for a wrestling move and sex, and another joke by A.J. Daulerio about Hogan's penis "wearing a little do-rag."

Gawker Editor's Testimony Stuns Courtroom in Hulk Hogan Trial

By NICK MADIGAN FOR THE NEW YORK TIMES

Photo



Nick Denton, left, founder of Gawker Media, and Albert J. Daulerio, a former editor in chief of Gawker, listening to testimony on Wednesday during a trial over a sex tape involving Hulk Hogan. Credit Steve Nesi/Associated Press

- Nick Denton fears being asked in court: “Mr. Denton, have you ever inserted your penis into the mouth of a boy”. Denton has had boys, who claim to have been sexually abused by Denton, throw bricks through his window and charge him with abuse online. Denton has been sued by his interns and was in England during, and knew the players in, the British Pedophile Scandal.
- Gawker editor shocks jury with tale of willingness to publish children's sex tapes but only as low as “Age Four”.
- Slime, sleaze and character assassination are all “justified” in Gawker's editorial minds.

ST. PETERSBURG, Fla. — A palpable sense of shock rippled through a courtroom here Wednesday morning when the former editor in chief of Gawker.com was shown in a videotaped deposition suggesting that almost anything goes when it comes to the newsworthiness of celebrities’ sex videos. The former editor, Albert J. Daulerio, a defendant in an invasion-of-privacy lawsuit brought by the retired wrestler Hulk Hogan, was asked by the plaintiff’s lawyer where he drew the line when it came to posting videos of people having sex.

“Can you imagine a situation where a celebrity sex tape would not be newsworthy?” asked the lawyer, Douglas E. Mirell.

“If they were a child,” Mr. Daulerio replied.

“Under what age?” the lawyer pressed.

“Four.”

Gawker said later in a statement that Mr. Daulerio was being flippant.

Related Coverage



[Gawker’s Moment of Truth](#)



Hulk Hogan Exudes Calm in Second Day of Sex Tape Trial Against Gawker



When Is Hulk Hogan Not Hulk Hogan?



Hulk Hogan Takes Stand in His Sex-Tape Lawsuit Against Gawker



The Media Equation: Favre, Deadspin and the New Tawdry Journalism

Still, the exchange highlighted the way that Gawker's culture of reporting on some of the most intimate aspects of the lives of celebrities and prominent newsmakers was being put on trial.

Photo



Albert J. Daulerio, former editor of Gawker, set broad limits for newsworthiness. Credit Pool photo by Steve Nesius Photo



Nick Denton, founder of Gawker, said he believed that the tape was worth posting. Credit Pool photo by Steve Nesius

Mr. Daulerio's testimony took place during depositions taken last year in advance of [the trial, which began on Monday](#), in the suit by the retired wrestler, known in the proceedings by his legal name, Terry G. Bollea, against [Gawker Media](#); its founder, Nick Denton; Mr. Daulerio; and others.

Mr. Bollea is seeking \$100 million in damages, saying that amounts to the harm he suffered after Gawker posted in 2012 a secretly recorded video showing him having sex with a friend's wife.

The case is prompting significant questions about how far First Amendment rights stretch in an era when the unregulated Internet is ripe for abuse by anyone with a computer.

In addition, testimony this week by Mr. Daulerio and other current and former members of Gawker's staff has raised a curtain on the culture of the website and others like it that traffic in salacious fare in

an effort to gain readers.

Asked whether sex sells, Mr. Daulerio replied, "I'm sure."

In such a culture, he went on, it was "pretty standard operating procedure" to seize upon and publish photographs and videos of celebrities in compromising or intimate situations, regardless of whether the celebrity might object or be embarrassed. Mr. Daulerio conceded that no such consideration guided Gawker's [publication of lewd images](#) of the former Green Bay Packers quarterback Brett Favre or of photographs of a topless Duchess of Cambridge.

Photo



The former wrestler Hulk Hogan is suing Gawker Media over a sex tape it published. Credit Pool photo by Steve Nesius

"She's a public figure, and those pictures were published elsewhere," Mr. Daulerio said, referring to the duchess, the former Kate Middleton. He acknowledged that there had been no discussion in the Gawker newsroom at the time whether the publication of the pictures constituted an invasion of her privacy.

Similar thinking, Mr. Daulerio said, dictated the site's handling of the video of Hulk Hogan, which he noted had been provided anonymously to him in the mail and for which no money had changed hands.

"I was very enthusiastic about writing about it," Mr. Daulerio said. He explained that he had "enjoyed watching the video" and was eager to attach his commentary to it on the site.

"I found it very amusing," he said. "I thought it was newsworthy, and it was something that was worth publishing."

Andy Haraldson

This is potentially huge. Erin Andrews just won privacy lawsuit. If Hogan wins, it could be a start to redefining privacy guidelines. The...

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In response to a question from Mr. Mirell, the defendant said that neither he nor anyone else at Gawker had made any attempt to contact Mr. Bollea to ask him whether he was in fact the man in the grainy video, and how he felt about Gawker's intention of publishing it.

"You didn't really care, did you?" Mr. Mirell suggested.

"No," Mr. Daulerio said.

A moment later, after an objection from a lawyer for Gawker, Mr. Mirell persisted. "So it's fair to say that whether he suffered emotional distress or not, that played no part in your decision whether or what to publish," he said.

"Correct," Mr. Daulerio replied.

Videotaped testimony by his boss, Mr. Denton, was also shown to the jury, later in the day, even though the two men were sitting behind their lawyers in the courtroom. The plaintiffs' use of taped depositions at this early stage of the trial seemed intended to stave off cross-examinations by the defense, which might reduce the impact of their words on the videos. Both defendants, however, are on their own legal team's list of witnesses, to be called to the stand when it is the defense's turn to present evidence at the trial.

Under questioning in the deposition, recorded in October 2013, Mr. Denton said that contrary to Mr. Daulerio's feelings, he had not been "very excited" by news that Gawker had received a video showing Hulk Hogan having sex with a woman on a four-poster bed. "We all have sex," Mr. Denton said, noting that he preferred stories that had "some kind of meaning."

Nevertheless, Mr. Denton did not impede the video's publication, although he advised his editor "not to put up the whole tape." A video editor cut it to 1 minute 41 seconds, from roughly 30 minutes.

Asked whether he or his staff had looked into the tape's provenance, Mr. Denton demurred. "We can't always determine the circumstances in which a film was made," he said.

A letter from a lawyer for Mr. Bollea, asking Gawker to take down the video shortly after it had been posted, "wasn't persuasive," Mr. Denton said. "We continued to believe in its newsworthiness."

The video remained on the site for about six months, until a court ordered its removal. Lawyers for Mr. Bollea said they had no intention of showing the tape to the jury during the trial.

GAWKER EDITOR SAYS, IN COURT, THAT HE WOULD ONLY LIMIT PEDO SEX TAPES TO "FOUR YEARS OLD". JURY IRKED!

[Where Gawker editor draws the line: A sex-tape of a 4-year-old](#)

By [Julia Marsh](#) and [Yaron Steinbuch](#)

Jurors in Hulk Hogan's [sex video trial](#) on Wednesday heard a videotaped deposition of Gawker's former editor in chief — saying he'd draw the line at posting the sex tape of a celebrity who is under 4 years old.

A.J. Daulerio, 41, was sitting ramrod straight in the Florida courtroom during the awkward moment when he was asked on video by Hogan's lawyer, "Can you imagine a situation where a celebrity sex tape would not be newsworthy?"

Daulerio answered flatly, "If they were a child."

“Under what age?” attorney Charles Harder asked.

“Four,” he said.

“No four-year-old sex tapes, OK,” Harder said.

A Gawker spokesman later insisted Daulerio was being flippant.

“He’d just said in the prior answer that that he wouldn’t post a tape of a child and when the question was repeated he obviously made the point in a flip way because his answer was already clear,” the spokesman said.

Daulerio, who looked bored throughout the grilling, wiping his eyes and resting his hand on his chin, also claimed he would have no problem if his own hypothetical sex tape was published.



Modal Trigger

Photo: Splash News

“It wouldn’t upset you in any way to have your sexual encounters appear on the Internet?” he was asked.

“I somewhat expect that to happen at some point,” Daulerio said.

During Day 3 of the trial, jurors seemed distressed by Daulerio’s cavalier attitude about posting the sex tape.

One male juror squinted his eyes, pursed his lips and leaned back in his chair while a female juror kept her arms crossed then jotted down notes.

A third woman looked down during parts of the testimony as Daulerio sat next to Gawker founder Nick Denton in the front row.

On the opposite side sat Hogan, wearing a pinstripe suit and his trademark black bandanna on his head.

Daulerio said he first heard about the sex video when it was a story on TMZ in March 2012. He said that in early October 2012, he received an actual copy of the full, 30-minute video from a source.

“I watched it and watched it one or two times and then, then decided whether or not we are going to publish some of the contents of it, and was discussing how we could possibly share some of the contents of it, and was discussing how we could possibly share some of the footage on Gawker.com,”

he said.

He said he turned the tape over to his video editor and “selected various spots of the tape that I considered both newsworthy in the context of our story and had her twiddle it down to whatever the time frame was, I believe it was close to two minutes of footage.”

He said he wanted to verify that Hogan and Heather Clem – then-wife of Hogan’s former best pal Bubba the Love Sponge Clem – “were actually having sex, so I believe we did small snippets of those two having intercourse.”

Daulerio went on to say that he found the video “very amusing” and “newsworthy” – and would be “somewhat popular” on the site.

“Did you give any consideration prior to Oct. 4, 2012, as to whether publishing the Hulk Hogan sex tape would distress Hulk Hogan,” the lawyer asked.

“No,” he answered.

“You didn’t care, really, did you?” Harder asked.

“No,” he said again.

“Had you known that Hulk Hogan would be emotionally distressed by this publication you would have still published it, correct?” he was asked.

“Sure, yes,” Daulerio said.

Harder also showed an email from Denton that said Daulerio “breaks all the rules of orthodox management.”

“Is that a positive thing?” Harder asked Daulerio.

“I don’t know the exact answer to that but I would assume yes, he enjoyed me breaking the rules of orthodox management,” Daulerio said.

Harder read the jury a paragraph from a 2011 GQ profile of Daulerio when he was the head of Gawker’s brother sports site Deadspin.

It said: “His tactics — reporting rumors, paying for news and making Deadspin’s money on stories that are really about sex, not sports — are questionable. His success is not. When he became editor of the site in July 2008, it had 700,000 readers per month. Today it has 2.3 million.”

The pseudo-journalist also admitted to paying \$12,000 for photos of now-retired NFL player Brett Favre’s penis.

He said he didn’t consider the 2012 publication of Duchess Kate Middleton’s naked breasts an “invasion of privacy” because “she’s a public figure” and thought the size of Hogan’s penis was “newsworthy.”

In later testimony, Hogan’s longtime attorney David Houston said the sex tape spread like a cancer

online after Gawker posted it in October 2012.

Questioned by Harder, Houston said he zeroed in on tracking down the culprit responsible for making the video after TMZ first reported its existence in March 2012.

He described why he and Hogan went on TMZ Live at that time to talk about the tape

“If it were a sex tape out there I felt it incumbent upon me as counsel to try to find it and essentially put a bullet in it,” Houston said.

In a clip played for the jury, Hogan said that he didn’t know who the woman was because “the truth is it wasn’t just one brunette ... I was running pretty wild there for a few months.”

“The purpose naturally was to announce if anyone goes forward with this thing we’re going to find him and we’re going to prosecute him,” Houston said. “At that point we were desperate for knowledge.”

Two porn sites reached out to Hogan to buy the steamy footage – Vivid.com and Sex.com.

Vivid’s letter said: “We understand that you believe this tape was filmed without your permission. Whatever the case we would still like to dis the opportunity to work together as we feel this would be one of the best selling celerity sex tapes of all time.”

Sex.com’s letter said: “We are truly serious about working with you. This isn’t some shameless press opportunity, we have an open check book.”

“We want no part in the dissemination, we weren’t in this to sell the sex tape,” Houston said.

He said he first saw the tape at Gawker.

“I saw a video depicting my client having sex, oral sex, standard sexual intercourse, took great pains to display his penis and even went so far as to demonstrate what everyone was saying to each other in that tape by virtue of incorporating subtitles,” he said.

Houston pleaded with Denton in an email a day after the tape was published.

“I’m asking you, please, as a fellow human being, to take down the video,” he said.

Houston said he sent 60 cease-and-desist letters asking various Web sites to remove the video.

The former pro wrestler, whose given name is Terry Bollea, is suing Gawker Media for \$100 million for posting an edited version of the sex video.

Gawker is defending the publication by arguing that Hogan had talked openly about his sex life before, including on Howard Stern’s radio show.

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