

# Exhibit 21

1 IN THE UNITED STATES DISTRICT COURT  
1 FOR THE WESTERN DISTRICT OF VIRGINIA  
2 CHARLOTTESVILLE DIVISION  
2 -----

3 NICOLE P. ERAMO,

4 Plaintiff,

5 vs.

5 Case No.  
6 3:15-cv-00023-GEC

7  
8 ROLLING STONE, LLC,  
8 SABRINA RUBIN ERDELY, and  
9 WENNER MEDIA, LLC,

10 Defendants.  
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16 VIDEOTAPED DEPOSITION OF WILLIAM DANA  
17  
18

19 Tuesday, March 15, 2016

20 10:00 a.m.  
21  
22

23 Reported by:

24 Joan Ferrara, RPR, RMR, CRR

25 Job No. 165739

1  
2  
3  
4 March 15, 2016  
5 10:00 a.m.  
6 New York, New York  
7  
8  
9  
10 Videotaped Deposition of William Dana,  
11 held at the offices of Clare Locke, LLP,  
12 1251 Avenue of the Americas, New York, New  
13 York, Pursuant to Subpoena, before Joan  
14 Ferrara, a Notary Public of the State of  
15 New York.  
16  
17  
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23  
24  
25

1 A P P E A R A N C E S :  
2  
3  
4 CLARE LOCKE, LLP  
5 Attorneys for Plaintiff  
6 902 Prince Street  
7 Alexandria, Virginia 22314  
8 BY: TOM CLARE, ESQ.  
9 tom@clarelocke.com  
10 ELIZABETH LOCKE, ESQ.  
11  
12  
13 DAVIS WRIGHT TREMAINE, LLP  
14 Attorneys for Defendant  
15 1251 Avenue of the Americas  
16 21st Floor  
17 New York, New York 10020-1104  
18 BY: ELIZABETH A. McNAMARA, ESQ.  
19 lizmcnamara@dwt.com  
20  
21  
22 ALSO PRESENT:  
23 Nicholas Guzman, Videographer  
23 Samuel Bayard  
24 Natalie Krodel  
24 Jennifer Lazo  
25

1 THE VIDEOGRAPHER: Good morning.  
2 This begins tape number one of the  
3 videotaped deposition of William Dana,  
4 on March 15, 2016, in the matter of  
5 Nicole P. Eramo, plaintiff, versus  
6 Rolling Stone, LLC, et al.,  
7 defendants.  
8 This case was filed in the  
9 United States District Court, Western  
10 District of Virginia, Case No.  
11 3:15-cv-00023.  
12 Today's deposition is being held  
13 at 1251 Avenue of the Americas, New  
14 York, New York 10020. The time on the  
15 record is now 10:04 a.m.  
16 My name is Nicholas Guzman.  
17 I'll be the legal video specialist on  
18 behalf of U.S. Legal Support.  
19 At this time, I'd ask counsel to  
20 please introduce themselves for the  
21 record.  
22 MR. CLARE: Good morning. Tom  
23 Clare and Elizabeth Locke from the law  
24 firm of Clare Locke, LLP, appearing on  
25 behalf of the plaintiff.

1 MS. McNAMARA: Elizabeth  
2 McNamara, and Samuel Bayard, and  
3 Natalie Krodel, and Jenny Lazo on  
4 behalf of the defendants.  
5 THE VIDEOGRAPHER: For the  
6 record, will the court reporter please  
7 administer the oath.  
8  
9 W I L L I A M D A N A ,  
10 called as a witness, having been  
11 duly sworn by a Notary Public, was  
12 examined and testified as follows:  
13  
14 THE VIDEOGRAPHER: Mr. Dana,  
15 would you state your full name and  
16 address for the record, please?  
17 THE WITNESS: William Dana, [REDACTED]  
18 [REDACTED]  
19 THE VIDEOGRAPHER: Counsel, you  
20 may proceed.  
21 MS. McNAMARA: I would just like  
22 to make two statements, preliminary  
23 statements.  
24 One is that I want to reconfirm  
25 that this deposition is confidential

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1 pursuant to the Protective Order for  
2 at least 30 days, and then thereafter  
3 for what we designate as confidential.  
4 I also want to alert you that  
5 when we were with Mr. Dana yesterday,  
6 we learned that there were a few other  
7 text messages, a handful, that we  
8 neglected to produce. They're text  
9 messages between him and Liz Securro,  
10 and they're being Bates stamped and  
11 we'll give them to you today.  
12 MR. CLARE: Okay. Thank you for  
13 that. I was going to ask you about --  
14 I was going to ask Mr. Dana about  
15 those text messages. I saw an e-mail  
16 making reference to them. So I  
17 appreciate that. We can take those up  
18 at a break.  
19 EXAMINATION BY  
20 MR. CLARE:  
21 Q Mr. Dana, my name is Tom Clare.  
22 We met just a few minutes ago. I'm one of  
23 the lawyers representing the plaintiff  
24 Nicole Eramo in this lawsuit.  
25 You were kind enough to give us

Page 7

1 your full name and your residential  
2 address.  
3 How are you currently employed?  
4 A I am self-employed right now.  
5 Q All right.  
6 And do you have a work address?  
7 A Not today.  
8 Q Okay.  
9 No other address for your  
10 employment separate from your home?  
11 A No.  
12 Q Have you ever given a deposition  
13 before?  
14 A Yes.  
15 Q How many times?  
16 A Once.  
17 Q And was that in connection with  
18 your employment at Rolling Stone?  
19 A Yes.  
20 Q What were the circumstances of  
21 that case?  
22 A Oh, boy, how do I explain it.  
23 We published an editorial piece  
24 which -- it was a bunch of Attorneys  
25 General from different states sued us

Page 8

1 because they thought it violated something  
2 to do with the tobacco settlement.  
3 Q Approximately what year was your  
4 deposition, if you recall?  
5 A 2007-08 somewhere. I honestly  
6 don't recall.  
7 Q Okay.  
8 A You know, it was 5 or 6, 7 years  
9 ago.  
10 Q Is that the only time that  
11 you've given a deposition in your life?  
12 A Yes.  
13 Q Have you ever given sworn  
14 testimony in court?  
15 A No.  
16 Q I'm sure you've had a chance to  
17 meet with your lawyers and they've told you  
18 about how a deposition works, and you  
19 probably have a recollection from the last  
20 time, but a couple of ground rules that  
21 will help the proceeding go more smoothly  
22 today.  
23 My job is to ask questions that  
24 you can both hear and understand.  
25 A Uh-huh.

Page 9

1 Q If I'm not doing my job and you  
2 don't hear my question, or my voice trails  
3 off, or you don't understand what I'm  
4 asking, just let me know and I'll be more  
5 than happy to try to rephrase it or have  
6 the court reporter read it back.  
7 Is that fair?  
8 A Yes.  
9 Q If you answer my question, I'm  
10 going to assume that you did hear and  
11 understand it.  
12 Is that fair?  
13 A Yes.  
14 Q I'm going to show you some  
15 documents today and we're going to kind of  
16 jump around through the course of events.  
17 If at any point I ask you a  
18 question or you look at a document and it  
19 refreshes your recollection about something  
20 we talked about earlier in the day and you  
21 want to go back and change or amend  
22 anything that you said, or add anything to  
23 your testimony, I'd be more than happy to  
24 give you that opportunity. You just need  
25 to let me know.



Page 10

1 A Okay.

2 Q Is that fair?

3 A Yes.

4 Q You can take a break at any

5 time. I would ask only that you allow or

6 you allow the question to be finished and

7 you answer the question before taking a

8 break.

9 A Okay.

10 Q Unless it relates to a matter of

11 attorney client privilege.

12 Fair?

13 A Yeah.

14 Q Other than that, you can take a

15 break any time you want. We'll be breaking

16 throughout the day for lunch, or to change

17 the video, and all that sort of thing.

18 A Okay.

19 Q Are you represented by counsel

20 here today?

21 A Yes, by Liz and these fine

22 people.

23 Q Would you describe your

24 educational background?

25 A I graduated from Middlebury

Page 11

1 College in 1985 with a bachelors degree in

2 English.

3 Q Any other postgraduate education

4 or degrees earned?

5 A No.

6 Q Any specialized training in

7 journalism?

8 A No. I mean just having worked

9 in journalism for 31 years now.

10 Q That's what I was going to ask

11 you. So 31 years as of today, you --

12 A Well, not literally, but yes. I

13 started my career in the Fall of 1985.

14 Q In 2014 and 2015, when the

15 events around this article were issued, did

16 you consider yourself to be an experienced

17 journalist?

18 A Yes.

19 Q Have you ever received any

20 awards or prizes as a journalist?

21 A Yeah, quite a few.

22 Q Okay.

23 Can you describe some of them

24 for me?

25 A I think --

Page 12

1 Q The ones that are most

2 significant to you.

3 A Well, I won six -- under my

4 watch, we won six national magazine awards

5 at Rolling Stone. We won a bunch of GLAAD

6 awards -- I'm not sure exactly how many.

7 We won -- was it a Gerald Loeb Award for

8 business reporting. And then we won one

9 for Michael Hasting, so I can't remember

10 what it was, but it was a big reporting

11 award.

12 Q Any of the awards that you've

13 just described to me involve any of the

14 same team members at Rolling Stone that

15 worked on --

16 A Yeah. Ms. Erdely, who wrote the

17 story, won a GLAAD award and was nominated

18 for one -- at least one national magazine

19 award, maybe a second one, I don't recall,

20 but I definitely know there was one.

21 MS. McNAMARA: And just to help

22 the record -- I'm sure that Tom will

23 appreciate this -- he needs to let you

24 finish every answer before he asks a

25 new question, and you should let him

Page 13

1 finish a question before you answer.

2 THE WITNESS: Okay. Okay.

3 MS. McNAMARA: Often you may

4 well understand what the question is.

5 THE WITNESS: Okay.

6 MS. McNAMARA: But that's

7 because the court reporter needs to

8 make a record.

9 THE WITNESS: Okay. Sorry.

10 MS. McNAMARA: And the complete

11 answer and the question is of aid to

12 everyone.

13 A I mean you can look all those

14 things up. I can't remember off the top of

15 my head.

16 Q That's fine. I'm just asking

17 for your recollection.

18 A Yeah.

19 Q Would you trace for me briefly

20 your employment history between 1985 when

21 you graduated from Middlebury until the

22 time that you started at Rolling Stone,

23 which I understand was April of 1996?

24 A Yes, okay. So that summer after

25 I graduated, I led a bicycle trip in Nova

Page 14

1 Scotia with a bunch of teenagers.

2 And then I was an intern at

3 Harper's Magazine in the fall.

4 For the next probably 6 months,

5 I had various freelance jobs at different

6 magazines, including Interview; Channels of

7 Communication, which is a TV business

8 magazine that's long defunct.

9 I think I wrote a story for

10 Vogue in that period, if I recall.

11 I worked for a bunch of other

12 magazines that are no longer around.

13 Then in the Summer of '86, I was

14 hired as an editorial assistant at Esquire

15 Magazine. I did that for about a year and

16 a half.

17 And then I went to a small

18 weekly publication called Seven Days, which

19 was just starting up then, and that lasted

20 for 2 years, until I think April of 1989 or

21 so.

22 After that, I was hired by

23 Manhattan Inc. Magazine, which then morphed

24 into very odd corporate strange business

25 deal into a magazine called MINC, when it

Page 15

1 merged with M Magazine, and that whole --

2 that was probably another year and a half

3 of my career.

4 Then I moved to Chicago to work

5 for Outside magazine for about 2 years.

6 And I moved back to New York,

7 spent a year working at Worth Magazine.

8 I left Worth to work at Details,

9 a Conde Nast men's magazine, which took me

10 right up to Rolling Stone, where I started

11 in April '96.

12 Q All right. I appreciate that.

13 Thank you.

14 You said that you were, you

15 started at Esquire as an editorial

16 assistant?

17 A Yeah.

18 Q In all of the jobs subsequent to

19 that, as editorial assistant -- or I'm

20 sorry, at Esquire, were you functioning in

21 the role of an editor in some way?

22 A I mean, I would say by the time

23 I left, I more or less was, but, you know,

24 I started off like answering phones and

25 opening mail, and I was given more and more

Page 16

1 editorial responsibilities in that period

2 as I proved myself.

3 Q And your answer, you're

4 specifically referring to your time at

5 Esquire?

6 A Yes.

7 Q And then as you went through the

8 other positions, what jobs, what type of

9 responsibilities did you have, for example,

10 at Seven Days and --

11 A You know, I think at Seven Days,

12 I was the -- I was sort of there for the

13 start-up period, which was maybe 6 or 8

14 months.

15 And by the time the magazine

16 started publishing, I was called a city

17 editor, and I was responsible for a section

18 of sort of New York City culture and

19 politics.

20 I think by the time Seven Days

21 went out of business, I had been promoted

22 to senior editor.

23 And then I would say until --

24 you know, basically through getting hired

25 by Rolling Stone, I was -- I was, you

Page 17

1 know -- I can't remember exactly what my

2 titles were, but I was basically a senior

3 features editor, you know, responsible for

4 deciding and editing feature stories.

5 Q In -- strike that.

6 So is it fair to say that at

7 least from the time of the latter part of

8 your employment at Esquire up through your

9 time at Rolling Stone, your

10 responsibilities included supervising other

11 journalists?

12 A I would -- just to be more

13 accurate, I would say that my formal, the

14 formal supervision of other journalists

15 started at Seven Days. You know, at

16 Esquire, I sort of did my boss' work and

17 did stuff under his aegis.

18 Q And so would it be fair to say

19 then that since your time employed by Seven

20 Days, your responsibilities have included

21 supervising other journalists in an editor

22 role?

23 A Yes.

24 Q And specifically with regard to

25 the selection and publication and editing



Page 18

1 of feature stories?

2 A Yes.

3 Q All right.

4 You were kind enough to take us

5 up through your time at -- when you started

6 at Rolling Stone. Am I correct that that

7 was April of 1996?

8 A Yes, I believe so.

9 Q And in a little bit more detail

10 now, can you trace for me your job

11 responsibilities at Rolling Stone as they

12 evolved from the time you started until the

13 time that you departed?

14 A Because I was hired as a senior

15 editor and my job was to edit feature

16 stories and sort of run the magazine's

17 political coverage and a good portion of

18 the cultural coverage, I basically -- I was

19 kind of responsible for -- I worked on

20 almost everything in the magazine that was

21 not music related, you know. You may think

22 of Rolling Stone as a music magazine, but a

23 large part of it is not music. So I was

24 sort of promoted to various different

25 titles. Then I was given the title

Page 19

1 managing editor in, I think May 2006.

2 Q And how did your

3 responsibilities change, if at all, when

4 you were promoted from senior editor to

5 managing editor?

6 A Well, once I was managing

7 editor, I was responsible for the entire

8 magazine. I mean, I was running -- I was

9 basically the captain of the ship.

10 Q And when you became managing

11 editor in May of 2006, did you also then

12 assume responsibility for what you've

13 described as the music side?

14 A Yeah, I was then -- the whole

15 picture was my responsibility.

16 Q And you were the managing editor

17 of Rolling Stone from May of 2006 until you

18 departed in July of 2015, is that correct?

19 A Yes, yes.

20 Q No other titles?

21 A No.

22 Q And --

23 A I was also, in I think in 2008,

24 I was also made editorial director of Men's

25 Journal, which is another magazine that the

Page 20

1 company publishes. So for the last 7

2 years, I was overseeing both magazines.

3 Q The title editorial director,

4 that was for Men's Journal Magazine?

5 A Yeah.

6 Q And is that the functional

7 equivalent of managing editor in the men's

8 journal world, or is there --

9 A Sort of a hybrid, because I was

10 not -- I was not as involved in the

11 day-to-day operation of Men's Journal as I

12 was in Rolling Stone. You know, Men's

13 Journal, I sort of, you know, I sort of

14 oversaw things and there was an editor who

15 was responsible for the day-to-day work,

16 but he reported to me, and I sort of

17 supervised the work of the staff.

18 Q And so from May of 2008 to July

19 of 2015, you were concurrently managing

20 editor of Rolling Stone and the editorial

21 director for Men's Journal?

22 A Yes.

23 Q Did you hold any other positions

24 or have any other responsibilities with any

25 other media platforms within the company?

Page 21

1 A Well, I also had ultimate

2 responsibility for the website of Rolling

3 Stone.

4 Q And that fell within your

5 purview as managing director -- managing

6 editor of Rolling Stone?

7 A Yes, yeah.

8 Q I'd like to focus now on the

9 time period in 2014 and 2015, so the last

10 say year or so of your tenure as managing

11 editor of Rolling Stone.

12 Can you describe for me your

13 reporting relationships as the managing

14 editor? For example, who did you report to

15 and who reported to you?

16 A I reported to Jann Wenner.

17 Q What was Mr. Wenner's title or

18 role?

19 A He -- well, he owned the

20 company. He was the editor and publisher

21 of Rolling Stone. He's the editor and

22 publisher of Men's Journal, I believe. You

23 might check his title. I'm not sure.

24 Q And so in both your capacity as

25 managing editor of Rolling Stone and

Page 22

1 editorial director of Men's Journal, you  
2 reported to Mr. Wenner?  
3 A Yes.  
4 Q Did you report to anyone else?  
5 A Not directly, no.  
6 Q How about indirectly?  
7 A Well, I mean, I had  
8 relationships I had to manage with the  
9 business side.  
10 Q Okay.  
11 Can you explain what you mean by  
12 that?  
13 A Well, just there were constant  
14 issues of working with the publisher on  
15 various things.  
16 Q And as the managing editor of  
17 Rolling Stone -- now I'm focused on the  
18 Rolling Stone side --  
19 A Yeah.  
20 Q -- how did you organize, or how  
21 was the magazine organized in that time  
22 period in terms of people who reported  
23 directly to you? Did you have a series of  
24 people who were direct reports?  
25 A I guess there were between three

Page 23

1 and five editors just below me, an art  
2 director, a photo director who reported  
3 directly to me. And then, you know, there  
4 were various levels of reporting for the  
5 staff below that, for the copy department,  
6 the fact checking department, the photo  
7 department, what have you, the art  
8 department, but it all sort of ultimately  
9 came up to me.  
10 Q So other than Mr. Wenner, who is  
11 the owner, editor, and publisher of Rolling  
12 Stone, you were the most senior person at  
13 Rolling Stone during the time period 2014  
14 to 2015?  
15 A Yes, yes.  
16 Q And you had ultimate editorial  
17 responsibility for the magazine during that  
18 time period?  
19 A Yes.  
20 Q Who were the three to five  
21 editors who were kind of directly below you  
22 and reporting to you?  
23 A You mean at the end, or the  
24 whole time?  
25 Q I'm focused on the time period

Page 24

1 2014.  
2 A At that time period, there was  
3 Nathan Brackett who was the music editor --  
4 I mean I'm not sure of the exact titles,  
5 but he ran music coverage. Sean Woods, who  
6 was the primary features editor. Joe  
7 Hutchinson, who was the art director. Jodi  
8 Peckman who was the creative director. My  
9 assistant Alison Weinflash.  
10 Am I leaving anyone out? I  
11 think that was it at the end, yes.  
12 Q All right. Let me make sure  
13 I've got those. So the two editors that  
14 you identified --  
15 A I mean, if I look at the  
16 masthead, I could be totally clear.  
17 Q Would it help you to look?  
18 A Yeah. I just don't want to get  
19 it -- I don't want to forget anyone here.  
20 Okay. So Nathan Brackett,  
21 executive editor. Sean Woods, deputy  
22 managing editor.  
23 Yeah, so those were the direct  
24 reports. And everyone else then kind of  
25 reported up to me through somebody else.

Page 25

1 I guess you could also say that  
2 Tom Walsh was also at this point reporting  
3 directly to me.  
4 Q What was Mr. Walsh's role?  
5 A He was the copy chief.  
6 Q And Ms. McPherson is the fact  
7 checking head?  
8 A Yeah, the chief of research.  
9 Q You mentioned in your prior  
10 answer Mr. Hutchinson.  
11 A Yes.  
12 Q Was he a direct report to you as  
13 an art director?  
14 A Yeah.  
15 Q And you also mentioned a  
16 creative director?  
17 A Yeah, that's Jodi Peckman who  
18 was sort of in charge of photography and  
19 more conceptual things.  
20 Q And also reporting directly to  
21 you?  
22 A Yes.  
23 Q Did Mr. -- is it Brackett,  
24 Nathan Brackett?  
25 A Uh-huh.



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1 Q -- have any involvement in the  
2 Campus Rape article?  
3 A I don't believe he did.  
4 Q We know Mr. Woods --  
5 A Yeah.  
6 Q -- obviously was involved in  
7 that.  
8 Mr. Hutchinson, was he involved?  
9 A Yeah, because he would have been  
10 in charge of the layout.  
11 Q And what role would Ms. Peckman  
12 have had?  
13 A You know, I'm not sure she had a  
14 huge role in it, just because she generally  
15 was more involved in things that involved  
16 photography. And since we didn't shoot any  
17 photographs for this piece, she was  
18 probably less involved.  
19 Q And you said Mr. Hutchinson was  
20 responsible for the layout?  
21 A The layout and the  
22 illustrations, yeah.  
23 Q Mr. Walsh was the copy chief?  
24 A Yeah.  
25 Q What role would he have had?

Page 27

1 A He would have, you know, read  
2 the article for grammar, language and  
3 usage, as it was being prepared for  
4 publication.  
5 Q And Ms. McPherson and her  
6 reports?  
7 A They were responsible for fact  
8 checking the story.  
9 Q Who is Timothy Walsh?  
10 A He is the -- well, what's his  
11 title -- he is the CFO -- let me make sure  
12 exactly what his title is. What was his  
13 title? His title was chief financial  
14 officer for the entire company.  
15 Q And what role, if any, did  
16 Mr. Walsh have in the Campus Rape article?  
17 A I have no recollection of him  
18 playing any role in it. He did not tend to  
19 be involved in editorial matters.  
20 Q How many total employees at  
21 Rolling Stone?  
22 MS. McNAMARA: At what time?  
23 BY MR. CLARE:  
24 Q At this time.  
25 A I don't know. We can count them

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1 up here.  
2 Q Are they all on the masthead?  
3 A Yeah.  
4 Q We don't need to take the time  
5 to do that.  
6 A Okay, yeah.  
7 Q My question is, are there any  
8 employees of Rolling Stone whose names  
9 would not be identified on the masthead  
10 during that time period?  
11 A Well, there are freelance fact  
12 checkers and such, but they didn't work on  
13 the story -- I believe -- I mean, I don't  
14 think they did.  
15 Q Would you describe for me during  
16 this time period, 2014 to 2015 -- well, let  
17 me ask a foundational question.  
18 Where were Rolling Stone's  
19 offices located at that time?  
20 A Just up the street at 1290 Sixth  
21 Avenue.  
22 Q And how was the office laid out  
23 in terms of its physical layout, how many  
24 floors did you occupy?  
25 A The entire company is on the 2nd

Page 29

1 floor. You have three magazines there,  
2 Rolling Stone, Men's Journal, and Us  
3 Weekly.  
4 Q And as best you can describe for  
5 me, how is the office laid out? In other  
6 words, where was your office on the floor?  
7 A Okay, my office was -- Jann had  
8 the corner office, the big corner office.  
9 And there was a row of offices on the, I  
10 guess the northern wall of the building  
11 looking on to 52nd Street. So mine was the  
12 closest to Jann's office. And then Nathan  
13 was next to me. Then Sean Woods. Then  
14 Christian Hoard. Then -- I can't remember  
15 who was in the office next to him. Then  
16 Joe. Then Jodi. Then sort of writers and  
17 editors and such down the hall.  
18 Q So your office was right next to  
19 Mr. Wenner's?  
20 A Yeah.  
21 Q And then there was one office  
22 between you and Mr. Woods?  
23 A Yes.  
24 Q And all in the same hallway?  
25 A Yeah, and then there were

Page 30

1 cubicles in the middle with the junior  
2 staff.  
3 Q What about Mr. Hutchinson, where  
4 was his office relative to yours?  
5 A Probably 40, 50 feet away from  
6 mine, just down the hallway.  
7 Q Down the same row?  
8 A Yeah. It was all -- we were all  
9 very close.  
10 Q How about Ms. McPherson?  
11 A She sat at a cubical, in a bay  
12 of cubicles outside of -- I'm just trying  
13 to think -- well, sort of close to where  
14 Ms. Peckman's office -- a little further  
15 away, probably 75 feet away from my office,  
16 I guess.  
17 Don't hold me to these numbers.  
18 I'm just guessing. The point is, all --  
19 everyone was quite close by.  
20 Q All right, very close.  
21 A Yeah.  
22 Q Did you have -- strike this.  
23 Did you have -- what sort of  
24 relationship did you have with your reports  
25 at the magazine in terms of their ability

Page 31

1 to come talk to you about issues that  
2 arose?  
3 A My door was always open. I mean  
4 I talked to everybody multiple times a day.  
5 Q So there was no requirement that  
6 they schedule a formal meeting with you --  
7 A No.  
8 Q -- to raise an issue or concern?  
9 A No. It was all very -- I mean  
10 occasionally, I performed meetings, but it  
11 was generally if there was a problem, I was  
12 on it, I was approachable, and I was there.  
13 Q Just to make sure I'm clear on  
14 this, so Ms. McPherson, you said she sat in  
15 a cubicle?  
16 A Yeah.  
17 Q So was she sort of in the middle  
18 of the floor?  
19 A Yeah.  
20 Q Not on the outside row of  
21 offices?  
22 A Yes, yeah.  
23 Q But still in the same general  
24 area as where your office was?  
25 A Yeah, a 30-second walk from my

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1 office, at most.  
2 Q If you recall, how many offices  
3 between, approximately, between Mr. Woods'  
4 office and where Mr. Hutchinson's office  
5 was?  
6 A Three offices and a little  
7 public space with a table in it.  
8 Q All right. I'd like to stay  
9 focused on this same time period.  
10 A Yeah.  
11 Q 2014 to 2015. I'd like you to  
12 help me understand a little bit more about  
13 the publication timetables.  
14 A Uh-huh.  
15 Q In terms of how things work from  
16 the time we all read them in the magazine  
17 and kind of working backwards.  
18 A Yeah.  
19 Q And I'd like to focus on,  
20 specifically, feature articles like the one  
21 that we're here to talk about, the Campus  
22 Rape story.  
23 A Uh-huh.  
24 Q How does a feature article  
25 that's in development from a contractor

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1 start to come on the radar screen to -- for  
2 possible inclusion in an upcoming issue?  
3 A Okay. So the process is that  
4 either someone on staff has an idea which  
5 they communicate to one of the writers, and  
6 often times it will be sort of a subject,  
7 you know, more of a subject area like here  
8 is something we're interested in, why don't  
9 you go research it and write up a proposal,  
10 and then we'll determine if we think there  
11 is a story there.  
12 You know, other cases, the  
13 writers come to us with their own ideas  
14 which they've developed, and write a  
15 proposal, and we say yes or no to it.  
16 Q Okay.  
17 And after a proposal gets a yes  
18 to an actual writing, editing, and that  
19 sort of thing takes place, at what point  
20 does it start to come on the radar screen  
21 of the people that decide which issue it's  
22 going to go into?  
23 A Generally, we don't -- we would  
24 not schedule a story until we have, at  
25 least have a first draft. Sometimes a



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1 second draft. Sometimes a third.  
 2 It depends. You know, we  
 3 wouldn't schedule a story until we felt it  
 4 was, you know, substantially ready for --  
 5 you know, the fact checking and copy  
 6 editing will still have to happen, but we  
 7 knew we were still in the ballpark.  
 8 So that could be any, from  
 9 sometimes a month -- you know, it generally  
 10 was at least 2 weeks before the production  
 11 started that a story was scheduled.  
 12 Q Okay.  
 13 What do you mean by when the  
 14 production started?  
 15 A Oh, because the magazine worked  
 16 on a 2-week production cycle.  
 17 Q What does that mean?  
 18 A That means from -- we finish an  
 19 issue, you know, we finish an issue on a  
 20 Thursday, start the next issue the  
 21 following Friday.  
 22 And that -- and so when it's in  
 23 production, that means when actually the  
 24 layouts are being done, the final fact  
 25 checking is being done, the copy editing,

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1 the fitting into the layout, you know, just  
 2 all the sort of, you know, the working with  
 3 the -- getting high res photos in -- you  
 4 know, just the whole putting it together  
 5 and getting ready for publication.  
 6 Q And that process takes about 2  
 7 weeks?  
 8 A Yes.  
 9 Q How -- strike that.  
 10 Do you have regular meetings or  
 11 kind of staff discussions about when a  
 12 feature article might be coming up for that  
 13 time period where you think it's going to  
 14 be ready?  
 15 A Yeah. I mean what we would  
 16 generally have is a number of things in the  
 17 pipeline, such that as we came to -- as  
 18 we -- you know, as we came to be putting  
 19 the line-up together for each issue, we  
 20 would have sort of different options of  
 21 things, you know, things that we thought  
 22 would fit together well.  
 23 And so we would -- you know,  
 24 ideally, we would finalize -- or we  
 25 wouldn't completely finalize the line-up

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1 because a lot of things, especially like in  
 2 the music section, depended on news  
 3 developments.  
 4 But we would have a rough -- we  
 5 generally would have a rough line-up for an  
 6 issue 2 weeks before it went into  
 7 production. So as we were producing one  
 8 issue, we are sort of settling on a line-up  
 9 for the next issue, in general.  
 10 Now that line-up could be very  
 11 subject to change based on, you know, news  
 12 events happening, you know, if a rock star  
 13 dies -- you know, there are just all sorts  
 14 of variables.  
 15 Q And so just to make sure I'm  
 16 understanding, you've got -- you're working  
 17 on the 2-week production cycle for the  
 18 current issue, let's call it.  
 19 A Yes, yeah.  
 20 Q And meanwhile you also have --  
 21 A Well, we're roughly -- I'm  
 22 sorry to interrupt you -- we're always  
 23 trying to roughly think three issues ahead.  
 24 So we're working on this one  
 25 issue, and then the next three issues we're

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1 thinking about, you know, in various levels  
 2 of completion.  
 3 So the third issue down the line  
 4 might be a very rough line-up, which will  
 5 completely change. Whereas, the next issue  
 6 down the line, the line-up will be pretty  
 7 well set 2 weeks ahead of time and won't  
 8 change unless there are sort of external  
 9 events intruding on things.  
 10 Q How often did Rolling Stone  
 11 publish?  
 12 A Every 2 weeks. Oh, actually,  
 13 they're 24 times a year, so there were two  
 14 double issues in June and in December.  
 15 Q I see.  
 16 So just to get a little more  
 17 concrete about it and make sure I  
 18 understand -- and again, I'm just trying to  
 19 work backwards from some of the dates that  
 20 I see.  
 21 A Okay.  
 22 Q So you have in front of you --  
 23 and we can mark this later, but it's really  
 24 more just for reference, but what is issued  
 25 12/23.



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1 A Yes.

2 Q And it's dated, at least on

3 the --

4 A Yeah -- sorry, repeat your

5 question, I'm sorry.

6 Q It's dated December 4, 2014?

7 A Yeah.

8 Q What is the significance of that

9 date?

10 A You know, it's some holdover,

11 which I don't quite understand.

12 But the magazine publication

13 dates are generally the day the issue goes

14 off stands, and I think it's more to tell

15 newsstands like leave this up until

16 December 4th, not put it out on December

17 4th.

18 Q So the December 4th date is the

19 date at which it should be taken off the

20 newsstand, not the date that it hits the

21 newsstand?

22 A Yeah, so it hits the newsstand

23 usually 2 weeks before the date on the

24 cover. And I think with monthly magazines,

25 it's different. But with weeklies and

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1 biweeklies, that's how it works.

2 Q So let's assume for the sake of

3 discussion that this issue would have hit

4 newsstands 2 weeks before the December 4th

5 date.

6 A Yeah, which I believe was

7 November 19th, but I'm not sure of the

8 exact date.

9 Q When, relative to that date,

10 November 19th, would that magazine be

11 mailed to subscribers or sent, however you

12 send it?

13 A You know, I'm not entirely sure.

14 Basically subscribers -- the newsstand date

15 is a Friday. Subscribers generally get

16 their issues on the Tuesday or Wednesday

17 before it comes on the newsstand.

18 Q When, if at all, relative to

19 subscriber copies or newsstand copies, do

20 you send out promotional copies to people

21 in the press or to other folks that you're

22 trying to get --

23 A The promotional copies usually

24 go out on -- I believe they go out on a

25 Monday or Tuesday of that week.

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1 So -- yeah. So the promotional

2 copies are going out, are being received by

3 whoever we're sending them to usually on

4 the day that the first subscribers are

5 getting their issues.

6 But subscriptions are really

7 weird. I mean some subscribers get their

8 issues on Tuesday. Others don't get it

9 until the following week. You know, I

10 don't quite understand all the niceties of

11 how that works and the mailing, but

12 generally people in bigger cities get it

13 earlier than people in smaller localities.

14 Q And the idea then is to have the

15 subscribers getting their magazines roughly

16 at the same time or a day or two before it

17 hits the newsstand?

18 A That's generally the idea, yeah,

19 but we don't have a lot of control over

20 that.

21 Q Let's talk about how the website

22 edition of the magazine relates to this

23 timetable.

24 A Uh-huh.

25 Q When does content -- again,

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1 during this time period -- when would

2 content go live on the website relative to

3 the events that we've just discussed?

4 A Customarily, we would be posting

5 things on the website over the course of

6 that, of the days before. I mean we

7 wouldn't post the entire thing at once,

8 because we'd post sort of different things

9 on different days so there would be a

10 steady stream of new material on the

11 website, you know, over the course of the

12 week.

13 Q Is there a date by which, a

14 newsstand date or some other date by which

15 you endeavor to have the entire content

16 available online?

17 A No. It was such a -- it was

18 sort of a catcher's catch. It was -- these

19 decisions were generally made, you know,

20 within sort of the discussion of each

21 issue. There weren't sort of set policies.

22 Q And who was responsible for that

23 decision about website content and which --

24 A Oh, I forgot with the offices --

25 I'm sorry -- Caryn Ganz who was the web



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1 editor was in the office, two offices down  
 2 from Sean Woods. She had just moved in  
 3 there fairly recently, because that office  
 4 there weren't a lot of people in.

5 Q And what were her  
 6 responsibilities as web editor?

7 A To run the website, to  
 8 commission content that was only, you know,  
 9 that was web only, as well as to sort of  
 10 post things from the magazine on the web.

11 Q And whose decision is it, was  
 12 it, during that time period relative to the  
 13 timing of content from the print magazine  
 14 when it would go on over the course of that  
 15 week onto the website?

16 A It was usually done in  
 17 consultation with me, Caryn, Gus Wenner,  
 18 Jann's son, who was the head of digital  
 19 operations. Jann sometimes weighed in.  
 20 Sean Woods often weighed in.

21 So, you know, these were fluid  
 22 discussions, you know, that were to be  
 23 treated differently with every issue.

24 Q You mentioned Gus Wenner was the  
 25 digital operations. What does that mean?

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1 A He was in charge of all digital  
 2 operations for Wenner Media. So the -- the  
 3 web -- Caryn Ganz, the web editor, reported  
 4 to Gus, not to me.

5 Q And presumably, there was  
 6 somebody in Caryn's position at the other  
 7 Wenner properties that also reported up to  
 8 Gus?

9 A Yes, yes.

10 Q On the digital side?

11 A Yes.

12 Q And Gus would be involved in  
 13 consultation with you and Caryn and the  
 14 others about when specific content --

15 A Yeah -- not every time, but  
 16 sometimes.

17 Q When is content from the  
 18 magazine locked down, if you will, for  
 19 purposes of putting it on the website that  
 20 matches the printed --

21 A Well, the -- okay, so we would  
 22 close the magazine on every other Thursday.

23 So the issue that came out --  
 24 the issue that hit the newsstand on a  
 25 Friday was closed and shipped to the

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1 printer the previous Thursday. And then  
 2 the first copies were back in the office on  
 3 Monday morning.

4 So we had it in the office -- we  
 5 had a finished copy of the magazine in the  
 6 office by, you know, by the beginning of  
 7 the week that would go on the newsstand at  
 8 the end of the week.

9 Q All right.

10 A And go to subscribers and  
 11 whatever press copies we sent out.

12 Q If we try to put some real dates  
 13 on this, using this particular issue as a  
 14 guide, this issue is dated December 4,  
 15 2014?

16 A Yeah.

17 Q Which you told me would be the  
 18 day it's supposed to come off the  
 19 newsstands?

20 A Yeah.

21 Q It would actually hit the  
 22 newsstands, best estimate would be 2 weeks  
 23 before November 19, 2014?

24 A Yeah.

25 Q Which was -- would that be a

Page 45

1 Friday, you said?

2 A Yes. That was the official  
 3 date. But, you know, many newsstands, like  
 4 many airports, would have it on Wednesday.  
 5 So it kind of -- it was supposed to be off  
 6 by Friday, but it sort of -- we, we didn't  
 7 -- once, you know, the thing went on the  
 8 trucks, we didn't have that much control  
 9 over it.

10 So sometimes if a newsstand got  
 11 their shipment early, even if they maybe  
 12 weren't supposed to put it out until  
 13 Friday, they put it out on Wednesday.

14 Q And if Friday was the official  
 15 date, when would the magazines be shipped?  
 16 When do they go on the trucks?

17 A You know, I don't know exactly.  
 18 I would guess probably Monday. I mean I'm  
 19 not positive. But, you know, we got our  
 20 issues back on Monday. And once they were  
 21 in the office, they were also going out to  
 22 the world.

23 Q And this is the Monday  
 24 immediately before the Friday they're  
 25 supposed to hit the hands?



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1 A Yeah, yes.

2 Q And you said they would go to

3 the printers the Thursday before?

4 A The final -- we sent things to

5 the printers on Tuesday, Wednesday, and

6 Thursday of closing week. So the magazine

7 went in section -- you know, it went in

8 bits and pieces to the printer.

9 Q Would each section of the

10 magazine only go to the printer once, we're

11 talking about the final iteration of the

12 magazine?

13 A Pardon?

14 Q We're talking about the final

15 version of the magazine would be sent to

16 the printer either on a Tuesday, Wednesday,

17 or a Thursday?

18 A Yes.

19 Q And then the magazine would be

20 assembled at the printer and back in your

21 offices on Monday?

22 A Exactly, yeah.

23 Q And then it would hit the

24 newsstands on Friday?

25 A Yeah, and it would sort of

Page 47

1 dribble out over the course of the week.

2 MS. McNAMARA: And just so it's

3 clear, because I think what you said,

4 I think the Friday is the following

5 Friday, not the day after Thursday.

6 MR. CLARE: Correct.

7 BY MR. CLARE:

8 Q The following Friday.

9 A Yeah, yeah.

10 Q A week and a day after the

11 printer.

12 A Yeah.

13 Q I think I understand.

14 So this was all a big lead-up to

15 a question we were trying to get to, was

16 when in that process is content in the

17 magazine, the print edition, locked down

18 for purposes of going up in identical form

19 on the website?

20 A On Thursday night. I mean so we

21 would give -- we would give the files to

22 the website, you know, after they were

23 locked down, after they had shipped, we'd

24 give them to the web people so they could

25 start to plan, make their plans for them.

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1 Q Okay.

2 And so --

3 A And -- well, go on, ask your

4 question.

5 Q So Thursday night, are you

6 talking about the Thursday night that it's

7 sent to the printer or --

8 A Yeah.

9 Q So that final file would go to

10 the printer on Thursday and it would also

11 go to the website people on Thursday?

12 A Although in some cases, I mean

13 there would be rounds distributed in the

14 office, you know, we went through a process

15 where everything went through two or three

16 rounds. And so some of the web people

17 would get rounds just so they would be

18 aware of what was going to be in the

19 magazine and start to make their plans for

20 what they would be doing the following

21 week.

22 Q Right.

23 A But they wouldn't actually post

24 anything until the magazine was closed and

25 shipped and printed.

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1 So, you know, they could read

2 things and they could comment on things,

3 but they were not -- you know, nothing was

4 available to them to post on the website

5 until it shipped.

6 I mean there were other cases

7 like if we were going to do a rock star, we

8 might dribble out a little piece of the

9 interview on the website that wasn't going

10 to be in the magazine article, you know.

11 You know, we would sort of take a nose to

12 tail sort of attitude with the stuff we

13 produced, so -- this is more for the music

14 type of, you know, for the music stuff,

15 that if Paul McCartney said something to us

16 in an interview, we might put a little bit

17 of the interview up on the website right

18 away if it was timely and interesting, and

19 then there would be something longer that

20 would run in the magazine.

21 Q So for a feature article like A

22 Rape on Campus, in terms of the final

23 content that was given to the web people in

24 order to be posted on the website, that

25 final content would be provided to them the



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1 Thursday that it was sent and locked  
2 down --

3 A Probably more like Friday, just  
4 customarily, because, you know, sometimes  
5 the closings went quite late at night. So  
6 the web people often weren't there as we  
7 were making the final preparations to ship  
8 the story.

9 Q And when you say ship it, you're  
10 talking about shipping it to the printers?

11 A Yeah, yeah.

12 Q Got it.

13 Is there a galley proof process  
14 with the printers where you would receive a  
15 draft back?

16 A Not from the printers. I mean  
17 we would, we would receive -- there was  
18 a -- I mean I'm trying to remember exactly  
19 how it worked -- but there was a chance to  
20 basically look at something before all the  
21 printing was done, which was more for, you  
22 know, sort of correcting the color and  
23 making sure that, you know, more of a  
24 production standpoint than editorial  
25 standpoint.

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1 So I often was not -- you know,  
2 those things that were coming back early  
3 from the printer, say on Friday, would be  
4 more for the production people, and I often  
5 wouldn't even be involved in that. And  
6 that was just if the colors were corrected  
7 properly and things like that.

8 Q When is the last time in the  
9 process when sort of no more changes could  
10 be made to an article, a feature article?

11 A Sometime on Thursday night.

12 Q And after that point, what  
13 happened, what would happen if a problem  
14 had arisen with the article or something  
15 where you needed to be modified, what would  
16 happen? Would that delay the publication?

17 A No. There was a little time  
18 built into the process that we could pull  
19 something off the printer and make a change  
20 if we had to. That was done very rarely.

21 Q And what would be the latest  
22 time that could be done in the process you  
23 described to me?

24 A Well, depending on when it  
25 printed, you know, I think -- you know, I'm

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1 not absolutely positive, but, you know, it  
2 seemed like we could, that we could make  
3 changes with the printer until often times  
4 until sometime on Saturday. But this was  
5 done very rarely.

6 Q Okay.

7 Really, Friday night was the --

8 A Well, I don't even want to say  
9 that. You know, it's just basically, you  
10 know, 99.9 percent of the time when the  
11 story was going out -- you know, and there  
12 were extraordinary measures that could be  
13 taken if something had to be pulled back --  
14 and that happened very rarely.

15 Q Do you recall any circumstances  
16 under which that had happened? I'm talking  
17 about now that .1 percent case.

18 A Yeah, there were a few  
19 circumstances that often had more to do  
20 with sort of extra editorial -- well, I  
21 think one time Jann wanted a cover line  
22 changed after it went to the printer, and  
23 that was many years ago.

24 There was another time when  
25 there was a problem with a piece of artwork

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1 in a story and then we pulled it back in  
2 order to change the artwork.

3 There -- you know, that was, you  
4 know, essentially it. Those are two  
5 instances I can think of when it happened.

6 Q And so let's -- for example,  
7 when Mr. Wenner wanted to change the cover  
8 line on it, what process did you use, to  
9 the best of your recollection, in order to  
10 make that change?

11 A I called the head of production  
12 and said Jann wants to change the cover  
13 line. I mean, generally, at that point  
14 also the only change you could make was  
15 something that was, you know, going to just  
16 be taking -- you know, that you would just  
17 insert something in the same space on the  
18 cover.

19 You know, at that point it was  
20 not about re-designing things or, you know,  
21 changing the layout or the design. It was  
22 more very focused little changes that we  
23 could make.

24 Q All right.

25 I'd like to talk now about your



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1 magazine's relationship with independent  
2 contractors.

3 A Uh-huh.

4 Q As I understand it, Ms. Erdely  
5 was an independent contractor for the  
6 magazine?

7 A Yes, uh-huh.

8 Q Approximately how many of those  
9 folks during this time period were there?

10 A Let me just look. I can't  
11 remember. People always ask me this and I  
12 always forget.

13 Okay. So at this point, the  
14 people under contract were one, two --

15 MS. McNAMARA: Wait, don't mark  
16 that.

17 THE WITNESS: Okay.

18 A One, two, three, four, five,  
19 six, seven, eight, nine, ten, eleven,  
20 twelve, thirteen, fourteen, fifteen,  
21 sixteen, seventeen, eighteen -- so I would  
22 say, I think -- well, I'm not sure exactly,  
23 because contributing editors, some of these  
24 people are on contract, some of them are  
25 just sort of friends, long-time

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1 contributors who don't have contracts.

2 So at this point, I don't  
3 remember exactly, but I would say there are  
4 probably seventeen to twenty people on  
5 contract.

6 Q And you're referencing the  
7 masthead in looking at that, you're looking  
8 at the people who are listed as  
9 contributing editors?

10 A Yes.

11 Q And that's sort of the shorthand  
12 for people who are on contract or long-time  
13 friends or contributors at the magazine?

14 A Exactly, yeah.

15 MS. McNAMARA: And for clarity,  
16 for the record, he's looking at the  
17 December 5 issue -- December 4th  
18 issue, I'm sorry.

19 THE WITNESS: Yeah.

20 BY MR. CLARE:

21 Q And so in your day-to-day  
22 parlance, you would refer to these people  
23 as contributing editors?

24 A Yeah, more -- we just -- we -- I  
25 don't think I ever used the word

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1 contributing editors in a conversation. I  
2 mean we just call them writers.

3 Q Writers.

4 A Or contract writers. You know,  
5 and the bulk of the magazine was written by  
6 the people, you know, in the contributing  
7 editor -- well, not the bulk, but the  
8 contractors were probably the -- I would  
9 say in an average issue, probably 75 to 80  
10 percent of the magazine was written by  
11 either staff writers or contract writers.  
12 I mean that's a very rough number.

13 Q What sort of training or written  
14 materials did Rolling Stone provide its  
15 contract writers about the magazine's  
16 editorial policies and procedures?

17 A I believe that we had -- you  
18 know, I believe that we had a memo that we  
19 sent out to them. I can't remember.

20 Q Was there any in-person training  
21 that was done where they all get brought  
22 in?

23 A No. But most of these were  
24 people that had written for the magazine  
25 for a long time and were very familiar with

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1 the process. I mean someone wouldn't  
2 become contributing editor necessarily  
3 until they had contributed to the magazine  
4 for a while and sort of really understood  
5 the process.

6 Q But to the best of your  
7 recollection, there may be a memo that  
8 was --

9 A Yeah, and more had to do with  
10 like -- yeah, what your responsibilities  
11 are in terms of turning over your  
12 transcripts, in terms of filing your  
13 expenses, you know, in terms of making  
14 yourself available during the process, you  
15 know, when we're editing your story.

16 Q What training or written  
17 materials did Rolling Stone provide  
18 contract writers about fact checking  
19 policies and procedures?

20 A I honestly don't remember if  
21 there was something written, but Coco was  
22 very aggressive in making every contract  
23 writer aware of what their responsibilities  
24 were to the fact checking department, and I  
25 think those things were -- I honestly don't



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1 remember there's been written, but I know  
 2 that there was a lot of verbal  
 3 communication about that.

4 Q How -- I was going to ask you,  
 5 how did she communicate with those folks?

6 A I would imagine through phone  
 7 calls, e-mails, face to face. I mean you'd  
 8 have to ask her. I don't know exactly.

9 Q That's fine.

10 What training or written  
 11 materials did Rolling Stone provide its  
 12 contract writers regarding sourcing and  
 13 verification standards for the magazine?

14 A I don't believe there is any  
 15 written. I think it was more, A, most of  
 16 these writers were -- by the time they were  
 17 writing for Rolling Stone, they were  
 18 experienced writers who understood about  
 19 sourcing and verification.

20 And, once again, it was Coco and  
 21 the fact checkers were very clear in  
 22 telling the writers what they needed in  
 23 order to fact check their stories.

24 Q Is the same true as it relates  
 25 to attribution standards?

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1 A Yes. I mean, let me think.  
 2 Attribution standards probably would have  
 3 been more dictated by the editors in  
 4 consultation with the fact checkers.

5 Q Anything in writing on that?

6 A I don't believe --

7 Q That you're aware are of?

8 A Not that I'm aware of.

9 Q Anything in writing that you're  
 10 aware of on the sources and verification  
 11 standards?

12 A Not that I'm aware of.

13 Q Anything in writing that you're  
 14 aware of on fact checking policies and  
 15 procedures?

16 A I am not -- there could be  
 17 something. I'm not positive.

18 Q Anything that you're aware of in  
 19 writing, besides the memo that you've  
 20 described already, in terms of editorial  
 21 policies and procedures?

22 A Not that I'm aware of, no.

23 Q Now, I've asked you all these  
 24 questions in the context of what was  
 25 provided to contract writers.

Page 60

1 A Yeah.

2 Q Just for shorthand. Do any of  
 3 those things exist in writing separate from  
 4 what you've described for Rolling Stone  
 5 staff writers?

6 A Not that I'm aware of.

7 Q How is it that Ms. Erdely came  
 8 to be a contractor, contract writer for  
 9 Rolling Stone?

10 A Sean Woods -- I'm not sure  
 11 exactly how Sean Woods first hooked up with  
 12 her, but it probably would have been --  
 13 you'd have to ask them. I can't remember  
 14 the exact year. I would guess 2006-2007  
 15 she started writing for the magazine.  
 16 That's just a rough guess. I'm not sure of  
 17 the exact year.

18 But, you know, she did a bunch  
 19 of stories which were always very, you  
 20 know, we were always very happy with. And  
 21 after a couple of years, we offered her a  
 22 contract.

23 You know, so generally, that  
 24 would happen. A freelancer would come in.  
 25 You know, if we liked their first story,

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1 we'd give them another story. If they kept  
 2 on sort of proving themselves, we would  
 3 then talk about putting them on contract.

4 Q And we certainly will ask  
 5 Mr. Woods certainly many of these same  
 6 questions. I'm just trying to get your  
 7 recollection or maybe how it works,  
 8 generally, is that initially a freelance  
 9 writer will work with Rolling Stone on one  
 10 article?

11 A Yeah.

12 Q See how it goes. Maybe another  
 13 article.

14 A Yeah.

15 Q And then over the time of this  
 16 iterative process, if you were happy with  
 17 them, they're happy with you, that morphs  
 18 into a contract relationship?

19 A Yes.

20 Q Do you recall how many  
 21 individual articles Ms. Erdely worked on  
 22 for the magazine as a freelancer before she  
 23 was offered a contract?

24 A I don't recall. I mean it would  
 25 be easy to find out, but I do not recall.

Page 62

1 Q And Mr. Woods would have been  
2 most directly involved in that?  
3 A Yeah, I believe he -- I mean, I  
4 don't remember the day he came to me and  
5 said let's put Sabrina on contract, but  
6 that's probably -- or maybe I said it to  
7 him, I don't recall.  
8 Q Did you have to sign off on  
9 writers becoming contract writers?  
10 A Generally, I would go to Jann  
11 and say let's give this person a contract.  
12 And in most cases, by the time that I  
13 thought someone deserved a contract, he  
14 would agree with me.  
15 Q But Mr. Wenner was the ultimate  
16 sign-off on that?  
17 A Yeah, yes.  
18 Q Mr. Woods, for example, didn't  
19 have the authority to --  
20 A No. And I mean even -- pretty  
21 much every feature story assigned, Jann  
22 would ultimately sign off on it. I mean he  
23 was the final word on almost everything in  
24 the magazine.  
25 Q All right.

Page 63

1 I'm going to show you a document  
2 that we've marked as Plaintiff's Exhibit  
3 29.  
4 A Okay.  
5 (Whereupon, Exhibit 29 was  
6 marked for Identification.)  
7 BY MR. CLARE:  
8 Q Just so we're on the same page,  
9 so to speak, as we look at all these  
10 documents today, when I refer to something  
11 as a Plaintiff's Exhibit, I'm referring to  
12 the number at the upper right that says PX.  
13 A Uh-huh.  
14 Q Probably obvious.  
15 And then throughout the day,  
16 I'll refer to page numbers using the longer  
17 digit at the bottom.  
18 A Okay, uh-huh.  
19 Q And just so you know, I'm sure  
20 you're probably aware of this, if it says  
21 RS at the bottom, it was something that was  
22 provided to us out of Rolling Stone files.  
23 A Okay.  
24 Q So this was a document that was  
25 provided to us in discovery in this case.

Page 64

1 What is Plaintiff's Exhibit 29?  
2 A This is an independent  
3 contractor agreement.  
4 Q And this specific independent  
5 contractor agreement is a March 18, 2014  
6 independent contractor agreement between  
7 Rolling Stone and Sabrina Erdely, correct?  
8 A Yes, yes.  
9 Q And is that your signature on  
10 the last page of this document?  
11 A Uh-huh.  
12 Q Sorry, you have to say yes or  
13 no.  
14 A Let me just check. I'm pretty  
15 sure it is. Yes, it is.  
16 Q [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 A Yes.  
21 Q Is this the operative agreement  
22 that was in place with Ms. Erdely that  
23 governed her work on that article?  
24 A Yes.  
25 Q I'd like to invite your

Page 65

1 attention to paragraph 1, [REDACTED]  
2 [REDACTED]  
3 [REDACTED].  
4 A Uh-huh.  
5 Q And I'm going to ask you a  
6 question. I'm not intending to ask a legal  
7 question here, but I'm really more in terms  
8 of the relationship that you had with the  
9 magazine.  
10 A Okay.  
11 Q [REDACTED]  
12 [REDACTED],  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 Do you see that sentence?  
20 A Yes.  
21 Q So, again, just sort of in the  
22 journalism world that you were working in,  
23 did Ms. Erdely, was she an employee of the  
24 magazine?  
25 A I'm not exactly sure how to



Page 66

1 answer that question. I mean --

2 MS. McNAMARA: Yeah, I would

3 object to the degree it calls for a

4 legal conclusion.

5 A Yeah. I mean, regardless, you

6 know, regardless of the language in the

7 contract, you know, I treated her as a

8 regular valued esteemed writer for Rolling

9 Stone.

10 Q Okay.

11 [REDACTED]

12 [REDACTED]

13 [REDACTED].

14 A Yeah.

15 Q And again, I'm not asking

16 necessarily for a legal conclusion, but as

17 a journalistic matter and as the managing

18 editor supervising contract writers like

19 Ms. Erdely, [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 A [REDACTED]

24 [REDACTED] -- [REDACTED]

25 [REDACTED] she could represent

Page 67

1 herself as a writer for Rolling Stone

2 Magazine, and I was comfortable with that,

3 you know, given -- I mean she could do

4 it -- first story she had been assigned to,

5 she was actually assigned for, or a story

6 that she was researching before there was

7 an assignment, she could say this is

8 Sabrina Erdely of Rolling Stone.

9 I mean if she -- some of the

10 contractors had business cards. I'm not

11 sure if Sabrina did or not. Generally, if

12 they asked, they would get a business card.

13 But we would provide business cards to

14 them, you know, if they asked and it was

15 deemed appropriate. But I don't know in

16 her case if she had a business card.

17 Q Okay.

18 And my question, though, was a

19 little bit different, in terms of if she's

20 working on a story for Rolling Stone

21 pursuant to this arrangement with you --

22 A Yeah.

23 Q -- and she has a discussion with

24 a source and she makes a promise to the

25 source and says, you know, we will treat

Page 68

1 [REDACTED]

2 [REDACTED]

3 [REDACTED] --

4 A Yeah.

5 Q -- [REDACTED]

6 [REDACTED]

7 [REDACTED],

8 [REDACTED]

9 A [REDACTED]

10 Q [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 A [REDACTED]

14 Q In terms of making those sorts

15 of arrangements with sources, either

16 treating someone as confidential, or having

17 an anonymous source, or referring to them

18 in a particular way, or any of those sorts

19 of things, did Ms. Erdely need to obtain

20 input or guidance or permission from any

21 editor at the magazine, Mr. Woods or

22 others?

23 A I would say customarily those

24 discussions were held between the writer

25 and the editor.

Page 69

1 I can't comment in this

2 particular case because I was not the one

3 discussing it with her. But generally, a

4 writer wouldn't -- would want to discuss

5 with his or her editor before they made

6 those kind of promises.

7 Q And certainly, your expectation,

8 as managing editor, would be that a

9 contract writer would have those

10 discussions with his or her editor before

11 making those types of agreements with

12 sources?

13 A Yes, generally. I mean that's

14 not a blanket thing, I mean, because

15 it's -- there are so many variables, you

16 know, and every story is different.

17 Q Sure.

18 A Generally, the people that we

19 hire to be contract writers are people that

20 we have a pretty high degree of trust and

21 faith in and tend to respect their

22 judgment.

23 Q Even with that high degree of

24 respect and trust in their judgment, it's

25 your expectation, as a general matter, that

Page 70

1 those issues would be discussed with an  
2 editor before those sorts of agreements  
3 were --  
4 A I would hope so, yes.  
5 Q If I can invite your attention  
6 over to the second page of Plaintiff's  
7 Exhibit 29.  
8 A Uh-huh.  
9 Q I'm looking at the paragraph  
10 -- I'm sorry, --  
11 --  
12 A Uh-huh, yeah.  
13 Q And I'm trying to get a handle  
14 on what the term of this agreement was. So  
15 we're going to look at paragraphs 2 and 3  
16 together.  
17 A Uh-huh.  
18 Q --  
19 --  
20 --  
21 --  
22 --  
23 A --  
24 Q --  
25 --

Page 71

1 --  
2 --  
3 --  
4 A --  
5 --  
6 Q --  
7 --  
8 --  
9 --  
10 --  
11 A --  
12 Q --  
13 --  
14 --  
15 A --  
16 Q My question is, did she?  
17 A I honestly don't remember. I  
18 believe she did, but I -- I -- I don't  
19 recall any problem with her meeting the  
20 terms of her contract. So I would have to  
21 assume she did, but I can't remember  
22 exactly.  
23 Q I'll represent to you, and I can  
24 show you if it's of interest, but I'll  
25 represent to you that there was a series of

Page 72

1 articles that were published that were  
2 authored by Ms. Erdely in roughly July, end  
3 of July 2014 about transgender individuals.  
4 A --  
5 --  
6 --  
7 --  
8 --  
9 I  
10 don't quite remember.  
11 Q That's fine.  
12 But to the best of your  
13 recollection, she did, in fact, deliver the  
14 outstanding story?  
15 A Yes. She always delivered.  
16 Q --  
17 --  
18 --  
19 A --  
20 Q --  
21 --  
22 --  
23 A --  
24 Q --  
25 --

Page 73

1 --  
2 --  
3 --  
4 A --  
5 --  
6 --  
7 Q --  
8 --  
9 A --  
10 Q Lawyers, you know, we get hung  
11 up on that stuff.  
12 But, roughly, --  
13 --  
14 --  
15 A Yeah, I think so. I think it's  
16 fair to say that.  
17 Q All right.  
18 And according to this paragraph  
19 --,  
20 --  
21 --  
22 --  
23 A Yes.  
24 Q --  
25 --



Page 74

1 A Yes.

2 Q As it relates to this

3 contract -- and again, I'm not trying to be

4 hyper-technical legally, I'm just trying to

5 understand -- in your world, what

6 constitutes a contract writer like Ms.

7 Erdely submitting a feature story accepted

8 by the magazine? What does that mean?

9 A Well, that she submits a story

10 to us, we work with her on the revisions

11 with the goal of her fulfilling the things

12 that we've asked her to do. And if she

13 does, we accept the story.

14 Q And does acceptance mean

15 publish?

16 A In most cases, yes. I mean, I

17 can think of -- there have been -- I

18 believe that, yeah, I would say in the

19 overwhelming 99.9 percent of cases, it

20 does.

21 Q And so, again, I'm not trying to

22 be tricky here --

23 A Yeah, yeah.

24 Q I want to deal with the ordinary

25 case.

Page 75

1 A Yeah.

2 Q [REDACTED]

3 [REDACTED]

4 A Yeah.

5 Q [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 A Yes, yes.

10 Q [REDACTED]

11 [REDACTED]

12 A Yeah.

13 Q [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 A Yeah.

18 Q What is the difference between a

19 feature story -- well, strike that.

20 What do you mean by a feature

21 story?

22 A Generally, a story that runs

23 within, you know, the feature well of the

24 magazine, which will be a longer, more

25 complex, you know, usually between 5 and

Page 76

1 10,000 words is customary, the customary

2 length of a Rolling Stone feature.

3 Q [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 A [REDACTED]

10 [REDACTED]

11 Q [REDACTED]

12 [REDACTED]?

13 A [REDACTED]

14 [REDACTED]

15 [REDACTED].

16 Q [REDACTED]

17 [REDACTED]

18 [REDACTED]?

19 A [REDACTED]

20 Q [REDACTED]

21 [REDACTED]

22 [REDACTED]?

23 A [REDACTED]

24 Q [REDACTED]?

25 A [REDACTED]

Page 77

1 Q [REDACTED]

2 [REDACTED]

3 [REDACTED],

4 [REDACTED]

5 A [REDACTED]

6 Q So I'm looking at page 3 of this

7 document, Plaintiff's Exhibit 29. It says

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 A Uh-huh.

14 Q [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]?

18 A I believe that's what it says

19 here, right -- yes.

20 Q And again, I'm not trying to get

21 tricky with the document.

22 A Yeah.

23 Q Is that the way your arrangement

24 with her worked, functionally, [REDACTED]

25 [REDACTED]

Page 78

1 A [REDACTED]  
2 Q [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]?  
6 A Yes.  
7 Q [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 A [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 Q [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 A [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED],  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

Page 79

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 Q And so this agreement here,  
5 which makes reference to [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 A [REDACTED]  
10 Q [REDACTED]  
11 [REDACTED]  
12 A No, exactly.  
13 Q Got it.  
14 A [REDACTED]  
15 [REDACTED]t  
16 [REDACTED]  
17 [REDACTED].  
18 Q Functionally, as it related to  
19 Ms. Erdely's contract, Rolling Stone  
20 retained the right to edit her feature  
21 stories, correct?  
22 A Yes.  
23 Q And as between Ms. Erdely and  
24 Rolling Stone, the magazine, who had final  
25 editorial control over the content?

Page 80

1 A The magazine.  
2 Q And within the magazine, who had  
3 final editorial control over the content?  
4 A Well, me, and then Jarm.  
5 Q So is it fair to say that --  
6 well, strike this.  
7 Let me ask it this way. [REDACTED]  
8 [REDACTED]  
9 [REDACTED],  
10 [REDACTED]  
11 [REDACTED]?  
12 A I believe it was sometime in  
13 late September, early October. I don't  
14 remember the exact date.  
15 Q [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]?  
20 A [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 Q Okay.  
25 [REDACTED]

Page 81

1 [REDACTED]  
2 [REDACTED] --  
3 A Yeah.  
4 Q -- [REDACTED]?  
5 A You know, technically, I  
6 honestly -- I mean, [REDACTED]  
7 [REDACTED],  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED].  
13 Q Now, during the time -- so you  
14 made reference in one of your prior answers  
15 to September, roughly, as sticking out in  
16 your mind as when the story was accepted.  
17 A Or when it was first turned in,  
18 yeah.  
19 Q That's what you're referring to  
20 when you first saw --  
21 A I [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]



Page 82

1 [REDACTED].

2 [REDACTED].

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED].

10 Q [REDACTED]

11 [REDACTED]

12 A [REDACTED]

13 Q [REDACTED]

14 [REDACTED]

15 A [REDACTED]

16 [REDACTED]

17 [REDACTED].

18 [REDACTED]

19 [REDACTED].

20 Q Okay.

21 [REDACTED],

22 [REDACTED]d?

23 A Yes.

24 Q Was this agreement, this

25 Plaintiff's Exhibit 29 exhibit, with

Page 83

1 Ms. Erdely still in place when you left

2 Rolling Stone in July of 2015?

3 A [REDACTED]

4 Q Were there any other written

5 agreements with her that supplemented or

6 added to or changed this one?

7 A [REDACTED]

8 Q Did Rolling Stone, to the best

9 of your knowledge, [REDACTED]

10 [REDACTED]

11 [REDACTED] --

12 A [REDACTED]

13 Q -- [REDACTED]

14 [REDACTED]

15 A [REDACTED]

16 Q [REDACTED]

17 [REDACTED]

18 [REDACTED]?

19 A [REDACTED].

20 Q As far as you know, do you have

21 any reason to --

22 A Well, I don't know what happened

23 after I left.

24 Q Of course not.

25 A Until I left, [REDACTED]

Page 84

1 [REDACTED]

2 Q As the managing editor who was

3 present when the story was published and

4 then later retracted, [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 A [REDACTED]

8 Q Did Ms. Erdely submit any

9 feature stories to Rolling Stone after A

10 Rape on Campus before you left?

11 A Yes.

12 Q Did any of the feature stories

13 that Ms. Erdely submitted to Rolling Stone

14 after A Rape on Campus relate in any way to

15 further reporting on the University of

16 Virginia, rapes on campus, sexual assaults?

17 A No, no.

18 Q Totally unrelated?

19 A Totally unrelated.

20 Q How many feature stories did she

21 submit?

22 A One.

23 Q What was the subject matter?

24 A People -- researchers trying to

25 cure AIDS.

Page 85

1 Q Were any other -- did Rolling

2 Stone publish any other feature stories by

3 Ms. Erdely between the time A Rape on

4 Campus was published and the time that you

5 left?

6 A No.

7 Q Was that article that you made

8 reference to, the AIDS research article,

9 accepted by Rolling Stone?

10 A You know, it was on its way to

11 being accepted. You know, it still needed

12 some work, but it was very strong.

13 Q But at least it hadn't been

14 formally accepted yet, as you would

15 consider it, as of the time that you left?

16 A No, because we didn't have a

17 sort of -- yeah, I mean that's a kind of

18 vague term. So I'm not quite sure how to

19 answer that question.

20 Q Okay.

21 Let's go back to how this

22 agreement operated, in principal.

23 So you've entered into this

24 agreement with Ms. Erdely. She's a

25 contract writer. We know the term. We

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: right;">Page 86</p> <p>1 know how many articles she's got to<br/>2 provide. We know how much she's going to<br/>3 get paid for them. She has a story idea,<br/>4 kind of blank sheet of paper.<br/>5 Does she have to pitch Rolling<br/>6 Stone on a story before she really begins<br/>7 kind of substantive work on it?<br/>8 A Yes, yeah.<br/>9 Q What does that process look<br/>10 like?<br/>11 A Generally, a writer talking to<br/>12 either me or the editor about what they<br/>13 want to do next. And I would, you know, in<br/>14 almost every single case say, okay, well<br/>15 sort of give me a page or two sort of<br/>16 laying out the story that you want to<br/>17 write.<br/>18 Q And was that the process that<br/>19 was followed for the Campus Rape story?<br/>20 A Yes.<br/>21 Q And were you involved in<br/>22 discussing that with Ms. Erdely before that<br/>23 page or two was prepared?<br/>24 A I don't recall if I discussed it<br/>25 with her or with Sean woods.</p>              | <p style="text-align: right;">Page 88</p> <p>1 you know, when she had something, she'd<br/>2 write a proposal.<br/>3 Q And when, to the best of your<br/>4 recollection, did that sort of conversation<br/>5 occur?<br/>6 A I would probably guess, you<br/>7 know, in March or April. I mean, I feel<br/>8 like -- I don't exactly remember. You<br/>9 know, it was a good 6 or 8 months, maybe<br/>10 even more.<br/>11 Q Do you have a recollection<br/>12 relative to her coming to you to<br/>13 renegotiate her agreement when that<br/>14 discussion occurred?<br/>15 A No, I don't.<br/>16 Q Or when this agreement was<br/>17 entered into, which was middle of March?<br/>18 A Not relative to this, I don't<br/>19 remember, no.<br/>20 Q Who was involved at Rolling<br/>21 Stone in reviewing or approving the pitch<br/>22 that she made for the Campus Rape article?<br/>23 A Generally, the way it works is<br/>24 that we meet with Jann, you know, every 2,<br/>25 4, 6 weeks, depending on his schedule, and</p>                        |
| <p style="text-align: right;">Page 87</p> <p>1 Q Before you saw something in<br/>2 writing?<br/>3 A Yeah.<br/>4 Q To the best of your<br/>5 recollection, before you saw a written<br/>6 description of the proposed story, what do<br/>7 you remember being pitched to you?<br/>8 A Well, I think that -- I think<br/>9 the idea originally originated within the<br/>10 office of -- that we wanted to look at the<br/>11 subject of campus rape, campus sexual<br/>12 assault. You know, we sort of had that<br/>13 idea.<br/>14 Q And so that idea originated<br/>15 within Rolling Stone?<br/>16 A I honestly don't remember if it<br/>17 was my idea, or Sean's idea, or something<br/>18 that she had said to Sean, but, you know,<br/>19 the idea was there.<br/>20 Q And what was the next step in<br/>21 the process that you recall?<br/>22 A You know, I think Sean and<br/>23 Sabrina had many -- what I recall basically<br/>24 is it was decided that Sabrina was going to<br/>25 look into sexual assault on campus. And,</p> | <p style="text-align: right;">Page 89</p> <p>1 people bring proposals into the meeting and<br/>2 we discuss them among the staff.<br/>3 Q And so was that a meeting that<br/>4 Ms. Erdely attended?<br/>5 A No, just the editors at that<br/>6 meeting usually.<br/>7 Q So in terms of the story pitch<br/>8 review discussion, who specifically besides<br/>9 you, and Mr. Wenner, and Mr. Woods would be<br/>10 present for that discussion?<br/>11 A It would have been Jodi Peckman,<br/>12 Joe Hutchinson, Nathan Brackett, me, Sean<br/>13 Woods, sometimes Caryn Ganz the web editor,<br/>14 Christian Hoard was usually at those, he's<br/>15 one of the music editors -- yeah, I mean<br/>16 that's the basic team that was at those<br/>17 meetings.<br/>18 Q And what --<br/>19 A And Jason Fine was also there,<br/>20 who is now the editor also.<br/>21 Q Did those meetings have a name?<br/>22 A No. Just editorial meeting.<br/>23 Q And they would occur around<br/>24 Mr. Wenner's schedule?<br/>25 A Yeah. Generally, generally at</p> |



Page 90

1 least monthly, usually. I mean roughly, on  
2 a monthly basis.

3 Q And before an idea is surfaced  
4 with Mr. Wenner or discussed in that  
5 meeting, do you have that written proposal?

6 A Yeah. I was generally -- I  
7 would -- I will prepare the staff for the  
8 meetings, you know, discussing different  
9 editors' ideas, you know, sort of weeding  
10 out ones that I didn't think were worth  
11 discussing.

12 So by the time we took these  
13 ideas to Jann, you know, I had sort of -- I  
14 had shaped, you know -- I had been involved  
15 in discussing with each editor what he was  
16 going to pitch in the meeting.

17 So, generally, if it came up to  
18 Jann, I had already decided I wanted to do  
19 the story, you know.

20 Q Who pitched the Campus Rape  
21 article to Mr. Wenner?

22 A Well, I think Sean was the one  
23 who was sort of the lead person, because it  
24 was his story.

25 Q He was the speaking role?

Page 91

1 A Yeah, yeah.

2 Q And do you recall -- what  
3 discussion do you recall?

4 A I honestly don't recall the  
5 meeting.

6 Q Any -- did you have any  
7 discussion or meeting with Ms. Erdely,  
8 either with Mr. Woods or without him, about  
9 the Campus Rape?

10 A I don't recall talking to her  
11 about the story beforehand, because she was  
12 not in the office -- she was not in the  
13 office that much, because she lives in  
14 Philadelphia.

15 Q Okay.

16 A So, you know, writers who live  
17 in New York would be in the office more and  
18 would be sort of drifting into my office  
19 and chatting. You know, Sabrina was in the  
20 office much less. And so, generally, the  
21 more remote writers probably talked to  
22 their, usually talked to their editors  
23 directly rather than to me.

24 Q How often was Ms. Erdely in the  
25 New York office?

Page 92

1 A I would guess two or three times  
2 a year, you know. Not a lot.

3 Q And for what purposes would she  
4 come to the office?

5 A You know, she's in town. I mean  
6 sometimes it was for specific reasons. I  
7 think her parents lived in New York. So  
8 when she was in town, she'd come by and say  
9 hi. Sean would take her out to lunch. I'd  
10 talk to her beforehand. It was generally  
11 quite casual.

12 Q At any point specific to her  
13 work on the Campus Rape article, did she  
14 come to New York for any --

15 A Yeah, I don't recall.

16 Q I'm pretty sure I asked this.  
17 You don't recall having participated in any  
18 direct conversations with her about the  
19 article prior to the time it was pitched to  
20 Mr. Wenner?

21 A No.

22 Q And Mr. Woods, it was your  
23 expectation he and Ms. Erdely would have  
24 discussed the story before he pitched it  
25 to --

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1 A Oh, yeah, and they talked a lot.  
2 I mean they were in close touch.

3 Q And by the time it got pitched  
4 to Mr. Wenner, it was already kind of  
5 Sabrina's story, if you will, she was the  
6 contract writer --

7 A Yeah.

8 Q -- who would be working on it,  
9 and Mr. Woods would be the one obviously  
10 supervising the work?

11 A Yes.

12 Q And you say you don't recall the  
13 discussion.

14 Do you recall whether after that  
15 editorial meeting Mr. Wenner and the others  
16 assembled approved moving forward with the  
17 article?

18 A As I recall -- and this is  
19 really the vaguest recollection because  
20 it's more the -- I believe it was just,  
21 okay, go ahead and do it. You know, I  
22 believe there was not a lot of -- I mean, I  
23 would think -- if there was a lot of  
24 discussion about it in the meeting, I think  
25 I would remember it, but I think it was

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1 more just like, you know, Jann giving her  
2 the green light.

3 Q At that meeting, and I'm not  
4 necessarily saying specific to the Campus  
5 Rape story, but was there ever a discussion  
6 about what timetable you'd like to publish  
7 these story ideas that were being pitched  
8 on?

9 A You know, but we didn't really  
10 work -- you know, we kind of -- it was  
11 inexact science, you know, because this  
12 story didn't necessarily have a time peg.

13 So it was basic -- you know, we  
14 know a story like this is probably going to  
15 take someone 4 to 6 months to write. You  
16 know, that was just a guess.

17 So we weren't -- there was no --  
18 at the time the story was assigned, there  
19 was not any significant thought given to  
20 when it would publish other than we knew it  
21 was, you know, a 4 to 6-month time frame.

22 Q When you say time peg, are you  
23 saying that there wasn't a specific news  
24 event --

25 A No. It's like if Dave Grohl is

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1 releasing a new album, we want to make sure  
2 that we're going to publish that story to  
3 coincide with his new album. You know, so  
4 that's what I mean.

5 So stories like that are  
6 assigned with, you know, usually a hard  
7 date when we know we're going to publish  
8 them. A story like this, not so much.

9 Q So the best of your recollection  
10 was that at the time that the story was  
11 assigned, there was no specific time period  
12 for its publication?

13 A No, just a feeling that we will,  
14 you know, we will publish this sometime in  
15 the latter part of this year, early part of  
16 next year, you know, just a rough -- you  
17 know, that's not even something we're  
18 necessarily discussing. It's just my sense  
19 of how long these articles take.

20 Q At any point during the  
21 evolution of the Campus Rape article, did  
22 there come a point where there was a news  
23 event or a news peg or some event that  
24 caused you to want to publish it on a  
25 specific date or in a specific issue?

Page 96

1 A No. It was more that this was  
2 just something that was being discussed a  
3 lot in the media and society. So we knew  
4 it was an issue that was on people's minds.

5 Q But nothing --

6 A Nothing --

7 Q -- external that made it  
8 necessary or important, from your  
9 perspective, from a journalistic  
10 perspective, to publish it in the November  
11 19th issue?

12 A No, no, no, not specifically.

13 Q I'm going to hand you --

14 MS. McNAMARA: I was just going  
15 to see -- when it's good for you, I  
16 think we've been going almost an hour  
17 and a half. It might be a good time  
18 to take a quick break.

19 MR. CLARE: Sure.

20 MS. McNAMARA: But if you're in  
21 the middle of something --

22 MR. CLARE: I can probably do  
23 one more document and then we can go  
24 and we'll be at a decent breaking  
25 point.

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1 MS. McNAMARA: That's fine.

2 MR. CLARE: If you're okay with  
3 that -- yeah, we can.

4 (Whereupon, Exhibit 89 was  
5 marked for Identification.)

6 BY MR. CLARE:

7 Q Sir, I've handed you what we've  
8 marked as Plaintiff's Exhibit 89.

9 A Uh-huh.

10 Q I neglected to say this earlier,  
11 but it stands true that you're always  
12 welcome to take as much time as you'd like  
13 to review the document.

14 A Uh-huh, yeah.

15 Q To be fair to you. I will,  
16 throughout the day, direct you to specific  
17 parts that I'm going to ask you about, but  
18 I don't want to rush you.

19 A Yeah.

20 Q Not surprisingly, given our  
21 prior discussion, I've handed you a  
22 document which says Campus Rape, Sabrina  
23 Rubin Erdely at the top, and it's roughly a  
24 page, with a little bit more document  
25 that -- anyway, what is this document?



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1 A So this is the proposal she  
2 wrote for the story. This is what we would  
3 have presented to Jann at the editorial  
4 meeting before it was assigned.  
5 Q So everyone at the meeting knew  
6 Mr. Wenner, Mr. Woods, the other folks that  
7 you mentioned, all would have copies of  
8 this for discussion purposes?  
9 A Yes.  
10 Q And this would have been drafted  
11 and prepared by Ms. Erdely in consultation  
12 with Mr. Woods?  
13 A Yes.  
14 Q Did you or Mr. Woods, to your  
15 knowledge, have any editing that went into  
16 this document before it was presented?  
17 A I don't recall. I mean it's --  
18 I probably -- I would think I did not. I  
19 mean I basically had sort of broad  
20 discussions with Sean of what I thought the  
21 story should be, and then they went off and  
22 produced this.  
23 Q Okay.  
24 And it was at this particular  
25 pitch, this written manifestation of the

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1 pitch that was approved by Mr. Wenner?  
2 A Yes. I believe it was. I mean  
3 I can't be 100 percent sure, but that would  
4 be my conclusion.  
5 Q Were there any other written  
6 documents, or summaries, or story  
7 proposals, or anything, that is a sort of  
8 forward-looking description of what this  
9 story would be that were ever prepared for  
10 this story, to your recollection?  
11 A Not that I recall.  
12 Q How long during the meeting  
13 would each story proposal be discussed and  
14 in what level of detail?  
15 A You know, I would say there's --  
16 you know, there is no set thing. I mean  
17 some things would be like, okay, great, do  
18 it. Other things we talked about for 20  
19 minutes.  
20 Q So the first two paragraphs of  
21 this Plaintiff's Exhibit 89 sort of are,  
22 appear to me to be background, if you will,  
23 background information --  
24 A Yeah.  
25 Q -- about the relevance of this

Page 100

1 topic. And then what I understand at least  
2 to be the operative proposal is the  
3 paragraph that begins at the bottom of the  
4 page.  
5 A Uh-huh.  
6 Q Ms. Erdely writes, "I'd like to  
7 examine sexual assault on college campuses:  
8 The various ways colleges have resisted  
9 involvement, and (as was recently revealed  
10 at Occidental College) juke their stats to  
11 make their campuses appear safer than they  
12 are; how they may now be scrambling to  
13 clamp down (or sidestep liability); and  
14 especially how that dynamic is translating  
15 into daily social life and hookup culture.  
16 As the story's main thread, I'll focus on a  
17 sexual assault case on one particularly  
18 fraught campus, possibly at Yale, though  
19 the field is wide, following it as it makes  
20 its way up the university procedure to its  
21 resolution or lack thereof."  
22 A Uh-huh.  
23 Q Is that the story idea that was  
24 pitched to and approved by Mr. Wenner?  
25 A Yes.

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1 Q And what then was communicated  
2 to Ms. Erdely after this meeting, kind of  
3 thumbs up, go for it?  
4 A Yeah, I did not have that  
5 conversation, but that's what I would  
6 assume.  
7 Q Mr. Woods would have been the  
8 person to communicate that back to her?  
9 A Yeah, yeah.  
10 Q The pitch and the language that  
11 we just read identifies Yale as the  
12 possible candidate for the focus of the  
13 story, and of course that dovetails with  
14 some of the things earlier in the pitch.  
15 How is it, to your  
16 understanding, that the University of  
17 Virginia came to be the focus of the Campus  
18 Rape article?  
19 A You know, I know Sabrina did a  
20 lot of research, you know. You'd have to  
21 discuss with her exactly how she focused on  
22 that case because I, you know, I was not  
23 privy to that -- I mean not privy, you  
24 know, I was not talking to her through that  
25 period. So I think she and Sean had a lot

Page 102

1 of conversations about how to focus the  
2 story. I think Yale is on this because  
3 that was in the news when she wrote the  
4 pitch.

5 Q And so as far as your personal  
6 involvement, which is what we're here  
7 mostly to talk about --

8 A Yeah.

9 Q -- you walk out of this pitch  
10 meeting and Ms. Erdely and Mr. Woods --  
11 Ms. Erdely and Mr. Woods go off and work on  
12 the story. At some point Ms. Erdely  
13 decides to focus on the University of  
14 Virginia.

15 A Yeah.

16 Q That decision to focus on the  
17 University of Virginia and not focus on a  
18 particular instance at Yale was made  
19 without your involvement, is that correct?

20 A I believe so. I mean, I might  
21 have had some conversations in the hallway  
22 with Sean about it, but I don't recall  
23 exactly.

24 Q What do you recall about that?

25 A I mean what I basically -- I

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1 think my instructions to them were, I'm  
2 interested in, you know -- I use the  
3 metaphor of like a boa constrictor  
4 swallowed a mouse, and I just -- you know,  
5 I want to find a case like this and watch  
6 it move through the system just to  
7 understand how these cases are adjudicated  
8 within the administration.

9 Q And what parameters did you have  
10 for the case that you wanted to focus on?

11 A I don't think I conveyed  
12 distinct parameters.

13 Q What parameters in your -- well,  
14 what parameters did you discuss in terms of  
15 what would make a compelling read, or what  
16 would you have in mind for the --

17 A Well, you know, I would think  
18 just what makes a good story is you need  
19 conflict and timeliness and, you know, a  
20 sense of difficult issues being explored by  
21 the writer.

22 Q What involvement, if any, did  
23 you have in selecting the Jackie narrative  
24 to be the focus of the article?

25 MS. McNAMARA: Objection to

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1 mischaracterization.

2 BY MR. CLARE:

3 Q Sorry, let me rephrase to avoid  
4 that objection.

5 What involvement, if any, did  
6 you have on the selection of Jackie's  
7 narrative to be the lead in the article?

8 A I was not -- I did not discuss  
9 that with Sabrina or Sean.

10 Q And that decision was made  
11 either by Sabrina or Sean, or the two of  
12 them in --

13 A I would say by Sabrina.

14 Q And when that decision was made  
15 and when the narrative became destined to  
16 be the lead of the article, was that  
17 information disclosed to you at that time?

18 A I don't recall.

19 Q When did you first learn that  
20 Jackie's narrative would be the lead in the  
21 article?

22 A Probably when I read the first  
23 draft.

24 Q To the best of your  
25 understanding, I don't want to put words in

Page 105

1 your mouth, but the way you've described  
2 your role, it sounds to me like, at least  
3 at some level, sort of the gatekeeping  
4 function of Mr. Wenner, in terms of things  
5 that would get to him, and you would make  
6 sure things were ready for prime time  
7 before they go to Mr. Wenner?

8 A Yes.

9 Q Which makes sense given your  
10 position.

11 Do you have any recollection of  
12 having discussed that issue with Mr. Wenner  
13 at all, or Mr. Wenner having been apprised  
14 of it, even if not through you, prior to  
15 the first draft?

16 A No, I don't recall.

17 Q All right. You can put that  
18 document aside.

19 MR. CLARE: Let's take a break.

20 MS. McNAMARA: Thank you. Thank  
21 you very much.

22 THE VIDEOGRAPHER: This  
23 concludes tape number one. The time  
24 is 11:32 a.m. and we are off the  
25 record.



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1 (Recess taken 11:32 a.m.)  
2 (Resumed 11:48 a.m.)  
3 THE VIDEOGRAPHER: This begins  
4 tape number two. The time is 11:48  
5 a.m. and we are back on the record.  
6 BY MR. CLARE:  
7 Q Mr. Dana, I want to go back just  
8 very briefly to the discussion we had about  
9 independent contractor agreement and how  
10 that all works.  
11 A Yeah.  
12 Q So if an article is in the works  
13 for publication and Rolling Stone decides  
14 for whatever reason it's not going to  
15 publish an article that has gone all the  
16 way down the tracks, would that article  
17 count towards satisfying the writers'  
18 delivery obligations?  
19 A That is usually taken on a  
20 case-by-case basis.  
21 Q Has it ever happened where  
22 Rolling Stone made a decision to kill a  
23 story or not go forward with a publication  
24 for something and Rolling Stone has taken  
25 the position that it didn't count for

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1 purposes of the contract requirements?  
2 A You know, I believe it has, but  
3 you know, it's just -- there is such  
4 individualized decisions. It depends on  
5 the writer of the story, why it didn't  
6 work, you know, was it external factors  
7 that made it not work, or was it the  
8 writer's failings, you know.  
9 So it just -- I would say there  
10 are cases, but every case is sort of dealt  
11 with differently.  
12 Q All right.  
13 And in this particular one, I  
14 may have asked you a variant to this  
15 question already, but in this particular  
16 situation where the article was later  
17 retracted, did Rolling Stone consider A  
18 Rape on Campus to have been submitted and  
19 accepted by the magazine for purposes of  
20 Ms. Erdely getting paid for it and  
21 satisfying her delivery obligation under  
22 the agreement?  
23 A You know, we never had that  
24 discussion.  
25 Q But as far as you know, she

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1 continued to be paid in the ordinary course  
2 under the agreement?  
3 A Yeah.  
4 Q Before the break, you testified  
5 that you had broad discussions with  
6 Mr. Woods prior to he and Ms. Erdely going  
7 off and preparing the pitch.  
8 A Yeah.  
9 Q What do you remember about those  
10 conversations, how many of them there were  
11 and what the substance of them were?  
12 MS. McNAMARA: Objection.  
13 Compound.  
14 A Well, so --  
15 MS. McNAMARA: You can answer.  
16 BY MR. CLARE:  
17 Q You can answer.  
18 A Okay. First of all, how many, I  
19 have no recollection, absolutely none.  
20 The substance was, you know, as  
21 I said before, is let's just take one of  
22 these cases and follow it through the  
23 administrative adjudicative process, you  
24 know, disciplinary adjudication process,  
25 and understand the complexities,

Page 109

1 difficulties that college administrations  
2 have in trying to deal with what are  
3 essentially, you know, often times felonies  
4 which are dealt with through a college  
5 disciplinary system.  
6 Q Did you, to the best of your  
7 recollection, use your boa constrictor  
8 metaphor during those conversations?  
9 A Yeah, yeah.  
10 Q And was there any discussion  
11 that you had with Mr. Woods and Ms. Erdely  
12 about what particular types of cases would  
13 be, would frame up those issues that you  
14 had in mind, the difficulties of  
15 adjudication?  
16 A I don't think it was necessary  
17 discussion as to type of case, you know. I  
18 just was like go out and do some research  
19 and come back to me with what you guys  
20 find.  
21 Q And did they, in fact, come back  
22 to you with the identification of the  
23 article, of the particular narratives that  
24 they wanted to focus on for purposes of the  
25 adjudication prior to providing you with a



Page 110

1 completed first draft?

2 A There were probably some

3 conversations, but, you know, there was

4 nothing -- I mean, I would say with respect

5 to Sean and Sabrina, who I worked with for

6 a long time, they had done extremely good

7 work together for years. You know, so I

8 tended to sort of let them work -- you

9 know, with some writers I would be

10 involved, and editors I would be involved

11 asking questions constantly, you know --

12 you know, I'm running two magazines, so

13 like my time is, you know -- so with like

14 Sean and Sabrina, I kind of knew that I

15 didn't need to be as involved and I could

16 trust them to sort of, you know, to find

17 the story and, you know, and produce it

18 without me really being that involved.

19 Q During the time period that

20 Ms. Erdely was working as a contract writer

21 for the magazine, or as a freelance writer,

22 did she work with any editor other than

23 Mr. Woods?

24 A She worked with a guy named Eric

25 Bates who left the company, what, maybe 3

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1 or 4 years ago. I can't remember exactly

2 when he left.

3 Yeah, so -- because Eric Bates

4 was another feature editor. When he left,

5 Sean Woods stepped into his role, but

6 Eric -- Sean had worked underneath Eric.

7 So, you know, Eric would have

8 worked with Sabrina more directly, you

9 know. He would have worked more directly

10 with her than me.

11 Q Understood.

12 Okay. I want to -- I've been

13 asking you some specific questions about

14 the pitch and that sort of thing, and

15 you've given me some guidance on this.

16 Can you describe for me, in your

17 own words, what your role was in the

18 preparation of A Rape on Campus picking up

19 from the time that the story pitch was

20 approved in that meeting, what role did you

21 play?

22 A Well, I would say from when it

23 was pitched to us, you know, in the months

24 afterwards, very little role, you know.

25 As I said, you know, like I

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1 didn't feel that Sean and Sabrina needed a

2 lot of babysitting, you know.

3 You know, in my job there were

4 multiple urgent decisions to make every

5 single day, you know. So I didn't

6 necessarily have the time or the sort of

7 bandwidth to be on top of a story like

8 that, and I didn't need to be because they

9 had certainly proven themselves over the

10 preceding 7 or 8 years of just

11 automatically every few months turning in a

12 high quality story.

13 Q So did you have any involvement

14 in the story or article that you recall

15 between the time that the story idea was

16 approved at the editorial meeting and the

17 time that you received a first draft?

18 A It would be more like how's it

19 going, when do you think we're going to see

20 a manuscript. Sean would say she's in

21 deep, should be a few weeks. Those were

22 probably the tenor of our discussions.

23 Q Any discussion of the substance

24 of the article?

25 A Not that I recall.

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1 Q Or the direction that the

2 article had taken?

3 A I mean I knew she was focused on

4 UVA. And, you know, it didn't go beyond

5 that, a lot beyond that. I was not aware

6 of the particulars of the actual -- I mean,

7 I just knew it was -- it was concerning a

8 sexual assault at UVA, is what I knew.

9 Q Were you involved in editing,

10 copy editing the article?

11 A Copy editing.

12 Q Well, so editing the article,

13 let me start with that.

14 A Well, you know, I read the first

15 draft, gave some comments, you know, read

16 successive drafts. You know -- you know,

17 there is a difference between kind of a

18 more conceptual edit of let's have more of

19 this, less of that, you can cut this, but

20 you can -- you know, versus, you know,

21 sometimes in my role I'd be there, you

22 know, line editing and moving paragraphs

23 around. You know, I found with Sabrina's

24 work, I didn't really need to do that.

25 Q So you read a first draft and



Page 114

1 you provided comments?

2 A Yeah.

3 Q To whom did you provide the

4 comments and in what form?

5 A To Sean, I believe.

6 Q And what form did that take?

7 A It was probably, I probably

8 delivered him a manuscript with, you know,

9 things written in the margins and, you

10 know, we discussed it.

11 Q What do you recall about your

12 reactions to the first draft and what

13 comments for direction did you provide?

14 A I mean my recollection, it was

15 too long, and I just felt some of the --

16 you know, my basic memory is that some of

17 the complications of Title 9 needed to be

18 described better. You know, it was not --

19 I did not have a huge amount of comments.

20 Q And the best of your

21 recollection, this was in September?

22 A I believe so, yeah.

23 Q And at that point, Jackie's

24 narrative provided the lead for the story?

25 A Yes.

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1 Q Was there ever a version of the

2 article that you saw where that was not the

3 case?

4 A No.

5 Q What role, if any, did you play

6 in the illustrations that were placed with

7 the article?

8 A You know, I think I discussed

9 them with the art director in a very rough

10 way. This guy John Ritter is someone we

11 had used quite a bit and he was someone you

12 could send an article to and he would sort

13 of come back to you with his ideas of how

14 to illustrate it.

15 Q Specifically with regard to this

16 article, what role did you have with regard

17 to the illustrations?

18 A You know, I think it was

19 approving having Ritter do it. I don't

20 recall how much input I had into the

21 actual, you know, because sometimes the

22 illustrations would go through a number of

23 drafts, just like a story. I don't recall

24 how much in that process this particular --

25 I mean sometimes with illustrators, we'll

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1 send it back and have them start over

2 again. I don't recall that happening this

3 time.

4 Q What involvement, if any, did

5 you have in the fact checking process?

6 A No direct involvement. No

7 direct involvement. But I would not

8 customarily have direct involvement in the

9 fact checking process for a feature that I

10 was not editing myself.

11 Q And you did not consider

12 yourself to be editing this one yourself?

13 A No.

14 Q What role, if any, did you have

15 in the promotion of the article in the lead

16 up to its publication and the aftermath of

17 it in terms of promoting it with other

18 media outlets?

19 A I mean I think that, you know,

20 we would have a meeting -- after we'd close

21 the issue on Thursday, we'd have a Friday

22 meeting with the PR person, the head of the

23 website, and the top editors to discuss how

24 we were going to promote what would be in

25 the issue. So generally, that was the PR

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1 person kind of coming to us with a plan,

2 and then a discussion as to how we would

3 treat it in terms of posting it on the

4 website.

5 Q Tell me what you recall in terms

6 of that discussion about promoting A Rape

7 on Campus.

8 A You know, I don't recall any

9 specifics about it.

10 Q Who would have been involved in

11 that, the folks that you --

12 A I think it would have been

13 Melissa Bruno, the PR person; Caryn Ganz,

14 me, Nathan Brackett and Sean Woods

15 probably.

16 Q Is that something that Gus

17 Wenner would have been involved in?

18 A He was -- he occasionally came

19 to those meetings, but, you know, not very

20 often.

21 Q Did you consult directly with

22 Ms. Erdely on any issues about the article

23 prior to publication?

24 A Not that I recall.

25 Q So to the best of your

Page 118

1 recollection, after you saw the first draft  
 2 of the article, you had no either in-person  
 3 or telephone dialogue with her, realtime,  
 4 or e-mail dialogue with her about --  
 5 A I think I sent her an e-mail at  
 6 some point in the process saying nice job.  
 7 I don't recall a specific -- I mean there  
 8 is a very good chance I either saw her in  
 9 the office -- I mean she was probably in  
 10 the office. Generally, a lot of times the  
 11 writer will come to the office during the  
 12 fact checking process. So, you know, she  
 13 might have been there then, but I don't  
 14 remember.  
 15 Q You don't have a specific  
 16 recollection of that?  
 17 A No.  
 18 Q So let me just ask it in a clean  
 19 way.  
 20 Do you have any substantive  
 21 discussion or communication, even  
 22 electronically, with Ms. Erdely about any  
 23 substantive issue in the article between  
 24 the time of the first draft and the time it  
 25 was published?

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1 A Not that I recall.  
 2 Q Did you consult with Mr. Woods  
 3 on any substantive issue related to the  
 4 draft of the article prior to publication?  
 5 A Yes.  
 6 Q What were those issues, besides  
 7 the comments that you've already described  
 8 to me on the first draft.  
 9 A We probably -- we had many, many  
 10 discussions and I don't recall  
 11 specifically, you know, exactly what we  
 12 talked about, but, you know, a lot of  
 13 things come up in editing a story.  
 14 Q Did you discuss with Mr. Woods  
 15 directly issues relating to the selection  
 16 of Jackie's narrative as the lead for the  
 17 article?  
 18 A Well, I remember that I was  
 19 comforted by -- you know, that I was made  
 20 confident by the fact that she was letting  
 21 us use her first name, which gave me  
 22 confidence in her story, that she was  
 23 actually putting herself out there  
 24 identifiably telling the story.  
 25 Q Did you consult with Mr. Woods

Page 120

1 directly on any decisions that the magazine  
 2 made in terms of verification of Jackie's  
 3 story?  
 4 A I believe I did. But once  
 5 again, I don't remember a specific  
 6 conversation, but I'm sure I did.  
 7 Q What is your recollection of  
 8 your involvement in verification  
 9 discussions with Mr. Wood?  
 10 A You know, I honestly can't  
 11 remember a specific -- I mean there were  
 12 many, many discussions through that period,  
 13 some of it, but I don't remember exactly  
 14 what we talked about and when.  
 15 Q And what would be the setting  
 16 for these conversations with Mr. Woods?  
 17 A Either my office, his office,  
 18 you know, in the hallway, just -- you know,  
 19 I mean I talked to Sean 50 times a day  
 20 every day.  
 21 Q Did Mr. Woods ever express to  
 22 you, in words or substance, questions about  
 23 whether additional verification of Jackie's  
 24 narrative was reasonable, appropriate, or  
 25 necessary?

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1 A No. My understanding is that he  
 2 and the fact checkers believed her to be a  
 3 credible source and did not question it and  
 4 never raised concerns with me about her  
 5 credibility.  
 6 Q Did Mr. Woods speak with Jackie  
 7 directly at any point?  
 8 A I don't believe he did, but  
 9 you'd have to ask him that.  
 10 Q Besides Ms. Erdely and the fact  
 11 checkers, did anyone else at Rolling Stone  
 12 speak, communicate directly with Jackie to  
 13 your knowledge?  
 14 A Not to my knowledge.  
 15 Q You certainly didn't?  
 16 A I did not, no.  
 17 Q When Mr. Woods and you discussed  
 18 these issues over the course of the  
 19 preparation for the drafting of the  
 20 article, were there any issues that you  
 21 elevated to Mr. Wenner as it related to  
 22 this article?  
 23 A Not that I recall. I mean he  
 24 read the draft and was very positive about  
 25 it.



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1 Q He read the same draft you did,  
2 the first draft?

3 A I don't know if it was -- I  
4 don't know exactly which version he read,  
5 but it was -- he read it and, you know,  
6 liked it, and said move forward.

7 Q Did you have any discussions  
8 with Mr. Wenner, in words or substance,  
9 about Jackie's narrative, in particular?

10 A Not that I remember.

11 Q To the best of your  
12 recollection, how many different drafts or  
13 versions of the article did you read?

14 A I would guess three or four, you  
15 know, and plus all the different rounds,  
16 which I would have read.

17 Q So you distinguished between a  
18 round and a draft.

19 A The rounds are the one which are  
20 like when it's in the layout and, you know,  
21 and I read all those.

22 Q So your recollection is you read  
23 three to four drafts and then --

24 A Yeah, I mean I really -- I  
25 honestly don't remember how many drafts I

Page 123

1 read before it went into the production,  
2 but I'm sure I read every draft that came  
3 in.

4 Q Did Mr. Wenner review drafts  
5 prior to them going into production in the  
6 round phrase?

7 A I think we probably gave it to  
8 him when we thought it was ready to be -- I  
9 don't think he -- he read whatever draft he  
10 read, which was sort of prior to when we  
11 put the story into production, or prior to  
12 when we scheduled it, and I don't believe,  
13 I don't believe he read it again after  
14 that.

15 Q Okay.

16 A Which was very common.

17 Q Did Mr. Wenner provide any  
18 written comments or feedback on the article  
19 at any time?

20 A He -- as I recall, it was verbal  
21 feedback.

22 Q And was that feedback given  
23 directly to you?

24 A Yeah, either to me, and to me  
25 and Sean directly, I don't remember which.

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1 Q And to the best of your  
2 recollection, what was Mr. Wenner's verbal  
3 feedback?

4 A It had more to do with the  
5 length of the story and, you know, he just  
6 thought it was too long, because the first  
7 draft was considered longer.

8 Q I'm going to hand you what we've  
9 marked as Plaintiff's Exhibit 40.  
(Whereupon, Exhibit 40 was  
11 marked for Identification.)

12 BY MR. CLARE:

13 Q Is Plaintiff's Exhibit 40 an  
14 example of something that you would refer  
15 to as a round?

16 A Yeah, this is round one.

17 Q And is this -- this is after, in  
18 the production process, this is after an  
19 article or a draft has been moved into  
20 production, is that --

21 A Yes.

22 Q And is the routing here that's  
23 listed all the people that would typically  
24 get a copy of round, executive editor,  
25 managing editor, assignment editor,

Page 125

1 research, photo 2, and art?

2 A Yeah, but this is sort of -- it  
3 would have gone to more people than this.  
4 This is sort of an old stamp and wasn't  
5 necessarily followed.

6 Q What is the designation at the  
7 bottom that says illustration final, what  
8 does that signify?

9 A That's just -- that's something  
10 that we do just to check one last time --  
11 that's more -- that usually tends more to  
12 the final, to sort of the final version of  
13 the story to make sure that there is  
14 nothing in the illustration that would  
15 cause problems.

16 Q Okay.

17 There is obviously a lot of  
18 marks on this document, Plaintiff's Exhibit  
19 40.

20 A Uh-huh.

21 Q Do you have an understanding as  
22 to what these marks in terms of the  
23 different colors and the notations and  
24 things, what they signify?

25 A I'm not entirely sure

Page 126

1 specifically what each one means.

2 Q Okay.

3 Generally, though, is this

4 something that would be part of the fact

5 checking process?

6 A Yeah, I believe this is the fact

7 checker, but I'm not positive, but it looks

8 like -- I recognize the handwriting.

9 Q Whose handwriting is it?

10 A I believe it's Liz

11 Garber-Paul's.

12 Q And some of it is in actually

13 different color.

14 A Yeah. I'm not sure what the

15 different colors mean. This is their

16 process, and I'm not entirely sure.

17 Q All right.

18 Which handwriting do you

19 recognize as Ms. Garber-Paul's?

20 A I mean I'm guessing because I'm

21 not positive.

22 Q It's okay.

23 A It looks like it's all the same

24 handwriting to me, though.

25 Q And there are a lot of questions

Page 127

1 and notations and things in here that

2 appear to me to be at least part of the

3 fact checking process or that sort of

4 thing.

5 Who is responsible at the

6 magazine for making sure that any gaps in

7 reporting, attribution, verification that

8 are identified during the editing or fact

9 checking process are resolved

10 satisfactorily?

11 A It generally comes down to the

12 story editor.

13 Q So that would be Mr. Woods?

14 A Mr. Woods, yeah.

15 Q And so he has ultimate

16 responsibility for making sure that the

17 reporting attribution and verification is

18 all correct?

19 A Yes.

20 Q And that's as between him and

21 the fact checking department?

22 A Yeah.

23 Q He bears that ultimate

24 responsibility?

25 A Yeah. And then often times in

Page 128

1 stories if there are outstanding questions,

2 I would be brought in.

3 Q Okay.

4 For this article, were there any

5 questions or issues raised during the fact

6 checking process about the reporting,

7 attribution, or verification for this

8 article that were brought to your

9 attention?

10 A No substantial ones that I

11 recall.

12 Q Well, I have to ask you, given

13 the way you phrased your answer, what do

14 you recall having been brought to you as a

15 result of --

16 A Well, I'm sure that things were

17 brought to me, and I just honestly, you

18 know -- I mean essentially what would

19 generally happen is that I'd be checking

20 and saying how are things going, how are

21 things going, and I'd be told it's okay.

22 And usually if there were bigger problems,

23 the -- either Coco, Sean, or Liz would come

24 to me if they sort of needed another, you

25 know, if they needed a judgment.

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1 Q Did Sean, Liz, or Coco -- and I

2 apologize for the informality of using

3 their first names --

4 A Yeah.

5 Q But did anyone of them ever come

6 to you with an issue that needed your

7 judgment as to this article?

8 A Not that I recall. My

9 recollection is, and -- you know, my

10 feeling is that there was nothing brought

11 to me that caused me to doubt Jackie's

12 credibility during this process.

13 Q You obviously know a lot more

14 now --

15 A Yes, yes.

16 Q -- than you did at the time of

17 this. Now that you've had a chance to

18 reflect backwards on this --

19 A Yeah.

20 Q -- were there issues during the

21 fact checking, editorial, attribution

22 verification process that you believe were

23 bigger judgments that should have been

24 brought to your attention?

25 A I mean it would be easier if we



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1 went through specifically and, you know --

2 Q Well, we'll do that, I promise

3 you, but in your mind are there things that

4 you, judgments that were made that should

5 have been brought to you?

6 A Not necessarily, because I think

7 given what they were working with, the

8 backup they had, the sources they had, you

9 know, they believed that she was a credible

10 source. And there was nothing in their

11 fact checking that caused them to question

12 her credibility.

13 Q At least nothing was brought to

14 your attention?

15 A Yeah.

16 Q Is there ever an instance where

17 you think it would be necessary or

18 appropriate for a story editor, Mr. Woods

19 in this case, to speak directly with a

20 source?

21 A Yes, certainly, it happens, yes.

22 Q Okay.

23 Under what circumstances is that

24 appropriate or necessary?

25 A You know, once again, there are

Page 131

1 so many variables that it's hard to say,

2 you know.

3 Q Were there other instances in

4 your tenure as managing editor of Rolling

5 Stone where you thought it was necessary or

6 appropriate, or Mr. Woods thought it was

7 necessary or appropriate for him to speak

8 directly with a source in order to

9 ascertain credibility or verification of

10 things?

11 MS. McNAMARA: Objection. Calls

12 for speculation, as to Mr. Woods. He

13 can speak for himself.

14 A In my case, generally, I

15 would -- it was usually the writer that had

16 the relationship with the source, and I

17 would send the writer back to talk to the

18 source more.

19 I'm sure there are times when I

20 talked to sources, nothing exactly comes to

21 mind right now, but, you know, I edited

22 hundreds of stories in my tenure there.

23 Q Put that aside for the moment.

24 Whose idea was it to include an

25 illustration of Dean Eramo in the article?

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1 A I would assume that was brought

2 up by the art director in consultation with

3 the editors.

4 Q And that art director was?

5 A Joe Hutchinson.

6 Q In consultation with Mr. Woods?

7 A Yeah. And I'm certain I was

8 consulted also.

9 Q And this was prior to

10 commissioning such an illustration?

11 A Yeah.

12 Q What do you recall about that?

13 A I don't recall the specific

14 discussions, but, you know, we had -- once

15 again, these discussions were often on the

16 fly, you know, they were quick, they were,

17 you know, them telling me what they want,

18 what they thought, and me saying, well, how

19 about doing it this way, you know.

20 So I'm sure that we talked, but

21 I just honestly don't recall, because I had

22 20 of those conversations every day, every

23 week.

24 Q Did -- to the best of your

25 recollection, it was Mr. Hutchinson's idea

Page 133

1 to include an illustration of Dean Eramo?

2 A Yeah, I would assume that it was

3 his idea, or his idea in consultation with

4 me to use -- you know, we had a few of

5 these kind of photo illustrators that we

6 used, and I think we -- I don't remember

7 exactly whose idea it was, but it was very

8 customary in doing feature stories that we

9 would have someone from the stable, and

10 sort of photo illustrations of people to do

11 an illustration for a story.

12 Q Did you agree with the idea that

13 it would make sense or enhance the article

14 in some way to have an illustration of Dean

15 Eramo?

16 A I'm sure I did, you know. I

17 don't recall saying so, but yes, I mean I

18 would have been consulted and I would have

19 said that's a good plan.

20 Q Why did you think it was

21 important or a good plan to include an

22 illustration of Dean Eramo in the article?

23 A Because she seemed to be an

24 identified person in the story who was

25 featured quite prominently.

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1 Q Did you have direct interactions  
2 with Mr. Ritter?

3 A I did not, no. I've never met  
4 him.

5 Q What interactions, if any, did  
6 you have with Mr. Hutchinson as it related  
7 to the illustration of Dean Eramo?

8 A Once again, I don't recall the  
9 specific interactions, but I can tell you I  
10 talked with Joe every day, many many times  
11 a day, about many different things. So I  
12 certainly had discussions with him, and  
13 whatever he did, I was -- was under my  
14 direction or assent.

15 Q Would that include the final  
16 illustration of the Dean that was placed in  
17 the article?

18 A Yes.

19 Q You had to approve or sign off  
20 on that?

21 A Yes, yeah.

22 Q Did Mr. Wenner have to approve  
23 or sign off on the final illustration?

24 A Yeah, because he sees all the  
25 layouts. So if he didn't like an

Page 135

1 illustration, he would have said come and  
2 change this.

3 Q Was Mr. Wenner consulted at all  
4 about what illustrations would be useful or  
5 a good idea to have in the article prior  
6 to --

7 A I don't recall. I doubt he was,  
8 but he might have been.

9 Q What interaction, if any, did  
10 you have with -- is it Mr. Maltais?

11 A Maltais, yeah.

12 Q What interactions did you have  
13 with him as relates to --

14 A You know, many, many -- talking  
15 to him all the time.

16 Q Do you recall any specific to  
17 the illustration of Dean Eramo?

18 A No.

19 (Whereupon, Exhibit 28 was  
20 marked for Identification.)

21 BY MR. CLARE:

22 Q I'm going to hand you what we've  
23 marked as Plaintiff's Exhibit 28.

24 Plaintiff's Exhibit 28 is a  
25 two-page document. It's an e-mail thread

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1 that starts at the bottom, obviously from  
2 Mr. Ritter to Mr. Maltais, the subject UVA  
3 Dean spot sketch, and then there is  
4 attached an illustration of Dean Eramo.

5 Mr. Maltais forwards that to  
6 Mr. Hutchinson on November 10th at 3:54 in  
7 the afternoon.

8 Then at 5:10 in the afternoon,  
9 it appears that Mr. Hutchinson forwards  
10 that thread to you with the statement that  
11 says, "I think this is working pretty  
12 well."

13 A Yeah.

14 Q "The woman shown here wearing  
15 the necklace is Nicole Eramo, the dean in  
16 the story."

17 Do you see that?

18 A Yeah.

19 Q And you respond to that e-mail  
20 with the statement, "This is great!"

21 A Uh-huh.

22 Q Is that correct?

23 A Yes.

24 Q Did you type those words to  
25 Mr. Hutchinson, Mr. Ritter, and Mr. Maltais

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1 as it relates to this article?

2 A Yes.

3 Q I'm sorry, as it relates to this  
4 illustration.

5 A Yeah.

6 Q You added Mr. Ritter and  
7 Mr. Maltais back to the e-mail thread when  
8 you replied.

9 Do you see that?

10 A Yes.

11 Q Why?

12 A Just because I think people like  
13 to hear that the boss likes their work.

14 Q And you wanted to give praise  
15 directly to Mr. Ritter and Mr. Maltais for  
16 their work?

17 A Yes.

18 Q As it relates to this  
19 illustration?

20 A Yeah.

21 Q And the "this" that you're  
22 referring to in your response is the  
23 illustration of Dean Eramo?

24 A Yes.

25 Q Why the exclamation point?



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1 A You know, I probably overuse  
2 exclamation points.  
3 Q Okay.  
4 A You know, I like to be  
5 enthusiastic with, you know, people.  
6 Q And were you, in fact,  
7 enthusiastic about this illustration?  
8 A Yeah, I really -- I'm a big fan  
9 of John Ritter's work, in general.  
10 Q And in specific, as it relates  
11 to this illustration, were you enthusiastic  
12 about it?  
13 A Yeah, I thought it was a good  
14 piece of art.  
15 Q What did you think was great  
16 about the sketch?  
17 A You know, I like his style a  
18 lot. You know, I thought that it -- I  
19 thought it communicated some of the  
20 complexities of the story.  
21 Q By this time, and I mean  
22 November 10, 2014, at the time that you  
23 were commenting on the illustration, you  
24 had read drafts of the article, is that  
25 correct?

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1 A Yes, yes.  
2 Q And you knew that Nicole Eramo  
3 was the Dean that was referenced in the  
4 story, correct?  
5 A Yes.  
6 Q Did you ask for any changes to  
7 be made to the illustration?  
8 A Not that I recall.  
9 Q Were you consulted at any point  
10 before this draft was sent to you about  
11 iterations of it, or versions of it, or  
12 what it should look like?  
13 A I don't know if -- I don't  
14 recall there being different versions of  
15 the illustration. There very well might  
16 have been, but I don't recall.  
17 Q To the best of your  
18 recollection, you were not consulted on any  
19 iteration?  
20 A I don't even know if there were  
21 iterations, is what I'm trying to say.  
22 Q And having seen now this  
23 illustration on November 10th, did you  
24 think it was a good idea for inclusion in  
25 the layout of the article?

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1 A Yes.  
2 Q Did you approve the inclusion of  
3 this illustration of Dean Eramo in the  
4 article?  
5 A Yes.  
6 Q Who else besides -- well, strike  
7 that.  
8 Who else besides you were  
9 involved in approving this illustration for  
10 inclusion in the article, all the people?  
11 A I mean I was the authority. I  
12 was the person who had responsibility to  
13 approve or disapprove the illustration.  
14 If someone had had a serious  
15 problem with it, they might have come to me  
16 and said I hate this illustration, let's  
17 rethink, and I would or would not have  
18 listened to them.  
19 Q Did anyone raise any issues,  
20 with regard to this illustration, to your  
21 attention?  
22 A No. I mean, I don't recall and  
23 I'm pretty sure that no one did, but I  
24 don't recall it.  
25 Q All right.

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1 I'm going to show you what we've  
2 marked as Plaintiff's Exhibit 39.  
3 And if you'd leave this one out  
4 in front of you, too, you might consider  
5 that in consultation with this one.  
6 A Okay.  
7 (Whereupon, Exhibit 39 was  
8 marked for Identification.)  
9 BY MR. CLARE:  
10 Q Just to orient both of us to  
11 this document, this one, Plaintiff's  
12 Exhibit 39, has on the stamp on the bottom,  
13 it says type final.  
14 A Yes.  
15 Q What does type final signify?  
16 A It goes from round one type  
17 final. So type final is basically the last  
18 time that substantial changes should be  
19 made to an article before it goes to  
20 production final. And then once it's in  
21 production final, it's generally just  
22 supposed to be color corrections and things  
23 like that.  
24 Q And so this is the very, very  
25 late stage of production process?

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1           A       Yeah. So we make changes in  
2 round one, and then we read over the  
3 changes in type final basically and make  
4 further changes. And then in production  
5 final, we read it again with the idea of  
6 seeing how those changes work, but the idea  
7 is in production final the editorial  
8 changes should be minimal and necessary,  
9 not just kind of, hey, what about this.

10          Q       Okay.

11               Do you recognize any of the  
12 handwriting on Plaintiff's Exhibit 39?

13          A       It looks to be the same as the  
14 other ones. I assume it's Liz Garber-Paul.

15          Q       Okay.

16               If you turn over to the page of  
17 Plaintiff's Exhibit 39 that has the  
18 illustration of Dean Eramo on it, which at  
19 the very bottom it's RS 004856, I'm going  
20 to be very specific about the way I ask  
21 these questions.

22          A       Okay.

23          Q       Do you see -- this is a yes or  
24 no question -- do you see that someone has  
25 notated next to the illustration the phrase

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1 "is this too mean?"

2          A       Uh-huh.

3          Q       Do you see that?

4          A       Yes.

5          Q       Do you recognize that  
6 handwriting?

7          A       I believe it's Liz Garber-Paul.

8          Q       Did anyone bring to your  
9 attention the question of whether the  
10 illustration of Nicole Eramo in the article  
11 was "too mean"?

12          A       Well, I --

13               MS. McNAMARA: And, wait. I  
14 just caution you to the degree to  
15 accurately answer that question  
16 involves any communications with  
17 counsel, I instruct you not to answer.  
18 If anybody spoke to you about that  
19 statement independent of counsel, you  
20 can answer the question.

21               THE WITNESS: Yeah.

22 BY MR. CLARE:

23          Q       That's what I'm asking.

24          A       I don't recall, but I also think  
25 that I read it and thought it was not -- I

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1 mean I have a vague memory of maybe I'm  
2 mis-recalling it, but I think I asked for  
3 the caption to be rewritten as well, but I  
4 would not have done that -- you know, I  
5 would have done that more verbally.

6          Q       Okay.

7               And you say what do you recall  
8 about the caption?

9          A       Just that I thought we were, you  
10 know, it needed to hit -- we needed to hit  
11 another point in the display copy, you  
12 know, which I thought the more important  
13 thing was that this woman was very  
14 well-respected on campus and was in a very  
15 difficult position.

16          Q       As it relates specifically to  
17 whether the illustration was too mean or  
18 not, do you recall any discussions with  
19 anyone having brought that to your  
20 attention?

21          A       No. I think what I thought of  
22 was the caption.

23          Q       Did you see this question that  
24 was posed, apparently --

25          A       No, I would not have seen this

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1 fact checker copy, customarily.

2          Q       All right.

3               Putting this fact checker copy  
4 aside, if -- let me, before we do that --  
5 obviously, someone here is raising the  
6 question is this too mean.

7               Did you have any role  
8 whatsoever, and I want you to exclude  
9 conversations with counsel, if there were  
10 any, in resolving Ms. Garber-Paul's  
11 question is this illustration too mean?

12          A       Well, you know, I think I was  
13 not responding to this question, because I  
14 didn't see this version. I was responding  
15 to the caption saying that I think, can you  
16 guys redo the caption.

17          Q       My question is kind of separate  
18 from that, though.

19          A       And the thing is, I don't -- I  
20 want to say that I don't recall  
21 specifically what I said, so I don't want  
22 to -- you know, but I'm pretty sure that I  
23 said to Sean let's redo that caption.

24          Q       Caption aside, in terms of the  
25 illustration itself, did anyone, anyone on



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1 your team, excluding counsel, if there were  
 2 any such communications, raise with you the  
 3 question of whether the illustration itself  
 4 was too mean?

5 A Not that I recall.

6 Q And did you think, independent  
 7 of this question being asked, did you think  
 8 when you reviewed the draft and saw the  
 9 illustration, that the illustration of Dean  
 10 Eramo was too mean for publication?

11 A No, but I also think that, you  
 12 know, I see the caption and the  
 13 illustration as one piece. So I think, to  
 14 me, having a caption that said that she was  
 15 beloved on campus brought a level of  
 16 complexity to it that made it to me  
 17 appropriate.

18 Q If you had reached the  
 19 conclusion that the illustration of Dean  
 20 Eramo was too mean for publication, would  
 21 you have approved it for illustration for  
 22 inclusion in the article?

23 MS. McNAMARA: Objection. Calls  
 24 for speculation.

25 A Yeah, I mean it's hard to -- I

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1 mean -- it's hard for me to answer a  
 2 hypothetical question like that, you know.

3 Obviously, I make a lot of  
 4 decisions every day, and I make a lot of  
 5 decisions that disappoint people on staff,  
 6 and, you know, I call for often enormous  
 7 changes at the last minute, so.

8 Q Have you ever called for changes  
 9 or killed illustrations in articles?

10 A Oh, many times, yeah.

11 Q On what grounds?

12 A Either I wasn't happy with the  
 13 execution, the concept, the idea, you know,  
 14 many -- there are so many different grounds  
 15 that it's, you know, that -- for many  
 16 different reasons.

17 Q Okay.

18 So if for any of those reasons,  
 19 including editorial tone, or the content of  
 20 it, the illustration, you didn't think was  
 21 appropriate, you had the ability to stop or  
 22 pull it out?

23 A This, yeah.

24 Q Including at the type final  
 25 phase?

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1 A Yeah. I mean, generally, I  
 2 would have -- if I'm going to kill an  
 3 illustration, I would have done it earlier.  
 4 Because by the time it's gotten here, I've  
 5 made up my mind.

6 Q And is it fair to say that the  
 7 e-mail we looked at earlier, Plaintiff's  
 8 Exhibit 28, reflects your communication of  
 9 your earlier consideration of this  
 10 illustration and approval of it?

11 A Yes.

12 Q Thank you. You can put that  
 13 aside.

14 You said that the illustration,  
 15 one of the things you liked about the  
 16 illustration is that it conveyed the  
 17 complexities in the article.

18 A Yeah.

19 Q How does it do that?

20 A Well, it shows a woman here  
 21 looking serious and looking like she's  
 22 focused on doing her job with people behind  
 23 her protesting.

24 Q Okay.

25 Anything else?

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1 A And, you know, it says here's a  
 2 beloved figure in the caption right there.

3 Q When you approved the  
 4 illustration, or in Plaintiff's Exhibit 28,  
 5 was there a caption that accompanied it?

6 A No.

7 Q In fact, the caption that was  
 8 slated to accompany it was something  
 9 different?

10 A No, the caption comes later,  
 11 yeah, but it's still an integral part of  
 12 the whole thing.

13 Q Were there any other  
 14 complexities in the illustration that you  
 15 thought were effectively carried out?

16 A I just thought it was a good  
 17 piece of art. You know, I like this guy's  
 18 style a lot. You know, it's purely an  
 19 interpretive illustration.

20 Q Did -- do you believe that the  
 21 illustration -- illustrative -- I'm sorry,  
 22 interpretive illustration?

23 A Yeah. We would call it a photo  
 24 illustration.

25 Q Okay.

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1 Do you think that the photo

2 illustration accurately interpreted Dean

3 Eramo as portrayed in the article?

4 A Yes.

5 Q I now want to go back to a topic

6 we covered briefly earlier about terms of

7 promoting the article.

8 A Yeah.

9 Q As I understood your prior

10 testimony, after the article is or the

11 issue is kind of put to bed, there is a

12 meeting that's specifically promotional?

13 A Yeah.

14 Q What do you recall about

15 promotional efforts related to A Rape on

16 Campus?

17 A I don't recall specific

18 promotional efforts.

19 Q Do you recall that Rolling Stone

20 took efforts to promote the article on

21 social media?

22 A Well, you know, we promote --

23 everything that goes out is promoted on --

24 I mean there -- I don't think there were

25 any special efforts, but, you know, when we

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1 put up stuff, part of it is that someone is

2 going to be tweeting about the story or

3 posting it on Facebook.

4 Q And is that part of a strategy

5 that the magazine has in terms of promoting

6 its contents?

7 A I'd say it's part of an overall

8 customary practice. If we post something,

9 there would generally have been elements on

10 social media along with the posting.

11 Q And, in fact --

12 A And I don't think we did

13 anything that was out of the ordinary for

14 this story.

15 Q For a feature story like A Rape

16 on Campus, that would be included in

17 something that you would promote on social

18 media?

19 A I mean, I think almost

20 everything that's posted on the website is

21 promoted in some form of social media.

22 Q Who within the organization is

23 responsible for doing that?

24 A There was a woman who was sort

25 of a social media coordinator name Shara

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1 something -- is that her name -- I can't

2 remember her name, Shara something.

3 MS. McNAMARA: Don't ask.

4 Just -- you're here to tell your best

5 recollection.

6 BY MR. CLARE:

7 Q How would you spell Shara?

8 A I believe it's S-H-A-R-A -- and

9 I can't remember her last name.

10 Q And what was her role?

11 A Just -- she was the one who

12 pushed stuff out on social media.

13 Q Was she part of these

14 promotional meetings?

15 A Yeah, she was generally -- what

16 she did was at the direction of Caryn Ganz,

17 who's head of the website. And she might

18 have also been in this PR meeting, I

19 forgot. I did not have a lot of direct

20 communication with her.

21 Q What about advanced copies of

22 the articles itself to providing them to

23 key --

24 A That was generally decided by

25 the PR team, and I didn't tend to have a

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1 lot of input into that.

2 Q Was that a decision that was

3 made at these PR meetings, or subsequent to

4 them?

5 A Yeah, but more or less it would

6 be like, okay, I'll send it out to my list,

7 you know, that was sort of the way the

8 discussion was. I mean, I doubt -- I did

9 not often get involved in, you know, make

10 sure so-and-so gets this, because, you

11 know, they had people that they had

12 relationships with.

13 Q And to your understanding, as

14 managing editor, what was the purpose of,

15 you know, her sending it out to people on

16 her list and advanced copies of the

17 article?

18 A Well, because it was just

19 customary things we did every 2 weeks, was

20 sending hard articles out.

21 Q What about media alerts or press

22 advisories or summaries of the article that

23 would go out to other people, was that also

24 part of the --

25 A Yeah, but that would generally



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1 be done without much input from me, because  
 2 they had sort of customary things that they  
 3 would do.  
 4 Q As it related to --  
 5 A What I'm trying to say is I  
 6 don't recall there being any special level  
 7 of promotion for this story beyond what we  
 8 would do for an average story.  
 9 Q Did you anticipate given either  
 10 the subject matter of the story or the  
 11 content of it that there would be  
 12 additional attention on this article at the  
 13 time it was published?  
 14 A No, but I find it's -- you know,  
 15 sometimes stories you think are going to  
 16 get a huge amount of attention don't, other  
 17 times, you know -- so I tend not to -- I  
 18 mean, I tend to find it to be a very hard  
 19 thing to predict. We've had stories that I  
 20 thought would just be huge that didn't get  
 21 a lot of attention, you know. So I don't  
 22 remember thinking one way or the other,  
 23 boy, this story is going to get a lot of  
 24 attention once we publish it.  
 25 Q As part of the post

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1 publication -- strike that.  
 2 After the publication of the  
 3 article, Ms. Erdely made several media  
 4 appearances.  
 5 A Yeah.  
 6 Q Did Rolling Stone encourage or  
 7 coordinate media appearances for its  
 8 contributing editors for articles they had  
 9 written?  
 10 A Yeah, and certainly it was a  
 11 kind of -- she seemed interested in  
 12 promoting it, you know, so she was, I  
 13 think, worked a lot with Melissa Bruno  
 14 saying, you know, get me out there. Once  
 15 again, I would not have been so involved in  
 16 that.  
 17 Q Do you recall any discussion  
 18 about whether Ms. Erdely should do media  
 19 appearances in connection with the article  
 20 either before or after publication?  
 21 MS. McNAMARA: I'm sorry, you  
 22 understand where he's going, but in  
 23 order for the record to be clear, he  
 24 needs to finish.  
 25 A I'm sorry, so finish.

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1 Q Now I can't remember what I was  
 2 going to ask.  
 3 Do you recall any discussion,  
 4 either before or after publication, about  
 5 whether Ms. Erdely should do media  
 6 appearances in connection with the article?  
 7 A No, but what I will say is that  
 8 I was generally in favor of writers getting  
 9 out there to promote their stories, you  
 10 know, whatever it was. And my feeling, in  
 11 general, was if the person -- you know, if  
 12 the writer wants to do media and media is  
 13 interested in them, get them out there.  
 14 Q And --  
 15 A But I wasn't involved so much in  
 16 call up Brian Lehrer, call up MSNBC. You  
 17 know, I kind of let them work it out. You  
 18 know, it was like you guys figure out what  
 19 you want to do and generally execute the  
 20 strategy, and you can consult me if you  
 21 need to, but, you know, you basically know  
 22 my interest is that we get people out there  
 23 talking about the magazine.  
 24 Q Was there anything different  
 25 about this article, A Rape on Campus, that

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1 caused you to have different feelings about  
 2 whether Ms. Erdely should be out promoting  
 3 the article or not?  
 4 A At what point?  
 5 Q Well, prior to and immediately  
 6 after publication.  
 7 A No.  
 8 Q Did, at some point, that change?  
 9 A Well, yeah, it changed later,  
 10 but I wouldn't say -- it didn't change -- I  
 11 mean for the first few days, no.  
 12 Q What event in your mind prompted  
 13 a reconsideration of whether it made sense  
 14 for Ms. Erdely to be out promoting the  
 15 piece?  
 16 A Well, I think it really wasn't  
 17 until December, was it 3rd or 4th, when we  
 18 found out, when we sort of discovered the  
 19 depth of Jackie's lack of credibility that  
 20 I thought we should stop speaking about the  
 21 article.  
 22 Q And was then an affirmative  
 23 decision at that point to stop speaking  
 24 about the article?  
 25 A Yeah, but I think it was also,

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1 everybody kind of realized it  
2 simultaneously.

3 Q If we wanted to go to someone  
4 within Rolling Stone who would have worked  
5 most closely with Ms. Erdely in terms of  
6 the media promotions and appearances that  
7 she did before that time, who would that  
8 be?

9 A I believe it would be Melissa  
10 Bruno who actually left the company to move  
11 to L.A. with her family, like, you know, in  
12 the immediate aftermath. I mean she had  
13 already -- her husband got a job in L.A.  
14 and, you know, they were in the process of,  
15 you know, when this was all going on. But  
16 I think she had -- yeah, so she would be  
17 the person to talk to. I don't know  
18 exactly where she is now.

19 (Whereupon, Exhibit 48 was  
20 marked for Identification.)

21 BY MR. CLARE:

22 Q I'm going to hand you what we've  
23 marked as Plaintiff's Exhibit 48.

24 Mr. Dana, I've handed you a  
25 two-page document, Plaintiff's Exhibit 48.

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1 A Uh-huh.

2 Q Which appears to be an e-mail  
3 from Ms. Bruno with, to a whole bunch of  
4 folks BCC'd.

5 A Right.

6 Q And then the Rolling Stone logo  
7 and then --

8 A Yeah.

9 Q Do you recognize this document  
10 or this type of document?

11 A I recognize this type of  
12 document. I believe I'm seeing this for  
13 the first time ever right now.

14 Q Okay.

15 What is this -- what type of  
16 document is this, to your recollection?

17 A This is a, you know, a press  
18 release, usually accompanied -- I mean is  
19 there -- oh, yes, so there's a link to the  
20 story, yeah.

21 Q And who would prepare this?

22 A Melissa Bruno.

23 Q Would she prepare it as a matter  
24 of course in consultation with the story  
25 editor or the author?

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1 A More the story editor. I mean  
2 she probably said in our PR meeting, you  
3 know, I'll prepare a blast out to my  
4 people, you know, to my list. And I would  
5 have said great, and that would have been  
6 probably as much as I thought about it.

7 Q And these people here shown in  
8 the BCC field, that's kind of what you're  
9 describing as her list?

10 A I would assume so. I mean, I  
11 don't know exactly why these people were  
12 chosen, but, you know, she was very good at  
13 her job and I respected her a lot, so.

14 Q And was this type of document,  
15 Plaintiff's Exhibit 48, this press release,  
16 part of an effort by Rolling Stone to  
17 promote A Rape on Campus to various media  
18 outlets?

19 A Yeah, you could say that, yes.

20 Q Would you or did you review and  
21 approve this prior to sending it out?

22 A Yeah.

23 Q Would you take a look at the  
24 description, please.

25 A Uh-huh.

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1 Q Read it to yourself and then I  
2 have a couple of questions for you.

3 A Okay.

4 Q Do you think that this press  
5 release is a fair summary of the article?

6 A More or less, yes.

7 Q Okay.

8 Is there anything in here you  
9 would disagree with in terms of how it  
10 summarizes the article?

11 A I mean I just, like I would have  
12 maybe done some line editing here and  
13 there.

14 Q Okay.

15 But is there anything about the  
16 way it is written that you disagree with in  
17 terms of how it summarizes the article to  
18 Ms. Bruno's press --

19 A I think it could be written a  
20 little more nuanced.

21 Q Do you have any reason to  
22 disagree or dispute that this is the press  
23 release that was sent out related to the  
24 article?

25 A I mean I had never seen this



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1 before, but I assume it was just because it  
 2 looks real. I mean if someone forged it,  
 3 they've really gone to a great effort.

4 Q Were there any other press  
 5 releases other than this one, Plaintiff's  
 6 Exhibit 48, that you're familiar with that  
 7 were sent out to promote the article?

8 A Not that I'm aware of, no.

9 Q All right. You can set that  
 10 aside.

11 What -- would you describe from  
 12 the Rolling Stone managing editor seat the  
 13 response to the article after it was  
 14 published.

15 A I was surprised. But I'm always  
 16 surprised when something responds, because  
 17 I never know how much people read. You  
 18 know, so, yeah, it was -- and we had also  
 19 just published the issue before an article  
 20 that had gotten a huge response as well.  
 21 So I, you know, I was thinking -- I was  
 22 plenty surprised by both things initially.

23 Q Did it receive signature media  
 24 attention?

25 A Yes.

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1 Q How did this article A Rape on  
 2 Campus compare to other articles in terms  
 3 of the media attention it garnered?

4 A Oh, I think it was in the high  
 5 end of attention.

6 Q Can you put that on any sort of  
 7 scale?

8 A I would say the high end. I  
 9 mean it just -- we -- I mean, I think like  
 10 we've had -- we've had bigger articles and  
 11 smaller articles, but this was definitely  
 12 up there in the top, in the top 10 percent  
 13 probably.

14 Q How about in terms of readership  
 15 of the article, however you measure that?

16 A Yeah, I mean -- well, the only  
 17 way, the only concrete way to measure where  
 18 you are is web traffic, and this got a lot  
 19 of hits on the website.

20 Q Was it also at the top end of  
 21 the articles, the content for Rolling Stone  
 22 as far as --

23 A I think it was the top for that  
 24 year and I think -- I honestly don't  
 25 remember all the numbers, but it's

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1 definitely in the top, in the top echelon  
 2 of stories, of web traffic for stories that  
 3 we've done.

4 Q How about in terms of reader  
 5 engagement and comments and letters and  
 6 people reacting directly with --

7 A I would say the letters, and I  
 8 received many letters and phone calls from  
 9 people I knew, and who were friends of  
 10 friends, or friends of friends of friends,  
 11 basically telling me that, who were  
 12 familiar with life at UVA told me that, oh,  
 13 my God, you guys nailed it, that's just  
 14 what it's like there.

15 Q In terms of the amount of reader  
 16 engagement letters to the editor, that sort  
 17 of thing, high end?

18 A Definitely high end, yeah.

19 Q Same upper echelon, top 10  
 20 percent?

21 A Yeah, I would guess. I mean I  
 22 can't really comment on the letters because  
 23 I don't recall. I mean, I'm just assuming  
 24 it was, but you'd have to ask whoever,  
 25 whoever, you know, was in charge of the RS

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1 letters, what e-mail to get the exact --

2 Q Do you know who that person --

3 A It was Coco McPherson.

4 Q So Ms. McPherson, in addition to  
 5 having responsibility for fact checking  
 6 also had responsibility for monitoring the  
 7 letters --

8 A She sort of did the initial --  
 9 she was the editor of the letters page as  
 10 well.

11 Q In terms of for publication?

12 A Yeah. So she chose the letters  
 13 and, you know, and edited for publication.

14 Q Did Ms. McPherson communicate to  
 15 you, in words or substance, that this  
 16 particular article generated a significant  
 17 volume --

18 A I'm sure she did. I'm don't  
 19 recall a specific instance, but it was  
 20 often something that she would tell me, you  
 21 know, how things were doing, you know,  
 22 letters we were getting for stories and  
 23 things like that.

24 Q Did she share examples with you  
 25 or --

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1 A Once again, I'm sure she did,  
2 but I don't recall.

3 Q Okay.  
4 Did -- strike that.  
5 I'm going to show you, I'm going  
6 to show you a series of documents all  
7 together and try to hopefully streamline  
8 this.

9 A Okay.

10 Q I'm going to show you  
11 Plaintiff's Exhibit 91, 92, 93, 94, 95, 96  
12 and 97.

13 A Okay.  
14 (Whereupon, Exhibits 91 through  
15 97 were marked for Identification.)

16 BY MR. CLARE:  
17 Q Mr. Dana, I've just handed you  
18 three, four, five, six, seven documents to  
19 look at.  
20 Why don't you take a moment and  
21 familiarize yourself with them and let me  
22 know when you're ready. I'll have a couple  
23 of questions about them in the aggregate.

24 A Okay.

25 Q Before I ask you about these

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1 documents, a question about reader  
2 comments.  
3 All of these documents I've  
4 handed you, Plaintiff's Exhibit 91 through  
5 Plaintiff's Exhibit 97, appear to be  
6 e-mails that were submitted to letters at  
7 Rolling Stone.com.

8 A Uh-huh.

9 Q You made reference earlier to a  
10 mailbox RS letters?

11 A Yeah, that's what I thought it  
12 was.

13 Q I've actually seen that on other  
14 documents.

15 A Okay.

16 Q So my question to you is, is  
17 this the same type of mailbox?

18 A I believe it is. I don't  
19 know -- there might be two different  
20 mailboxes -- I'm just not sure. Maybe  
21 they're two different mailboxes just in  
22 case people get it wrong so we make sure we  
23 get the letter, but I'm not sure.

24 Q And these are the kinds of  
25 submissions that would be sent to letters

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1 of Rolling Stone and then reviewed by  
2 Ms. McPherson in the ordinary course?

3 A Yes, yes.

4 Q In addition to reader  
5 communications submitted through letters at  
6 Rolling Stone.com, readers could interact  
7 with the story by posting comments?

8 A Yes.

9 Q Is there somebody at Rolling  
10 Stone whose responsibility it was during  
11 this time period to read comments posted on  
12 the website?

13 A That would devolve to Caryn Ganz  
14 and her team on the web, on the web team.

15 Q Did Ms. Ganz communicate to you,  
16 in words or substance, about the volume  
17 or --

18 A I'm sure she did, but I don't  
19 recall. I don't recall a specific  
20 conversation.

21 Q In terms of the data or  
22 information that you've used to do your  
23 job, did you ever receive metrics or  
24 reports in the ordinary course about number  
25 of comments, number of hits on particular

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1 articles?

2 A I think it was more about number  
3 of hits, I believe. She sent out a weekly  
4 or biweekly e-mail, just a traffic report  
5 for, you know, each time period.

6 Q And was the report that you  
7 received for -- and that was Ms. Ganz?

8 A Yes.

9 Q The reports that Ms. Ganz would  
10 send out, were they aggregated for the  
11 Rolling Stone.com website, or was it for  
12 specific content?

13 A It was generally just, you know,  
14 the highlights of the week, you know, what  
15 performed or what didn't perform, and was  
16 often an attempt to understand why.

17 Q And did you form an  
18 understanding from those reports or others  
19 that A Rape on Campus was one of the pieces  
20 of content on Rolling Stone.com that was  
21 performing?

22 A Yes.

23 Q These documents that I put in  
24 front of you, Plaintiff's Exhibit 91  
25 through 97, these are letters that appear



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1 to have been submitted to Rolling Stone --

2 A Uh-huh.

3 Q -- commenting specifically on,

4 among other things, Dean Eramo?

5 A Yeah.

6 Q Do you recall being told or

7 understanding or knowing that readers were

8 commenting and responding to the portrayal

9 of Dean Eramo in the article?

10 A I don't recall that

11 specifically. I recall that we were

12 getting -- that the article was getting a

13 lot of attention.

14 Q And do you recognize these

15 documents now having reviewed them as

16 letter submitted by readers to Rolling

17 Stone via their website that make certain

18 comments about Nicole Eramo?

19 A Yes.

20 MS. McNAMARA: Can you -- I

21 didn't hear that question, I'm sorry.

22 Can you read it back?

23 (Whereupon, the requested

24 portion was read back by the Court

25 Reporter.)

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1 BY MR. CLARE:

2 Q And do you see that in some of

3 these instances readers are calling for the

4 University of Virginia to release Ms. Eramo

5 from her job responsibilities?

6 A Yes.

7 Q Did others -- obviously, have

8 you ever seen any of these particular

9 documents before today?

10 A I might have. I don't recall.

11 Q Okay.

12 A I've seen a lot of such things.

13 Q Okay.

14 Apart from these particular

15 documents, did you receive other feedback

16 from readers, or comments, or friends of

17 friends, or anybody, specifically about

18 Dean Eramo and her portrayal in the

19 article?

20 A Not specifically about Dean

21 Eramo, no.

22 Q What, specifically, as it

23 relates to the University of Virginia, or

24 university administrators, was the feedback

25 that you were getting?

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1 A The feedback was more people

2 telling me that they were familiar with an

3 environment where sexual assaults happened

4 and were either not discussed, not

5 reported, or not reported, or sort of -- I

6 don't want to use were covered up, but sort

7 of not dealt with in a way that made the

8 victims feel good, and that I had heard

9 people tell me this like people who are,

10 who were at UVA in the '50s, people who

11 were at UVA recently, people -- I mean, I

12 heard a wide thing saying you guys put your

13 finger on something I experienced directly

14 or indirectly in my experience at UVA.

15 Q In any of the feedback that you

16 received that you're just describing, was

17 any of it specific to Nicole Eramo?

18 A I would not say -- not that I

19 could think of anyone mentioning it. They

20 talked more about the systemic problem at

21 the school to me.

22 Q Did anyone in that feedback that

23 you received, or heard, or was made aware

24 of, make reference to the way Nicole Eramo

25 had dealt with a specific sexual assault?

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1 A Not -- I don't think they -- I

2 think they pinned it more on the university

3 rather than a single individual -- the

4 culture of the university, I should say.

5 Q All right. You could put these

6 aside.

7 MR. CLARE: We're at a decent

8 stopping point.

9 MS. McNAMARA: Sure.

10 MR. CLARE: Let's go off the

11 record.

12 THE VIDEOGRAPHER: This

13 concludes tape number two. The time

14 is 12:52 p.m. We are off the record.

15 (Recess taken 12:52 p.m.)

16 (Resumed 1:45 p.m.)

17 THE VIDEOGRAPHER: This begins

18 tape number three. The time is 1:45

19 p.m. and we are back on the record.

20 BY MR. CLARE:

21 Q Mr. Dana, welcome back from

22 lunch.

23 A Uh-huh.

24 Q So I'm going to transition now

25 to talk about a different topic.

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1 When did you first become aware  
2 that there was a problem or a potential  
3 problem with the article?

4 A Well, I would say that, just to  
5 sort of compress the timeline, I believe it  
6 was the night of -- when I woke up on  
7 Friday, December 5th, when I had received  
8 that e-mail from Sabrina saying our worst  
9 nightmare.

10 Q Okay.

11 And I'm going to, we're going to  
12 talk about that e-mail --

13 A Yeah.

14 Q -- and that day in a little bit.

15 Was that the first time that any  
16 issue or potential issue with the article  
17 was brought to you between the time it  
18 was --

19 A No. Potential issues are  
20 brought to me, and while I was concerned by  
21 some of the things that were raised, I did  
22 not believe that Jackie's credibility was,  
23 you know, had been undercut by some of the  
24 stuff that had come out in the week or so  
25 before that.

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1 Q And by that, you're referring to  
2 the articles in the Washington Post and  
3 that sort of thing up until that point in  
4 time?

5 A Yeah.

6 Q Ms. Erdely has described a  
7 telephone conversation in late November,  
8 the day before Thanksgiving --

9 A Uh-huh.

10 Q -- with Jackie where she said an  
11 alarm bell went off in her head.

12 A Right, uh-huh.

13 Q You know what I'm referring to?

14 A Yes.

15 Q Did Ms. Erdely bring to you,  
16 either directly or through Mr. Woods, her  
17 concerns after that telephone conversation?

18 A Well, that was, I think -- so I  
19 think we were on break for Thanksgiving  
20 that weekend, right.

21 So that was, I believe it was  
22 the night before Thanksgiving. So I had --  
23 as I recall -- I don't recall discussions  
24 over the course of the weekend about that.  
25 Certainly, we got back to the office on

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1 Monday. You know, I didn't, you know, the  
2 word alarm bell, you know, I don't recall  
3 hearing that.

4 You know, what I remember was  
5 saying, okay, you know, there are some  
6 things here to pay attention to, but we  
7 still believed Jackie's credible.

8 You know, I haven't heard  
9 anything from the news reports or anything  
10 that is causing me to conclude that we  
11 cannot believe what she told us.

12 Q What did -- so let's just take  
13 it in bite size pieces. What, if anything,  
14 did Ms. Erdely communicate directly to you  
15 about her conversation with Jackie?

16 MS. McNAMARA: You're talking  
17 about the November 26th conversation?

18 MR. CLARE: Correct.

19 A I honestly don't recall, you  
20 know, what was -- if I even talked to her  
21 directly, or through Sean at that point, or  
22 what the substance of our conversations  
23 was.

24 Q Did Ms. Erdely either directly  
25 or indirectly, through Mr. Woods,

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1 communicate to you that she was worried  
2 about the integrity of the story at that  
3 point?

4 A I don't recall her questioning  
5 the integrity of the story until the end of  
6 the following week.

7 Q Did Ms. Erdely or Mr. Woods, in  
8 words or substance, say to you that  
9 Ms. Erdely had had an interaction with  
10 Jackie that caused her some concern?

11 A You know, I honestly don't  
12 recall exactly what that discussion, you  
13 know -- I'm sure I did, but I don't, I  
14 don't remember exactly what the tenor of  
15 the discussion was with Sean or Sabrina in  
16 that week leading up to, you know, the more  
17 serious e-mail.

18 Q And by that, you're referring to  
19 the our worst nightmare e-mail?

20 A Yeah, yeah.

21 Q At that point, now I'm talking  
22 about -- so let me just nail down the  
23 chronology. You don't recall there being  
24 any discussion whatsoever, general --

25 A No, I'm sure there were -- I'm



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1     sorry.

2           Q     Hang on. I'm just going to try

3     to break it down into time periods here.

4           A     Yeah.

5           Q     I'm talking about over the

6     Thanksgiving break.

7           A     Okay.

8           Q     So between the day before

9     Thanksgiving when Ms. Erdely said she had

10    this telephone conversation with Jackie and

11    the following Monday, was there any

12    discussion at all at whatever level with

13    you of generality about this topic?

14          A     You know, I honestly, I can't

15    answer that question with any degree of

16    clarity. I don't know if I had

17    conversations over the weekend.

18          I remember at Thanksgiving

19    dinner with friends, sort of extended

20    family of friends of ours, and everybody at

21    the table being very positive about the

22    story, so -- on Thanksgiving Day.

23          I don't recall if I talked to

24    Sean or Sabrina on Friday, Saturday or

25    Sunday of that weekend.

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1           Q     Was there any discussion on

2     Monday when there was -- was there any

3     discussion on Monday when people were back

4     in the office?

5          A     Well, I believe -- I'm not sure

6     which day that week, but we did issue a

7     statement in sport of Jackie, but I don't

8     remember what day it was.

9          Q     Was there any consideration

10    given -- and we're going to go through

11    this --

12          A     I mean it would be easier -- I

13    just don't remember the exact days. So

14    it's going to be hard to --

15          Q     Now I'm talking conceptually

16    here.

17          A     Yeah.

18          Q     Was there any discussion with

19    Mr. Woods or Ms. Erdely about that

20    Ms. Erdely should stop doing media

21    appearances in support of the article?

22          MS. McNAMARA: You're talking

23    about before December 5?

24          MR. CLARE: Yes.

25          A     I don't recall that. I mean, I

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1     don't even remember if there were more

2     media appearances after November 26th.

3     Were there? I don't know.

4          Q     I'm just asking.

5          A     Yeah, I don't recall

6     discussions. That's not to say they didn't

7     happen. I just don't remember them.

8          Q     What steps do you remember

9     either taking or asking Ms. Erdely or

10    Mr. Woods to take when early in the week

11    issues were brought to your attention about

12    the article?

13          A     You know, I think I was trying

14    to say, you know, I still believed, we

15    still believed Jackie is credible.

16          Nothing that has been reported

17    in the Washington Post at this point leads

18    me to believe that we can't believe the

19    story that she told us.

20          Q     Did you direct Mr. Woods to

21    speak directly with Jackie at that point?

22          A     No, I don't believe I did.

23          Q     At any point in that week that

24    followed from December 1st to December

25    5th --

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1          A     Uh-huh.

2          Q     -- did you or Mr. Woods make an

3    effort to speak with Jackie directly?

4          A     I did not.

5          Q     Do you know if Mr. Woods did?

6          A     If he did, I don't recall it.

7                (Whereupon, Exhibit 24 was

8                marked for Identification.)

9    BY MR. CLARE:

10          Q     I'm going to hand you what we've

11    marked as Plaintiff's Exhibit 24.

12          A     Okay. Which day of the week is

13    December 1st, just so I can figure out the

14    timeline here?

15          Q     December 1, 2014 was a Monday.

16          A     Okay. So this was out, okay.

17          Q     And so this is an article,

18    Plaintiff's Exhibit 24 is an article

19    written by Mr. Farhi at the Washington

20    Post.

21          A     Yeah.

22          Q     Did you know --

23          A     And this was his second article

24    about the case, right -- is that right?

25          Q     Correct.

Page 182

1 A Okay, because --

2 Q Did you know prior to the

3 publication of this article or the first

4 article by Mr. Farhi that he was working on

5 something that would be critical of the

6 article?

7 MS. McNAMARA: Excuse me. Don't

8 mark on that.

9 THE WITNESS: Oh, sorry.

10 A I don't recall. I was trying to

11 sort of search my brain and remember what

12 the conversations were about. Because we

13 were on break in the days leading up to

14 this. So I hadn't been in the office since

15 the previous Tuesday, I think.

16 Q Did you give any advice to

17 Mr. Woods or Ms. Erdely about interacting

18 with Mr. Farhi at the Washington Post about

19 the article?

20 A I don't know if I did, but also,

21 you know, at this point, you know, I still

22 firmly believe that Jackie was credible

23 such that, you know, you know, I wasn't

24 treating this like it was a crisis, because

25 I still believed, as I did before, that we

Page 183

1 had no substantial -- we had no reason to

2 really substantially doubt her credibility.

3 Q When did that change? What in

4 your mind gave you reason to doubt Jackie's

5 credibility?

6 A Well, I think I said earlier the

7 our worst nightmare e-mail.

8 Q When Ms. Erdely --

9 A Sent me that e-mail, yeah. So I

10 woke up that Friday morning to that e-mail.

11 Q And that was, in your mind, the

12 first time that Jackie's credibility was

13 questioned in your mind?

14 A Yes.

15 Q Looking at the first page over

16 to the second page --

17 A Let me just -- can I just read

18 this?

19 Q Yeah, of course.

20 A Okay.

21 Q I'm focused now on language from

22 the first page over to the second page,

23 discussion that Mr. Woods told Mr. Farhi in

24 an interview.

25 A Uh-huh.

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1 Q It says, "Sean Woods, who edited

2 the Rolling Stone story, said in an

3 interview that Erdely did not talk to the

4 alleged assailants. We did not talk to

5 them. We could not reach them, he said in

6 an interview. However, he said, we

7 verified their existence in part by talking

8 to Jackie's friends -- 'I'm satisfied these

9 guys exist and are real, we know who they

10 were.'"

11 A Uh-huh.

12 Q Do you see that?

13 A Yes.

14 Q Did Mr. Woods obtain permission

15 in order to give this interview to the

16 Washington Post from you or anyone else?

17 A I don't recall giving specific

18 permission to give this interview.

19 Q Was Mr. Woods authorized to give

20 interviews to the press about articles

21 without clearing them with you?

22 A He probably mentioned it to me

23 and I probably said it was okay. I mean, I

24 don't recall giving him the go ahead, but

25 it would be customary that he would have

Page 185

1 the discussion with me.

2 Q Okay.

3 Mr. Woods said in that statement

4 that I just read to you that's quoted --

5 he's quoted as saying, "We knew who they

6 were," meaning the guys that were the

7 assailants of Jackie.

8 A Yeah.

9 Q Is that a true statement? Did

10 Rolling Stone know who the perpetrators

11 were?

12 A You know, I think it would be

13 better talking to him, asking him that

14 question than me, because -- to get his

15 thought processes behind that, because I --

16 I'm not sure I can give a perfectly

17 accurate answer.

18 Q Okay.

19 Did you, Will Dana, know who

20 these perpetrators were?

21 A I did not know.

22 Q Were you, Mr. Dana, satisfied

23 that the perpetrators existed and were real

24 at the --

25 A I would say I was satisfied that



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1 Jackie gave us a credible account of what  
 2 she said happened to her and what she told  
 3 us she had reported to the UVA  
 4 administration.  
 5 Q What steps did the magazine  
 6 take, to your knowledge, to verify the  
 7 existence of those individuals?  
 8 A I don't think that we -- to me,  
 9 the piece was Jackie's story and that we  
 10 were going on her -- we were trusting her  
 11 because we knew that this was a story she  
 12 had told the administration, right, at  
 13 which the administration had confirmed that  
 14 they knew that a gang rape had been  
 15 reported by Jackie.  
 16 That, to us, was sort of the  
 17 operative information in the story.  
 18 Because to me, the story was more about --  
 19 was less about this actual incident than  
 20 what happened once it entered into the  
 21 process to be adjudicated by UVA, and we  
 22 felt -- well, ask your question.  
 23 Q As you sit here today, are you  
 24 aware of any steps that were taken by the  
 25 magazine to verify the existence of these

Page 187

1 individuals and to determine that they were  
 2 real?  
 3 MS. McNAMARA: Other than what  
 4 he's already testified to?  
 5 MR. CLARE: Correct.  
 6 A No, because I was aware that  
 7 Sabrina had agreed with Jackie to not, to  
 8 not identify her attackers out of respect  
 9 for her concerns.  
 10 Q Was there an agreement in place  
 11 between Ms. Erdely and Jackie not to  
 12 independently try to verify the existence  
 13 of these individuals?  
 14 A I do not believe that there was.  
 15 Q And so my question is, what  
 16 steps, if any, did the magazine take, other  
 17 than relying on what Jackie said, to verify  
 18 the existence of these individuals and to  
 19 determine that they were real?  
 20 MS. McNAMARA: Objection. Other  
 21 than what he's already testified to?  
 22 Because he's testified to more than  
 23 what Jackie just said.  
 24 BY MR. CLARE:  
 25 Q Well, help me with this, okay.

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1 So you told me that the magazine  
 2 listened to what Jackie said and reported  
 3 what she said.  
 4 A Yeah.  
 5 Q What else?  
 6 A Well, that the incident had been  
 7 brought up in testimony by Emily Renda, an  
 8 employee of the university, you know, which  
 9 gave us a degree of confidence that  
 10 Jackie's story was credible.  
 11 Q Did Ms. -- sorry, I don't want  
 12 to interrupt you -- so, all right, let me  
 13 get your list and then we'll come back to  
 14 that.  
 15 Okay. So Renda's testimony. Go  
 16 ahead.  
 17 A You know, Jackie's many, many  
 18 hours of on-the-record interviews with us  
 19 describing what happened, you know, and I  
 20 think we talked to a number of her friends  
 21 and people that were close to her  
 22 confirming that the story was one that she  
 23 had been telling.  
 24 Q Okay.  
 25 Anything else?

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1 A No.  
 2 Q All right.  
 3 So to your understanding, did  
 4 Emily Renda identify the individuals --  
 5 A No.  
 6 Q Okay.  
 7 A She identified that this had,  
 8 indeed, happened.  
 9 Q In terms of whether specific  
 10 individuals had perpetrated this assault on  
 11 Jackie, is there anything in her testimony  
 12 that --  
 13 A Not that I know of.  
 14 Q And would help verify the  
 15 existence of specific individuals who had  
 16 done that?  
 17 A No.  
 18 Q Was there anything -- and Jackie  
 19 certainly didn't identify those individuals  
 20 to Rolling Stone specifically, correct?  
 21 A No.  
 22 Q And so -- and you talked to  
 23 friends, or the magazine talked to friends.  
 24 Did any of those individuals identify  
 25 specifically that these individuals



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1 existed?

2 A Not that I know of.

3 Q So my question is very specific

4 and focused on identifying the existence

5 and identity of these individuals.

6 A Uh-huh.

7 Q What steps, if any, did the

8 magazine take besides speaking with Jackie

9 to identify the specific individuals who

10 were involved in perpetrating this assault?

11 A We based it on Jackie's say so.

12 Q Anything else than that?

13 A Not that I know. To

14 specifically answer that question, we went

15 with Jackie on that.

16 Q Did you believe, do you believe

17 that -- sorry, let me back up and ask a

18 better question.

19 Prior to publication of the

20 article, did you individually know that

21 Ms. Erdely had not located or contacted

22 directly the lifeguard or any of the other

23 alleged perpetrators of the assault?

24 A I don't believe I did. I mean,

25 I believe I did, I believe I -- I mean, I

Page 191

1 don't know. I wouldn't say specifically

2 that I knew that she had not contacted

3 these people.

4 What I knew was that we were

5 basing the account on the word of a witness

6 that we found to be credible and could find

7 no reason to question her credibility.

8 Q Okay.

9 So did you believe prior to

10 publication that you had other sources

11 other than the ones that you had

12 identified?

13 A Yeah. I mean I think part, a

14 large part of the calculation was that an

15 employee of the university brought us to

16 Jackie, vouched for Jackie, you know, other

17 people on campus vouched for Jackie. We

18 knew that this had been a story that she

19 had been telling repeated, you know, over

20 the course of a year that no one had

21 questioned.

22 Q Did you believe that -- so just

23 to go back to my, the question -- so did

24 you know that prior to publication of the

25 article that this account and specifically

Page 192

1 the perpetrators and that sort of thing was

2 based solely on Jackie?

3 A Yeah, what I would say --

4 MS. McNAMARA: Objection.

5 Mischaracterizes.

6 A What I would like to add to the

7 question is that generally the way things

8 work, you know, in the environment is that

9 when people have concerns, they bring them

10 to me. You know, people who I've worked

11 with, you know, in this case Sean, Coco,

12 Liz Garber-Paul, I worked with for many,

13 many years. I've grown to trust them, to

14 have faith in their judgment. And the fact

15 that no one came to me and said that they

16 saw any reason to question her credibility,

17 and also Sabrina being, you know, one of

18 our, I thought one of our most careful

19 reporters and writers, you know, that in

20 the absence of that, you know, I did not --

21 you know, I did not question a lot of the

22 decisions they were making, because I had

23 found that I could have trust in their

24 judgment, you know.

25 And, you know, I delegated a lot

Page 193

1 of authority to my staff, you know, and I

2 take responsibility for that decision

3 because that's how I ran things, and

4 things, you know, in a very successful

5 enterprise for, journalistically for a long

6 time. And, you know, I think that these

7 are top flight Al people and good at their

8 jobs.

9 So if they're going through the

10 process and busily working on this story

11 for very long hours, you know, it was not

12 something that I was going to be overly

13 concerned with, because my faith always was

14 that these guys had it.

15 Q And in evaluating the story

16 prior to publication, did you or any of the

17 other journalists who were involved in its

18 preparation consider the risk that Jackie

19 was not telling the truth?

20 A No. I think that we just -- I

21 mean, to me, we had someone who was

22 allowing us to use her name, thus being

23 identifiable, right. I mean that was a

24 huge thing in my book. So that made me

25 feel comfortable with it. Okay, so we had



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1 that.

2 We had Sabrina talking for

3 hours, the fact checker talking for hours.

4 They are both pretty good at sussing out,

5 you know, sussing out if there are

6 inconsistencies. We didn't have that.

7 Wait, ask your question because

8 I had like three other thoughts in my mind

9 that I'm now forgetting. Ask your question

10 again.

11 (Whereupon, the requested

12 portion was read back by the Court

13 Reporter.)

14 A No. And also, I just, you know,

15 I think it's a little bit of a black swan

16 that, you know, in hindsight, the fact that

17 someone would be telling a story like this

18 that isn't true, I mean in foresight, you

19 know, it seems almost unfathomable to me in

20 that moment, given what we knew, that she

21 was putting herself on the record, using

22 her name, you know, that we had seen

23 statistics from a report of how rarely

24 rapes are reported, you know, that are

25 misreported like that.

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1 You know, so all these elements

2 led us to believe that she was a credible

3 figure, that she had been a visible figure

4 on campus talking about this incident for,

5 you know, I think at least 18 months, if

6 not 2 years -- I'd have to check the exact

7 dates, because I'm not sure.

8 So, you know, there was nothing

9 that was raised to me that suggested that

10 she was not credible.

11 Q Were you aware prior to

12 publication of the article that the

13 recitation of the assault published in

14 Rolling Stone was different than the

15 recitation of the assault that was

16 communicated to the university?

17 A No. And, in fact, this is -- I

18 mean, no.

19 Q No one brought that to your

20 attention?

21 MS. McNAMARA: Objection. Lack

22 of foundation.

23 A No.

24 Q Did anyone tell you, in words or

25 substance, that Jackie's story, even as

Page 196

1 told to Rolling Stone, had changed in terms

2 of the details of the assault?

3 A No one told me that.

4 Q Did Rolling Stone have a

5 journalistic obligation to reach out to the

6 men who were being accused of gang raping

7 Jackie and offering them a chance to

8 comment?

9 A Well, we reached out to the

10 fraternity, you know, the local and

11 national branch, and we printed their

12 denial.

13 Q Okay.

14 My question is more specific

15 than that.

16 A Well, we don't know who they

17 were.

18 Q Didn't know who the individuals

19 were?

20 A Yeah.

21 Q So did Rolling Stone have a

22 journalistic obligation to make steps to

23 identify them and offer them a chance to

24 comment?

25 A I don't necessarily think we

Page 197

1 did, because the point of the story was

2 that we knew that a gang rape had been

3 reported to the administration and we were

4 trying to then, we were trying to -- I mean

5 the goal of the story was to then follow

6 what the administration did once they had

7 that information.

8 Q And was the goal of the story

9 specifically to report on what the

10 administration did or didn't do in response

11 to the information that they were provided?

12 A I would say the goal of the

13 story was more to try to -- to reconstruct

14 the reaction of what happens when an

15 institution such as the UVA is presented

16 with this kind of information.

17 Q This kind of information, or the

18 specific information?

19 A This specific information.

20 Q The specific information that

21 Jackie provided?

22 A Yeah.

23 Q And you were intending to report

24 accurately on the university's reaction to

25 the information that Jackie provided to it?



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1 A Yes.

2 Q At the bottom of this document

3 that we're looking at together, Plaintiff's

4 Exhibit 24, the second page of it, there is

5 a statement attributed to Ms. Erdely.

6 She says, "As I've already told

7 you, the gang rape scene that leads the

8 story is the alarming account with Jackie,

9 a person whom I found to be credible, told

10 me, told her friends, and importantly what

11 she told the UVA administration, which

12 chose not to act on her allegations in any

13 way, i.e., the overarching point of the

14 article."

15 Was that -- close quote for now.

16 Was that the overarching point

17 of the article, a fair summary of it?

18 A Well, I would say that I

19 wouldn't close -- I mean, I would say the

20 culture that greeted her and so many of the

21 UVA women is also an important part of the

22 article.

23 Q Okay.

24 So the next sentence, too, "That

25 is the story, the culture that greeted her

Page 199

1 and so many other UVA women I interviewed

2 who came forward with allegations only to

3 be met with indifference."

4 A Yes, yes.

5 Q That was the point of the

6 article?

7 A Yes. Well, I would say that, to

8 me, at least how I originally conceived the

9 article was that, you know, I wasn't -- as

10 I was thinking about this story --

11 MS. McNAMARA: Will, don't mark

12 on that. You're too much of an

13 editor. You just want to edit the

14 thing.

15 THE WITNESS: Yeah, sorry.

16 A I wanted to examined what

17 happened when people came forward with

18 allegations and what then happened inside

19 the institution.

20 Q If Ms. Erdely had told a source

21 for the article that she had a journalistic

22 obligation to reach out to perpetrators and

23 offer them a chance to comment, would you

24 agree or disagree with that statement?

25 MS. McNAMARA: Objection. Calls

Page 200

1 for speculation.

2 A Wait, say the question again?

3 Q If Ms. Erdely had told one of

4 her sources for the article that she had a

5 journalistic obligation to reach out to the

6 perpetrators of the assault, of Jackie's

7 assault, and offered them a chance to

8 comment, would you agree or disagree with

9 that statement by Ms. Erdely?

10 MS. McNAMARA: Same objection.

11 A Well, I mean would I disagree

12 or -- I mean if she had asked the question

13 would I agree or disagree, that she asked

14 the question -- I mean that's what your

15 question seems to be.

16 Q No, I'm saying -- Ms. Erdely, if

17 she made a statement to a source saying, I,

18 Sabrina Erdely, have a journalistic

19 obligation to reach out to these men who

20 are accused of actually having perpetrated

21 the assault and offer them a chance to

22 comment --

23 A Uh-huh.

24 Q -- if she made that affirmative

25 statement to a source, could you agree or

Page 201

1 disagree with that assertion?

2 MS. McNAMARA: Same objection.

3 Calls for speculation.

4 A I mean, I wasn't there, I wasn't

5 privy. It's hard to answer a hypothetical

6 question like that.

7 Q Okay.

8 Well, let's make it not

9 hypothetical.

10 A Okay.

11 Q Did Ms. Erdely, in your view, as

12 an experienced journalist, have a

13 journalistic obligation to reach out to the

14 specific men who were accused of having

15 conducted this assault on Jackie and

16 offering them a chance to comment prior to

17 publication?

18 A Well, I believed that by asking

19 the fraternity that, you know, that we had

20 given them a chance to step forward and

21 comment.

22 Q So, I don't want to put words in

23 your mouth, but does that mean that Rolling

24 Stone and Ms. Erdely did not have an

25 obligation to try to identify the existence



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1 and identity of the actual perpetrators and  
 2 offer the individual perpetrators an  
 3 opportunity to comment?  
 4 MS. McNAMARA: Objection.  
 5 Mischaracterizes.  
 6 A Well, I believe, you know, that  
 7 we felt that we had a -- we felt justified  
 8 in -- we felt that our source was credible  
 9 and that we did not question her -- that we  
 10 did not question in that moment that the  
 11 story she was telling us was accurate, is  
 12 what I believed.  
 13 Q Were you involved in any way in  
 14 a decision to tell Jackie that Rolling  
 15 Stone would stop trying to find Drew, the  
 16 lifeguard?  
 17 A No.  
 18 Q If you, Will Dana, had been  
 19 informed ahead of time of discrepancies in  
 20 Jackie's overall story or problems with  
 21 them, would you have acted upon those  
 22 discrepancies aggressively?  
 23 MS. McNAMARA: Objection. Calls  
 24 for speculation.  
 25 A Well, I mean, I would say in

Page 203

1 general if I am given, if I'm told  
 2 something that makes the credibility of the  
 3 source less credible, I would act upon that  
 4 very aggressively.  
 5 Q Were there any problems or  
 6 discrepancies with Jackie's story that were  
 7 brought to your attention prior to  
 8 publication of the article?  
 9 A No, no.  
 10 Q Did anyone identify with you, in  
 11 words or substance, internal  
 12 inconsistencies with the story that Jackie  
 13 had told Ms. Erdely?  
 14 A At which point?  
 15 Q Prior to publication.  
 16 A No.  
 17 Q Prior to publication, did anyone  
 18 bring to you problems or discrepancies  
 19 between the story that Jackie was telling  
 20 and information that other sources that  
 21 were speaking to Ms. Erdely had provided?  
 22 A No.  
 23 Q Post publication, were there  
 24 internal inconsistencies with Jackie's  
 25 story that were brought to your attention?

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1 MS. McNAMARA: Objection. I  
 2 want to draw a line here.  
 3 You can ask him up to the point,  
 4 at some point in time an internal  
 5 investigation was conducted under the  
 6 purview of counsel, and we have  
 7 maintained privilege on that internal  
 8 investigation under work product and  
 9 others.  
 10 So he may have knowledge based  
 11 upon that internal investigation that  
 12 he can't speak to.  
 13 So it would probably be best to  
 14 direct a question to that effect up  
 15 and to the point in time where he  
 16 became involved in an internal  
 17 investigation conducted by counsel.  
 18 MR. CLARE: Let's lay a little  
 19 foundation for that.  
 20 BY MR. CLARE:  
 21 Q At what point in time did an  
 22 internal investigation conducted by counsel  
 23 begin?  
 24 A I would say that from the moment  
 25 on the morning of Friday, December 5th,

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1 when we discovered problems with Jackie, I  
 2 thought about -- I thought about nothing  
 3 for the next month, or did not -- I was  
 4 completely focused on trying to figure out,  
 5 you know, what was behind the story.  
 6 Q Did you participate in the  
 7 review of the article conducted by the  
 8 Columbia journalism school?  
 9 A Yeah, I gave an extensive  
 10 interview, I think -- I can't remember  
 11 exactly when it was.  
 12 Q When you say extensive, how much  
 13 time did you spend with Columbia?  
 14 A I think it was between 3 and 4  
 15 hours, I believe.  
 16 Q And in the course of discussing  
 17 issues with Columbia or preparing to  
 18 discuss issues with Columbia, were there  
 19 internal inconsistencies with Jackie's  
 20 story that were brought to your attention  
 21 or discussed with you?  
 22 MS. McNAMARA: And I caution  
 23 you, I caution you not to testify to  
 24 any communications with counsel in  
 25 preparation for discussions with

Page 206

1 Columbia.

2 You can answer any question

3 about communications you had with

4 Columbia concerning, you know, any

5 topic that they want to ask about, but

6 communications with counsel or

7 preparation, I think the question

8 included preparation would be

9 privileged.

10 MR. CLARE: Okay, well, I

11 disagree with the scope of that

12 objection. Are you instructing him

13 not to answer?

14 MS. McNAMARA: I'm instructing

15 him not to answer to the degree it

16 calls for communication with counsel

17 in preparation for Columbia

18 interviews.

19 MR. CLARE: Okay.

20 BY MR. CLARE:

21 Q And I assume you'll follow your

22 counsel's instruction on that?

23 A Yes, uh-huh.

24 Q Have you -- you've read the

25 Columbia report?

Page 207

1 A Yes, uh-huh.

2 Q Have you read other media

3 accounts of deconstructing the Campus Rape

4 article and specifically Jackie's account?

5 A The articles about -- wait, I'm

6 sorry, ask the question again?

7 Q Sure.

8 And have you read other media,

9 besides the Columbia report, have you read

10 other media reports discussing

11 deconstructing the Campus Rape article and

12 specifically deconstructing Jackie's

13 account?

14 A I don't know what you mean by

15 deconstructing Jackie's account. I mean is

16 that a literary critical term?

17 Q I guess have you read other

18 media criticism of Jackie's account?

19 A I mean I've read media criticism

20 of the entire story. I don't know if I can

21 separate deconstructions of her account

22 from other things I've read, because I have

23 read a lot of things.

24 Q From all the things that you've

25 read --

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1 A Uh-huh.

2 Q -- about all of this, what are

3 the problems or discrepancies with Jackie's

4 overall story that would have caused you to

5 step in earlier?

6 MS. McNAMARA: Objection. Calls

7 for speculation.

8 A Yeah.

9 Q You can answer.

10 A Well, what I can say with a

11 degree of 100 percent certainty, if

12 substantial questions had been raised

13 imputing her integrity and brought to me, I

14 would have, I would have acted decisively.

15 Q Okay.

16 And in your mind, that happened

17 first in the morning of December 5th?

18 A Yes.

19 Q Okay.

20 And what was it, specifically,

21 that Ms. Erdely communicated to you that

22 caused you to form that judgment?

23 A Well, it was her saying that she

24 lost faith in Jackie's credibility -- and

25 honestly, right now, if you can show me --

Page 209

1 I'm blanking right now on what was the

2 incident in the e-mail.

3 Q Was that the same day, that

4 morning, is that a Friday morning?

5 A Yes.

6 Q Okay.

7 Was that the same day that the

8 Washington Post came out with another

9 article?

10 A Yeah, but I think it was -- we

11 didn't even -- I mean, I didn't even have

12 to wait for the Washington Post article to

13 know that we had a problem.

14 (Whereupon, Exhibit 23 was

15 marked for Identification.)

16 BY MR. CLARE:

17 Q I'm going to hand you what we've

18 marked as Plaintiff's Exhibit 23.

19 A Okay.

20 Q I've handed you what we've

21 marked as Plaintiff's Exhibit 23, which is

22 a December 2, 2014 article by Eric Wemple

23 of the Washington Post entitled Rolling

24 Stone Whiffs in Reporting on Alleged Rape.

25 A Uh-huh.



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1 Q Did you review this article at  
2 or around the time it came out?

3 A I believe I did, yes. I mean, I  
4 read a lot of articles.

5 Q And what I specifically want to  
6 ask you about is on the last page of  
7 Plaintiff's Exhibit 23. There is a  
8 statement that is attributed to Rolling  
9 Stone.

10 A Yes.

11 Q Do you see that statement?

12 A Yes.

13 Q And you were directly involved  
14 in drafting and editing that statement?

15 A Yes.

16 Q And it was issued under your  
17 name, is that correct?

18 A Yes.

19 Q And this statement, the same  
20 statement was sent to numerous other media  
21 outlets besides the Washington Post,  
22 correct?

23 A Yes, I believe it was, yeah.

24 Q And looking at the first couple  
25 of sentences, do you believe the statement

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1 is a fair and accurate description of the  
2 article?

3 A Yeah. I think this is a  
4 statement that reflects what we thought on  
5 the day that it was issued.

6 Q Okay.

7 It makes reference to -- it  
8 says, "The story we published was one  
9 woman's encounter of a sexual assault at a  
10 UVA fraternity in October 2012 and the  
11 subsequent ordeal she experienced at the  
12 hands of the university administrators in  
13 her attempts to work her way through the  
14 trauma of that evening."

15 A Uh-huh.

16 Q What was the ordeal that Jackie  
17 experienced at the hands of university  
18 administrators as reflected in the story?

19 A I mean, I think we meant that --  
20 the story makes the point here that Jackie  
21 said she didn't feel supported by the  
22 school in helping her come to terms with  
23 the assault, and that's what we were  
24 talking about here.

25 Q Is there anything else that you

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1 considered to be the ordeal she experienced  
2 at the hands of university administrators?

3 A No.

4 Q Same question with regard to the  
5 next sentence of your statement that says,  
6 "The indifference with which her complaint  
7 was met."

8 A Uh-huh.

9 Q What is that a reference to, the  
10 indifference to which her complaint was  
11 made?

12 A You know, I think we meant her  
13 overall telling the story to her friends,  
14 you know, what she told us about what she  
15 felt was an indifference that she  
16 experienced among her peers.

17 Q So that's not a reference to the  
18 indifference with which her complaint was  
19 met by the administration?

20 A I think it's two separate  
21 things.

22 Q So the university administrators  
23 perpetrated an ordeal on Jackie and her  
24 friends were indifferent to it, is that  
25 what you're --

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1 A Well, I think the entire -- her  
2 entire experience.

3 Q The last sentence of the  
4 statement says, "Through our extensive  
5 recording and fact checking, we found  
6 Jackie to be entirely credible and  
7 courageous and we are proud to have given  
8 her disturbing story the attention it  
9 deserves."

10 A Uh-huh.

11 Q Was that a true statement on  
12 December 2nd when this was --

13 A We believed that at the time,  
14 yeah.

15 Q Okay.

16 I take it you no longer believe  
17 that to be true?

18 A I think the complications had  
19 emerged, yes.

20 Q How do you square the statement  
21 on December 2nd, 2014 with the conversation  
22 that Ms. Erdely said she had on November  
23 26th where an alarm bell went off in her  
24 head about Jackie's credibility?

25 MS. McNAMARA: Objection.

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1 Mischaracterizes.  
 2 BY MR. CLARE:  
 3 Q You can answer.  
 4 A At this point, given what had  
 5 been reported, what we knew of Jackie, what  
 6 we knew of our fact checking procedures, I  
 7 still believed Jackie was credible on the  
 8 morning of December 2nd.  
 9 Q Prior to the issuance of this  
 10 statement on December 2nd, had you had any  
 11 discussions with Ms. Erdely about her  
 12 recent post publication interactions with  
 13 Jackie?  
 14 A I do not recall if I did or not.  
 15 Q So as you sit here today, you  
 16 don't know one way or the other whether  
 17 Ms. Erdely had shared with you this alarm  
 18 bell conversation prior to issuing the  
 19 statement?  
 20 A Yeah, and I also think the alarm  
 21 bell that she talked about was something  
 22 that she, that was a phrase that she used  
 23 in a conversation months later when she was  
 24 talking to the Columbia people. So I don't  
 25 know exactly in retrospect where her mind

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1 was about the story that Monday and Tuesday  
 2 of the week.  
 3 Q Regardless of what phrase, she  
 4 described it to the Columbia journalism  
 5 school as having had --  
 6 A She was not saying to us at this  
 7 point I don't believe Jackie.  
 8 Q Okay.  
 9 Was she saying to you at this  
 10 point that she was worried about the  
 11 integrity of her story?  
 12 A I honestly don't remember. I  
 13 don't think she was, because it was when  
 14 she sent that e-mail and that I basically  
 15 started to act upon it immediately.  
 16 Q Did she tell you prior to the  
 17 issuance of this statement that from the  
 18 time of her pre-Thanksgiving conversation  
 19 with Jackie up until December 2nd that she  
 20 was doing additional investigation to try  
 21 to identify the individuals who allegedly  
 22 had perpetrated the assault?  
 23 A We knew that she was, yes.  
 24 Q For what purpose was she doing  
 25 that?

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1 A Because at this point, I thought  
 2 Jackie was still credible and I wanted to  
 3 be able to say to the world, look, we got  
 4 this story right.  
 5 Q So you directed her to do that  
 6 additional research?  
 7 A It was me, or Jann, or Sean, I  
 8 don't remember exactly who. I think all of  
 9 us, it was a decision that was made,  
 10 arrived at as a group.  
 11 Q And when was that presented to  
 12 Ms. Erdely as a specific task?  
 13 A You know, it was kind of a mind  
 14 meld. It could have been very possible  
 15 that she was doing it, that she had said it  
 16 to us.  
 17 I mean, honestly, we all  
 18 agree -- I think there was no question that  
 19 we needed to go and look at this more,  
 20 because people were asking the question who  
 21 exactly decided what, at which point, and  
 22 communicated to who -- I don't know, but I  
 23 do know that we -- there was a general  
 24 sense of agreement that it was -- that she  
 25 should go back and try and nail this down

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1 so that we could put the questions about  
 2 the story to rest.  
 3 Q The last sentence says, "In  
 4 addition to finding Jackie to be entirely  
 5 credible and courageous, that Rolling Stone  
 6 is proud to have given her disturbing story  
 7 the attention it deserves."  
 8 Was that a true statement on  
 9 December 2nd?  
 10 A Yes. I mean we were still under  
 11 the belief that it was incredibly brave for  
 12 someone to come forward and tell the story,  
 13 you know, and put her name on it and  
 14 subject herself to potentially, you know, a  
 15 lot of criticism in a hard time from her  
 16 community.  
 17 Q Are you, or is the magazine at  
 18 the time you left, still proud to have  
 19 given Jackie's story the attention that it  
 20 did?  
 21 A Well, I think the way we thought  
 22 our story would change radically the next  
 23 few days. But at this point, I stand by my  
 24 frame of mind when I wrote that.  
 25 Q On December 5th when you said



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1 your frame of mind changed radically about  
 2 it, at that point you then did start to  
 3 entertain serious doubts about Jackie's  
 4 credibility?  
 5 A Yes.  
 6 Q And at that point, December 5th,  
 7 you no longer were proud to have given it  
 8 the attention that you had?  
 9 A Well, I'm not sure -- I wasn't  
 10 thinking about pride at that moment.  
 11 Q Well, what were you thinking  
 12 about? I mean you had just issued --  
 13 A I was thinking about we've got  
 14 to figure this out and find out what really  
 15 happened. Because there was enough  
 16 information that had been published at that  
 17 point that we could not conclude for sure  
 18 that no assault -- that we -- what  
 19 basically happened on that morning was that  
 20 I began to have serious doubts that the  
 21 story she told us was true.  
 22 That did not mean that I had  
 23 concluded that she wasn't assaulted or that  
 24 maybe something different happened than she  
 25 said. But there was, at least enough had

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1 come out that it now raised serious  
 2 questions about the story that we  
 3 published, which I now had less confidence  
 4 in.  
 5 And we immediately acknowledged  
 6 that there were problems with it, and that  
 7 we were very hard at work in trying to  
 8 figure out what those problems were, and to  
 9 resolve, you know, to decide how we were  
 10 going to react to it.  
 11 Q Was there any discussion or  
 12 consideration given at that point in time  
 13 when you reached those conclusions or  
 14 started to have those serious concerns to  
 15 taking the story off the website pending  
 16 further investigation?  
 17 A I believe there were  
 18 discussions, yes, and that ultimately was  
 19 not my decision.  
 20 Q Who ultimately decided?  
 21 A The owner of the magazine.  
 22 Q Mr. Wenner?  
 23 A Yeah.  
 24 Q Tell me, what was your position  
 25 on that.

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1 A I was really torn, and a lot of  
 2 times, you know, with Jann, I kind of saw  
 3 myself as like, you know, like sort of the  
 4 honest broker, the person presenting, you  
 5 know, the different options to him.  
 6 Q Did you make a recommendation to  
 7 him about whether December 5th, the story  
 8 should be taken down off the website  
 9 pending further investigation?  
 10 A I don't remember what I was  
 11 thinking about on December 5th.  
 12 On December 5th, I was thinking  
 13 more like we need to figure out what  
 14 happened and how and why.  
 15 Q You told --  
 16 A And come up with a -- and not  
 17 rush into any decision and make a  
 18 considered -- so that when we do actually  
 19 make a decision, we know we're making the  
 20 right decision.  
 21 Q When did this discussion with  
 22 Mr. Wenner occur about whether or not to  
 23 remove the article from the website pending  
 24 further investigation?  
 25 A You know, I can't honestly tell

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1 you it happened on Friday, Saturday,  
 2 Monday -- I don't know what day. It  
 3 happened very much in those early days, but  
 4 I don't remember exactly when.  
 5 Q So to the best of your  
 6 recollection, either Friday the 5th or a  
 7 few days after that?  
 8 A Yeah. It happened very quickly.  
 9 Q And was this an in-person  
 10 meeting or conversation?  
 11 A I'm almost positive it was,  
 12 yeah.  
 13 Q And who else participated in  
 14 that discussion?  
 15 A I think his son Gus was in the  
 16 conversation, Sean Woods was involved in  
 17 it, Sabrina was involved in it, and I'm  
 18 sure that everyone else was weighing in  
 19 with their opinions.  
 20 Q Was she physically present in  
 21 the office?  
 22 A No, she wasn't.  
 23 Q And what was the discussion --  
 24 A Actually, I think -- well, I  
 25 don't know -- I'm not sure -- I'm not sure

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1 exactly when she was present in the office.  
 2 She was there at some point.  
 3 Q And what were the -- were there  
 4 folks in the discussion who were suggesting  
 5 that the article should be taken off the  
 6 website pending further investigation?  
 7 A I believe there were, but I  
 8 couldn't, I can't remember who they were.  
 9 Q What was your view on that  
 10 question?  
 11 A My view is, I basically was --  
 12 we can only make this decision once, so  
 13 let's find out -- I don't want to make this  
 14 decision -- because at this point we  
 15 weren't 100 percent sure that Jackie was --  
 16 we weren't completely sure Jackie wasn't  
 17 telling the truth. We were only aware that  
 18 there were some serious discrepancies in  
 19 her account.  
 20 So my feeling was we need to  
 21 know -- we need more information before we  
 22 make this decision. Let's not make it  
 23 rationally, but at the same time, you know,  
 24 we are not dragging our heels and trying to  
 25 figure out what's going on.

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1 Q At that point, in terms of  
 2 December 5th, that morning, Ms. Erdely had  
 3 said to you in her e-mail that the magazine  
 4 needed to issue a retraction?  
 5 A Yes.  
 6 Q In fact, she said it twice in  
 7 that e-mail?  
 8 A Yeah, yeah.  
 9 Q We can look at it together in a  
 10 minute.  
 11 A Yeah, yeah.  
 12 Q Was that perspective considered?  
 13 A It was. But once again, as I  
 14 said, I didn't think we should rush to an  
 15 immediate decision. You know, I felt like  
 16 let's, you know, everyone needs to know  
 17 what's going on here, because we can only  
 18 make this decision once, and I don't want  
 19 to -- we didn't want to pull it down only  
 20 to find out that maybe we didn't need to  
 21 have pulled it down, you know.  
 22 This was Sabrina's point of  
 23 view, which, you know, we obviously  
 24 listened to. But at this point, you know,  
 25 I didn't want to rush to judgment. And

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1 that's not out of being defensive. It was  
 2 just like, as I said, we can only make this  
 3 decision once, so let's make sure we make  
 4 it right. And it felt at that moment like  
 5 we didn't have enough information to  
 6 determine fully if the story needed to be  
 7 retracted.  
 8 Q But at that point in time, as of  
 9 the morning of December 5th, you and  
 10 presumably others did entertain serious  
 11 doubts about Jackie's credibility?  
 12 A Yeah, but at the same time, we  
 13 hadn't reached any conclusions. I mean  
 14 there were serious doubts, but it was not  
 15 hardened into, you know, into knowledge  
 16 yet. And that's why we issued the  
 17 statement that we did.  
 18 Q All right.  
 19 I'm going to go back in time  
 20 just to follow the chronology of that week  
 21 here.  
 22 A Uh-huh.  
 23 Q We just looked together at  
 24 Plaintiff's Exhibit 23, which is a December  
 25 2nd Washington Post article. I'm going to

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1 hand you now Plaintiff's Exhibit 85.  
 2 (Whereupon, Exhibit 85 was  
 3 marked for Identification.)  
 4 BY MR. CLARE:  
 5 Q So Plaintiff's Exhibit 85 is an  
 6 e-mail thread dated December 2nd. You're  
 7 not on this e-mail -- or you were in sort  
 8 of earlier versions of it, but the relevant  
 9 piece that I want to ask you about is at  
 10 the top of the first page.  
 11 This is Ms. Erdely at 5:45 in  
 12 the morning on December 2nd saying, "I just  
 13 read Eric Wemple's piece" -- which I  
 14 understand to be the article that we just  
 15 looked at together.  
 16 MS. McNAMARA: Excuse me, I  
 17 think it's 5:45 p.m.  
 18 MR. CLARE: P.m., sorry.  
 19 MS. McNAMARA: She's not up that  
 20 early.  
 21 MR. CLARE: Sorry, thank you,  
 22 yes.  
 23 BY MR. CLARE:  
 24 Q December 2nd, 5:45 p.m.,  
 25 Ms. Erdely writes to Mr. Woods, "I just



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1 read Eric Wemple's piece. I am beside  
2 myself."

3 A Uh-huh.

4 Q And then Mr. Woods writes back  
5 to Ms. Erdely, says, "Relax. Will doesn't  
6 care. It's a big, huge story. This is  
7 fishbowl backlash."

8 Obviously, these are words that  
9 are attributed to Mr. Woods.

10 A Yeah.

11 Q But Mr. Woods is communicating  
12 to Ms. Erdely that you don't care or didn't  
13 care about anything that related to  
14 backlash as a result of the Wemple piece.  
15 Is that an accurate --

16 A Well, I think don't care is -- I  
17 wouldn't have used those words. I was  
18 more -- I think my feeling was, you know,  
19 we're being attacked. We still believe our  
20 story. You know, we can handle this.  
21 Let's, you know, let's not, let's not freak  
22 out just yet. You know, let's not -- you  
23 know, we have to have confidence -- you  
24 know, the confidence that we've had in the  
25 story I still had.

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1 Q And nothing in Mr. Wemple's  
2 article we just looked at together --

3 A Well, it was not fun to read.

4 Q But nothing shook your  
5 confidence?

6 A Nothing -- I shouldn't say I  
7 didn't think at this point that we had a  
8 story on our hands that would eventually  
9 have to be retracted.

10 Q And when did you come, first  
11 come to that conclusion? Was that the  
12 morning of December 5th?

13 A Well, I mean on December 5th, it  
14 certainly emerged in my mind as something,  
15 as potential.

16 Q Especially given the fact that  
17 the author of the story was suggesting that  
18 the story needed to be retracted?

19 A Right, right. But at this  
20 point, all that we knew was that, from the  
21 Washington Post story, was that there  
22 hadn't been a "date function" at the  
23 fraternity house that night, which to me  
24 said, well, okay, this clearly shows that  
25 there are some problems with her memory.

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1 But it still didn't say to me there's an  
2 overwhelming likelihood that she is -- that  
3 she is not telling the truth.

4 So that's why, you know, I  
5 acknowledged it as discrepancies

6 Q You can put that aside. I'm  
7 going to hand you Plaintiff's Exhibit 44.  
(Whereupon, Exhibit 44 was  
9 marked for Identification.)

10 BY MR. CLARE:

11 Q Just to orient you as you look  
12 at this, you'll see we've fast-forwarded a  
13 couple of days. We're now at Friday,  
14 December 5th.

15 And this appears to be an e-mail  
16 thread about -- to and from Mr. Shapiro at  
17 the Washington Post, to Ms. Erdely and  
18 others, in terms of getting a response to  
19 the story that he was about to publish.

20 A Uh-huh.

21 Q And at the very top of the  
22 thread, Plaintiff's Exhibit 44, there is a  
23 statement that was e-mailed by Ms. Bruno to  
24 Mr. Shapiro and also it says it's going up  
25 on Rolling Stone.com and it's attributed to

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1 you.

2 A Yeah, yeah.

3 Q That's what I'm asking about.  
4 This statement that is reflected  
5 here at the top of Plaintiff's Exhibit 44,  
6 was this a statement that was posted on  
7 Rolling Stone.com on December 5th?

8 A Yes, I believe it is. Let me  
9 just --

10 Q Sure.

11 A Okay.

12 Q Is that the statement that you  
13 sent to the Washington Post on Friday,  
14 December 5th?

15 A I believe it is, yes.

16 Q And it was also the one that was  
17 originally appended to the story as an  
18 editor's note?

19 A Yes.

20 Q And it was appended and sent out  
21 over your name, correct?

22 A Yes.

23 Q And you were involved in  
24 crafting this statement?

25 A Yes.



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1 Q And again, looking at the first  
2 sentence of the statement, it makes  
3 reference to the article and what it  
4 describes as the university's failure to  
5 respond to this alleged assault.  
6 A Uh-huh.  
7 Q What was that a reference to?  
8 A Well, I believe it was that we  
9 knew that she had told the university that  
10 she had been raped by multiple men over --  
11 the exact timeline, you know -- you know,  
12 well over a year before it was reported,  
13 and that the school had not actually  
14 started to investigate whether this  
15 happened or not until after a Rolling Stone  
16 reporter started asking questions.  
17 Q Were you aware that Dean Eramo  
18 had arranged for Jackie to meet with police  
19 about her allegations?  
20 A I am not sure. I mean, I know  
21 that she had met with police over the  
22 incident where she said the bottle was  
23 thrown in her face.  
24 Q Did you have any discussions  
25 prior to publication about what information

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1 was in Rolling Stone's possession about  
2 Dean Eramo's efforts to get Jackie in touch  
3 with the police about her allegations?  
4 A Pardon, ask the question again?  
5 Q Prior to publication, did you  
6 have any understanding about what  
7 information was in Rolling Stone's  
8 possession, Ms. Erdely's possession, of  
9 about Dean Eramo's efforts to get Jackie to  
10 discuss her allegations with the police?  
11 A I was not specifically aware  
12 before publication of what information we  
13 had.  
14 Q Down to the bottom of -- near  
15 the bottom of the statement, it says, "In  
16 the face of new information, there now  
17 appears to be discrepancies in Jackie's  
18 account and we have come to the conclusion  
19 that our trust in her was misplaced."  
20 Do you see that sentence?  
21 A Yes.  
22 Q What were the discrepancies,  
23 specifically, in Jackie's account?  
24 A I believe, you know, not having  
25 100 percent recall of this day, it was

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1 about -- it was that we knew -- I'm not  
2 sure if the Post had published it or not  
3 yet at this time, but that the Post was  
4 going to publish that there was not a party  
5 at the house that night, a date function,  
6 and it was also, you know, information from  
7 Sabrina's discussion with Jackie the night  
8 before.  
9 So we knew the Washington Post  
10 publishes discrepancies, and it was also  
11 referring to the fact that -- I mean -- I'm  
12 sorry, I'm suddenly spaced on exactly what  
13 caused Sabrina to conclude the night  
14 before.  
15 Q Would it help if I showed you  
16 that e-mail?  
17 A Yeah, yeah, yeah.  
18 Q Okay. Let's look together at  
19 Plaintiff's Exhibit 55.  
20 (Whereupon, Exhibit 55 was  
21 marked for Identification.)  
22 A Right, okay, yeah. It was also  
23 the fact that Alex was -- that Alex was now  
24 questioning her credibility, also I found  
25 very disturbing. Because I think Alex had

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1 been one of her most forward defenders and  
2 advocates.  
3 So that's what I was referring  
4 to. But I think the discrepancies here is,  
5 probably refers specifically to what was  
6 either about to be reported in the  
7 Washington Post or had just been reported  
8 in the Washington Post. I don't remember  
9 the timeline of when they posted their  
10 story.  
11 Q About the specific absence of a  
12 date, function, or party that night?  
13 A Yeah, yeah.  
14 Q Was that information that had  
15 you had prior to publication would have  
16 been relevant to assessing Jackie's  
17 credibility about her account?  
18 MS. McNAMARA: Objection. Calls  
19 for speculation.  
20 A I mean it's hard to answer these  
21 specific hypotheticals, but yes, any -- I  
22 can guarantee you that any information that  
23 I was in possession of that caused me to,  
24 that caused me to have questions about our  
25 account, I would have acted upon decisively



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1 and swiftly and, you know, with, you know,  
2 absolute dispatch.

3 Q One of the criticisms of the  
4 article and the reporting on the article  
5 was that Ms. Erdely did not provide enough  
6 information to Phi Psi folks that she  
7 talked to in order to allow them to respond  
8 specifically.

9 A Yeah.

10 Q Do you think that's a valid  
11 criticism?

12 A Yes. I think if I had known, I  
13 would have -- if I was -- you know, I think  
14 we could have -- that she could have been,  
15 could have shared more with them in the  
16 reporting.

17 Q And at least --

18 A And the thing is, though, they  
19 knew they were under investigation when she  
20 asked the question.

21 Q So I guess my understanding is  
22 that the criticism relates more to not  
23 having provided specific information about  
24 Jackie's account, specific enough  
25 information about Jackie's account, in

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1 order to allow them to respond?

2 A Well, I think what it really  
3 was, was they responded with, as I recall,  
4 with a -- with a fairly quick denial, as I  
5 recall. And I think that Sabrina could  
6 have pressed harder following up on that  
7 denial.

8 Q Did Phi Psi contact Rolling  
9 Stone directly prior to publication asking  
10 for more details about the allegation?

11 A I believe that they contacted us  
12 after the story had printed asking to see  
13 an early copy of the story.

14 Q When you say after the story had  
15 printed, meaning what?

16 A Like just a couple of days  
17 before it came out.

18 Q I see, before it had gone up on  
19 the website?

20 A I believe -- yeah, I don't  
21 remember the exact date of that e-mail. If  
22 you could show it to me, I could --

23 Q Sure. I'm going to show you  
24 what's been marked as Plaintiff's Exhibit  
25 90.

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1 (Whereupon, Exhibit 90 was  
2 marked for Identification.)

3 A Okay. So this is the day  
4 before. So I believe it's been posted on  
5 the website at this point. Am I --

6 Q I don't want to -- I mean it's  
7 not my testimony that matters, but this  
8 is --

9 A I just need to -- I don't recall  
10 seeing this letter when it was sent, okay,  
11 but, you know, if you can help me with the  
12 timeline, I believe that --

13 Q Sure.

14 A I believe that it was already --  
15 let's see.

16 Q This is dated November 18th,  
17 2014.

18 A Which is a Wednesday, right?

19 MS. McNAMARA: I think it's a  
20 Thursday.

21 A Thursday, okay. So I'm pretty  
22 sure, someone has to check this, but I'm  
23 pretty sure the article has already been  
24 posted on the website at this point, but I  
25 don't want to say that with a high degree

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1 of confidence, because I don't remember.

2 Q Yeah. The article, it's my  
3 understanding, was posted on the 19th.

4 A Okay.

5 Q But I mean, again, it's not my  
6 testimony that matters, and we'll be able  
7 to identify this from other folks, but if  
8 we could get --

9 A Okay, so this hasn't been --

10 Q So this mailbox,  
11 editors@rollingstone.com, who monitors that  
12 box?

13 A You know, I'm honestly not sure  
14 who does. I don't remember.

15 Q Do you receive copies of e-mails  
16 that come into that box, or did you at the  
17 time?

18 A Mostly not, because -- I don't  
19 recall seeing e-mails from this.

20 Q Would Mr. Woods have been  
21 included in the group of people or the  
22 people that --

23 A I honestly don't know.

24 Q Okay.

25 A I don't have any information

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1 about this mailbox.

2 Q All right.

3 But earlier in your testimony

4 you made reference to the Phi Kappa Psi

5 folks having sent an e-mail asking for --

6 A I was referring to this, yes.

7 Q It's this document?

8 A Yeah.

9 Q Okay.

10 November 18th is a Tuesday?

11 MS. McNAMARA: Then I guess we

12 were operating under the assumption

13 that the 19th was a Friday, but I

14 guess that's wrong, that's Wednesday.

15 A Yeah. I don't remember. I

16 don't remember the exact -- the timeline

17 here I'm not entirely positive of, whether

18 this came before or after we posted it on

19 the internet.

20 Q All right.

21 And in this e-mail, the

22 President of Phi Kappa Psi's Virginia Alpha

23 chapter was asking for a preview of the

24 article that would be published by Rolling

25 Stone.

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1 A Yes.

2 Q Do you know if anyone ever

3 responded to Mr. --

4 A I have no idea.

5 Q When did you first become aware

6 of this request?

7 A Not until way afterwards.

8 Q You can set that aside.

9 A So I mean this was -- I had

10 no -- especially at this point, I had no

11 idea that it was there.

12 MS. McNAMARA: Is this a good

13 time that we could take a break?

14 MR. CLARE: Sure, that's fine.

15 MS. McNAMARA: Since we're done

16 with that document -- okay, great.

17 THE VIDEOGRAPHER: This

18 concludes tape number three. The time

19 is 3 p.m. and we're off the record.

20 (Recess taken 3:00 p.m.)

21 (Resumed 3:17 p.m.)

22 THE VIDEOGRAPHER: This begins

23 tape number four. The time is 3:17

24 p.m. We are back on the record.

25 BY MR. CLARE:

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1 Q Mr. Dana, before the break, we

2 were talking about interactions with Phi

3 Kappa Psi.

4 A Uh-huh.

5 Q And you made reference in your

6 testimony to them having come out with a

7 statement around this time.

8 This document I've handed you

9 over the break --

10 A Did I reference this? I don't

11 recall that.

12 Q Well, that's what I was going to

13 ask you.

14 A Okay.

15 (Whereupon, Exhibit 99 was

16 marked for Identification.)

17 BY MR. CLARE:

18 Q Plaintiff's Exhibit 99 is a

19 press release issued by Phi Kappa Psi on

20 December 5, 2014.

21 A Uh-huh.

22 Q And, in part, this is one of the

23 things that is referred to in that December

24 5th Washington Post article.

25 A Yes.

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1 Q And so I thought it was kind of

2 what I wanted to ask you about.

3 Was this the statement by Phi

4 Kappa Psi you were referring to, in terms

5 of the chapter, disputing certain issues in

6 the article, or was it something else?

7 A I'm not entirely sure. I mean,

8 I was aware of this press release. I don't

9 know at which point in the day I received

10 it, but I remember seeing it.

11 Q And there are three specific

12 points that the Phi Kappa Psi folks make in

13 response to the article.

14 A Yeah.

15 Q Were these three points, either

16 individually or in the aggregate, points

17 that informed your judgment about calling

18 Jackie's credibility into question in the

19 account that had been published in the

20 article?

21 A I can't tell you exactly,

22 because weren't these points also in the

23 Washington Post story? I just -- I don't

24 remember exactly. I mean, I don't remember

25 if it was -- I don't remember what was the



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1 operative thing, if it was this or the  
 2 Washington Post article.  
 3 But these actual -- if I learned  
 4 about these three points, I'm not sure if  
 5 it was from the Washington Post article or  
 6 from this press release, but I was aware of  
 7 it that day.  
 8 Q And I guess focusing less on the  
 9 vehicle through which you learned it, but  
 10 the actual substance of what the Phi Kappa  
 11 Psi folks were saying in that statement --  
 12 A Yeah, so I was troubled by the  
 13 first two, obviously.  
 14 The third one -- I didn't read  
 15 the article and many other people didn't  
 16 read the article saying that we were  
 17 alleging that Jackie was saying that the  
 18 assault was an initiation ceremony. I  
 19 think people read that into the story, but  
 20 I don't think that -- I don't think that  
 21 the article definitively said that she was  
 22 being raped as part of an initiation ritual  
 23 into the fraternity. But the first two  
 24 points were, you know, I took much more  
 25 seriously.

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1 Q Okay.  
 2 And when you say you took them  
 3 seriously, would those two points, among  
 4 the facts that you became aware of on  
 5 December 5th, together with the information  
 6 Ms. Erdely had presented in her e-mail, had  
 7 caused you to have doubts about Jackie's  
 8 credibility?  
 9 A Yes. I mean these are the  
 10 discrepancies that I referred to. I mean  
 11 this did not, in and of itself, cause me to  
 12 determine that -- to cause me to absolutely  
 13 conclude that Jackie's credibility, you  
 14 know, was problematic. But it made me, it  
 15 gave me pause, and it made me consider the  
 16 idea that something was wrong with her  
 17 story. But at this point, I was not quite  
 18 ready to say that I don't believe what she  
 19 told us.  
 20 Q All right. You can set that  
 21 aside.  
 22 I'm going to hand you --  
 23 A Oh shit, I didn't have my  
 24 microphone on. Sorry about this.  
 25 MS. McNAMARA: I thought

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1 something really bad happened.  
 2 MR. CLARE: We can edit that  
 3 out.  
 4 THE WITNESS: Thanks. Could you  
 5 pick it up anyways? Okay.  
 6 BY MR. CLARE:  
 7 Q I'm going to hand you what we've  
 8 marked as Plaintiff's Exhibit 101.  
 9 (Whereupon, Exhibit 101 was  
 10 marked for Identification.)  
 11 BY MR. CLARE:  
 12 Q Plaintiff's Exhibit 101 is, at  
 13 least appears to be a printout of a  
 14 certain, a series of tweets.  
 15 A Yeah.  
 16 Q Are these tweets that you wrote  
 17 on or about December 5, 2014?  
 18 A Uh-huh.  
 19 Q And the way that this is printed  
 20 out, they sort of -- they go from the  
 21 bottom of the page up to the top, correct?  
 22 A Yeah, uh-huh, uh-huh.  
 23 Q And you have broken up what is a  
 24 longer point into, it looks like six  
 25 shorter tweets, correct?

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1 A Yes.  
 2 Q And so the first, second, third,  
 3 the numbers are delineated, right?  
 4 A Yeah.  
 5 Q And so in your tweet on December  
 6 5th, you wrote -- you start, "I can't  
 7 explain the discrepancies between Jackie's  
 8 account and the counter-statements made by  
 9 Phi Psi."  
 10 A Yes.  
 11 Q The counter-statements made by  
 12 Phi Psi is either the press release we just  
 13 looked at or the report of the press  
 14 release in the Washington Post article,  
 15 correct?  
 16 A Yes.  
 17 Q And on December 5th, you  
 18 couldn't explain the discrepancies,  
 19 correct?  
 20 A Yes.  
 21 Q And that's why you sent that out  
 22 to twitter?  
 23 A Uh-huh.  
 24 Q The second tweet that you sent  
 25 out says, "The fact that there is a story

Page 246

1 that appears in Rolling Stone, in which I  
 2 don't have complete confidence, is deeply  
 3 unsettling to me," correct?  
 4 A Yes.  
 5 Q And was that true, that on  
 6 December 5th you did not have complete  
 7 confidence in the story?  
 8 A Yeah. I think, as I said, is  
 9 I'd began to have serious doubts about the  
 10 story. At the same time, I couldn't  
 11 explain the discrepancies between her  
 12 account and the statements, because at this  
 13 point I'm still, I'm still not ready to  
 14 conclude that Jackie's account isn't more  
 15 or less -- isn't -- you know, isn't more or  
 16 less true.  
 17 What I've known going into this  
 18 is that Eramo's office, President Solin's  
 19 office and the fraternity have all  
 20 acknowledged in our reporting that they're  
 21 aware that this rape, an "alleged rape"  
 22 occurred. So that's what I'm going into,  
 23 that we know that there is a belief on  
 24 campus that this rape occurred.  
 25 Q What's your basis for the

Page 247

1 statement that Eramo's office acknowledged  
 2 that the account of the rape published in  
 3 Rolling Stone --  
 4 A Well, not the account, but we  
 5 know that she had been told that -- we know  
 6 that Jackie reported the rape. We know  
 7 that she said to Jackie, you know, don't  
 8 worry, all those men have graduated. So we  
 9 know that Eramo has knowledge that Jackie  
 10 has allegedly been assaulted by multiple  
 11 men.  
 12 Q But did you know whether the  
 13 account of the assault that Jackie had told  
 14 to Dean Eramo was the same or different  
 15 from the account that Jackie told to  
 16 Rolling Stone?  
 17 A No, but I -- it still -- it  
 18 seems significant to me that the school had  
 19 knowledge of an account by multiple groups  
 20 of men on a freshman woman.  
 21 Q The third tweet on Plaintiff's  
 22 Exhibit 101 says, "We made a judgment, the  
 23 kind of judgment reporters and editors make  
 24 everyday, and in this case our judgment was  
 25 wrong."

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1 What judgment were you referring  
 2 to?  
 3 A The judgment that we found our  
 4 source to be entirely credible.  
 5 Q 4 says, "We should have either  
 6 not made this agreement with Jackie or  
 7 worked harder to convince her that the  
 8 truth would have been better served by  
 9 getting the other side of the story."  
 10 What agreement with Jackie is  
 11 that a reference to?  
 12 A Well, from -- that Sabrina told  
 13 Jackie that she would not identify her  
 14 assailants.  
 15 Q Identify her in the article,  
 16 correct?  
 17 A Identify the assailants, yeah.  
 18 Q Right, in the article.  
 19 A Well, I think it was also -- we  
 20 have to go back and look at the exact text  
 21 of -- I mean, I would rather Sabrina talk  
 22 to exactly what the agreement was than have  
 23 me characterize it, because I wasn't there  
 24 when it was made.  
 25 Q Was it your understanding -- you

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1 know, we'll certainly have a chance to ask  
 2 her about that specifically -- but was it  
 3 your understanding, certainly prior to  
 4 publication, let's start there, was it your  
 5 understanding prior to publication that  
 6 Sabrina, Ms. Erdely had made an agreement  
 7 with Jackie not to identify the assailants  
 8 in the publication?  
 9 A Yes, and also to do such things  
 10 that would make the assailants know that  
 11 she was making these allegations against  
 12 them such that they would be endangered.  
 13 Q And did that include backing off  
 14 on efforts to try to identify them and  
 15 obtain comment from them?  
 16 A Yeah. I think it's better to  
 17 have Sabrina exactly comment on that since  
 18 she was the person who made the agreement.  
 19 Q Okay.  
 20 When you made a reference in  
 21 your tweet to the agreement, what  
 22 agreement, specifically, were you referring  
 23 to?  
 24 A Well, what I'm basically saying  
 25 is that we either should have not made any



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1 agreement with her about identifying the  
 2 assailants or not, or we should have  
 3 convinced her that it would be okay for  
 4 us -- that we needed to do this.

5 Q And in connection with making  
 6 these tweets and then over the next little  
 7 while, you replaced the language in the  
 8 editor's note about your trust in Jackie  
 9 being misplaced.

10 A Yes.

11 Q Tell me about the circumstances  
 12 that led to that happening.

13 A Well, because I felt, you know,  
 14 it's still impossible for me to conclude  
 15 that Jackie was not in some way assaulted.  
 16 Who knows how or why.

17 But I think -- I operate under  
 18 the assumption that something awful  
 19 happened to her, and I don't want to be in  
 20 a position of actually, of blaming, of  
 21 blaming a victim for how she behaved in the  
 22 aftermath of her assault, assuming she is a  
 23 victim, which I will give her the benefit  
 24 of the doubt and assume that she was  
 25 victimized in some way.

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1 So I wanted to make the point  
 2 that rather than blaming her for telling us  
 3 whatever story she told us, I realized upon  
 4 reflection that we would have served her  
 5 better and us better by not having used her  
 6 as the single source for this.

7 You know, and I mean I still  
 8 think we had sound reasons for believing in  
 9 her credibility, because it was a hard  
 10 thing to imagine as we were reporting the  
 11 story with the amount of corroborating  
 12 evidence we had and assumptions that we  
 13 could make about how the -- what the  
 14 administration and the fraternity knew  
 15 about the investigations.

16 It was hard to imagine almost to  
 17 the point where, you know, it didn't -- it  
 18 almost didn't seem -- the idea that to say,  
 19 God, you think she's lying was not  
 20 something that occurred to us, because it  
 21 just, it seemed so unlikely that someone  
 22 would concoct a story like this.

23 Q Did Rolling Stone, at whatever  
 24 level, including Ms. Erdely, suspend its  
 25 skepticism of Jackie improperly?

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1 A You know, that's -- I'm not  
 2 going to -- I'm going to say that we made a  
 3 judgment which we felt good about at the  
 4 time, which in retrospect was not a good  
 5 judgment.

6 And my belief, you know, on the  
 7 belief that people lying about assaults is  
 8 so rare, on the belief that we had what  
 9 seemed like very good reason to believe  
 10 that enough people on campus had been told  
 11 of Jackie's story and believed in Jackie's  
 12 story that they were taking it seriously.

13 And what was my third point?  
 14 And the fact that Jackie let us use her  
 15 name and put her name to this story in a  
 16 way that was clearly going to make her  
 17 identifiable to her community, and that she  
 18 seemed eager to do it, you know, she wanted  
 19 to do it -- we did not have to cajole her  
 20 into doing it. She was a very willing  
 21 participant in the story.

22 Q What steps are you aware of  
 23 prior to publication that Rolling Stone  
 24 took to pressure test Jackie's story as  
 25 opposed to corroborate it?

Page 253

1 A Well, you know --  
 2 MS. McNAMARA: Objection. Vague  
 3 and ambiguous. Do you understand?  
 4 A What do you mean by pressure  
 5 test then?  
 6 Q To -- I'm not sure I could think  
 7 of a better word -- to express skepticism  
 8 about.

9 A Well, I actually think pressure  
 10 test is not a bad phrase.

11 Q Oh, I thought it was a good  
 12 phrase too, but she didn't.

13 A Yeah. That did not seem to  
 14 say -- in the same as expressing  
 15 skepticism.

16 Q Okay.

17 A And I believe a lot of the  
 18 reporting Sabrina did was, in fact, very  
 19 well-described as a pressure testing.

20 Q What, specifically, in your mind  
 21 did Ms. Erdely or others do to pressure  
 22 test Jackie's account as published in the  
 23 article?

24 MS. McNAMARA: Wait, just a  
 25 second. I want to caution the witness



Page 254

1 here.

2 I think you've got to speak to

3 what your knowledge was at the time of

4 publication.

5 I don't want you to walk into

6 information you gained in the course

7 of your independent investigation of

8 this that's privileged.

9 So if you can speak to what you

10 understood to be pressure testing by

11 Jackie prior to publication, your

12 knowledge at that time, by all means.

13 A I would say my understanding

14 at -- prior to publication -- I mean there

15 are people you can ask about the pressure

16 testing with much more detail, you know.

17 What I bring to the table is

18 that I believed in our process, I believed

19 in our people, I was assured by them that

20 the story was sound, I had faith in

21 Sabrina, I had faith in Sean, I had faith

22 in Liz, I had faith in Coco, and there were

23 no substantial problems that came up

24 through their processes that were brought

25 to my attention.

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1 Q All right.

2 I'm going to hand you what we've

3 marked as Plaintiff's Exhibit 4.

4 (Whereupon, Exhibit 4 was marked

5 for Identification.)

6 BY MR. CLARE:

7 Q This is a printout of the

8 article, and you'll see the print date at

9 the top is December 11, 2014, in terms of

10 when this was printed. I'm not going to

11 ask you about the article itself.

12 In terms of this particular

13 exhibit, what I'd like to focus on is the

14 editor's note that is appended to the front

15 of it at that point in time.

16 A Uh-huh.

17 Q And what I'd like you to do is

18 just look through it and see if this is the

19 revised editor's note that was posted to

20 the article that removed the language about

21 the trust in Jackie being misplaced and

22 replaced it with different verbiage.

23 A Yeah, okay.

24 Q Is this editor's note the one

25 that appears in Plaintiff's Exhibit 4, this

Page 256

1 also went out under your name, correct?

2 A Yes.

3 Q And this replaced the language

4 that we had seen in the earlier version

5 that said our trust in Jackie was misplaced

6 with some other verbiage, correct?

7 A Yes.

8 Q What were the circumstances

9 surrounding the shift from the earlier

10 version to this one?

11 A Well, I think -- do you know

12 when this was actually posted, this

13 version?

14 Q I don't, other than -- I don't

15 specifically, other than I know that some

16 of the verbiage --

17 A Yeah, I think we just felt we

18 needed, you know, we had put out some

19 statements and we wanted to have something

20 that was more detailed and definitive, you

21 know, to sit at the top of the story while

22 we investigated and tried to figure out

23 what to do next.

24 Q And was this -- strike that.

25 At the end of this editor's

Page 257

1 statement, you say, "These mistakes" --

2 referring to some of the things we've

3 already talked about.

4 A Yeah.

5 Q "These mistakes are on Rolling

6 Stone, not on Jackie. We apologize to

7 anyone who was affected by the story and we

8 will continue to investigate the events of

9 that evening."

10 Do you see that?

11 A Yes.

12 Q To whom were you apologizing

13 there, specifically?

14 A You know, I think it says it

15 right there, to anyone -- you know, to

16 anyone who was hurt. I mean, I think it's

17 pretty clear who we're apologizing to.

18 Q To whom -- were you intending

19 this apology to be an apology to Dean

20 Eramo, among others?

21 A Pardon? Among, yeah, she would

22 definitely be in the blanket. I mean there

23 were may people who were aggrieved parties

24 in this who were coming after us, and we

25 wanted to just acknowledge their -- we



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1 wanted to acknowledge their upset and put  
 2 this out there.  
 3 Q What were you apologizing for at  
 4 this point?  
 5 A For people who were hurt or  
 6 offended by the story.  
 7 Q How was Dean Eramo hurt by the  
 8 story?  
 9 MS. McNAMARA: Objection.  
 10 Foundation.  
 11 A Well, at this point -- I don't  
 12 know. I had never talked to her. So I  
 13 don't know.  
 14 Q You say you apologize to anyone  
 15 who was affected by the story, correct?  
 16 A Yeah.  
 17 Q And you just told me a minute  
 18 ago that in your mind at least --  
 19 A Well, I think I was kind of  
 20 responding to you sort of -- I maybe made a  
 21 mistake in sort of you saying her name. I  
 22 would say anyone who felt affected by the  
 23 story in a negative way, we were  
 24 apologizing to.  
 25 Q All right.

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1 A And at this point, I probably  
 2 had not separated out exactly who, you  
 3 know, who those people were and to what  
 4 we --  
 5 Q So if you weren't sure at this  
 6 point whether Jackie was telling the truth  
 7 or not and you weren't sure whether or not  
 8 the status --  
 9 A When you say this point, I don't  
 10 know -- I don't remember what date this was  
 11 published, so I don't want to say at this  
 12 point because --  
 13 Q Okay.  
 14 A Unless we can figure out exactly  
 15 what day it came on, because things are  
 16 moving very fast in this period.  
 17 Q All right. Let's go with then  
 18 December 5th.  
 19 A Okay.  
 20 Q All right.  
 21 A But I think this was probably  
 22 not December 5th. I mean it's just -- I  
 23 can't speak to my state of mind writing  
 24 this apology unless I know the exact date  
 25 that it was published, and I don't remember

Page 260

1 what that was.  
 2 Q The earlier version of the  
 3 editor's note, which was -- I think we sent  
 4 around --  
 5 A Yeah.  
 6 Q Let's look at that one then.  
 7 A This was the one -- the first  
 8 one.  
 9 Q Correct.  
 10 A Yeah, I mean, and, frankly --  
 11 yeah.  
 12 Q Let me put in front of you  
 13 Plaintiff's Exhibit 44. You've got it.  
 14 A Yeah.  
 15 Q 44.  
 16 A Uh-huh, okay.  
 17 Q So I'm trying to be responsive  
 18 and respectful of your suggestion that we  
 19 focus on a particular time period.  
 20 A Yeah.  
 21 Q So I want to focus on  
 22 Plaintiff's Exhibit 44, which is Friday,  
 23 December 5, 12:57 p.m. Got it?  
 24 A Yeah.  
 25 Q And it says at the bottom, it

Page 261

1 includes the exact same language?  
 2 A Yeah.  
 3 Q "We are taking this seriously  
 4 and apologize to anyone who is affected by  
 5 the story."  
 6 I guess it's not exactly the  
 7 same.  
 8 A Yeah.  
 9 MS. McNAMARA: I was just going  
 10 to correct the record.  
 11 MR. CLARE: Yeah, so --  
 12 MS. McNAMARA: I mean the same  
 13 language is apologized to anyone who  
 14 is affected by the story.  
 15 BY MR. CLARE:  
 16 Q On December 5, 2014 at 12:57,  
 17 you wrote, "We are taking this seriously  
 18 and apologize to anyone who is affected by  
 19 the story," correct?  
 20 A Yes.  
 21 Q And then at some later point in  
 22 time, we don't know exactly when, but by  
 23 December 11th, that sentence had changed  
 24 to, "We apologize to anyone who is affected  
 25 by the story and we will continue to

Page 262

1 investigate the events of that evening."

2 A You've got to understand, this

3 is written within hours of our discovering

4 the problem, the first thing, okay.

5 So we are -- you know, we are

6 reacting very quickly. We don't know --

7 you know, we haven't had time to really go

8 deep. There's more, there's more

9 information coming out from other outlets

10 every, you know, by the minute on this day.

11 So we are -- and we want to just

12 get something out as quickly as we can to

13 acknowledge that we know there are problems

14 with the story and to let our readers know

15 that we are taking it seriously and are on

16 it and are trying to figure out what to do

17 next.

18 Q Okay.

19 So why apologize then at that

20 point? What were you apologizing for on

21 December 5th?

22 A Well, we were apologizing to

23 anyone who was hurt by the story. I mean,

24 I think it seems pretty obvious. If we

25 think we might have gotten something wrong,

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1 we want to apologize to anyone who was

2 affected by it.

3 I mean at this point, I don't

4 think I'm thinking that person, that

5 person, that person, that person.

6 Q So -- and I'm not trying to put

7 words in your mouth. I'm just trying to

8 understand, given what you told me earlier

9 that you weren't sure what was going to

10 happen in terms of all the new information,

11 and so I'm just trying to understand why

12 you were -- is it a conditional apology

13 that if the story turns out to be wrong --

14 A No. It's an apology we know

15 we've gotten some things wrong that had

16 been potentially hurtful to some people,

17 and we are addressing that concern right

18 away.

19 Q So why not take the story down?

20 A Because at this point, it's been

21 6 hours. We don't -- we don't at this

22 point know what is wrong and what is right.

23 As I said, we can only take it down once

24 and we don't want to act rationally.

25 Q All right. You can put that

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1 aside.

2 I'm going to hand you what we've

3 marked as Plaintiff's Exhibit 60.

4 (Whereupon, Exhibit 60 was

5 marked for Identification.)

6 BY MR. CLARE:

7 Q I've handed you what we've

8 marked as Plaintiff's Exhibit 60.

9 This is an e-mail exchange

10 between you and Ms. Erdely. The subject is

11 Liz, and then it continues, "Securro a

12 little crazy?"

13 And you make reference in your

14 e-mail to certain text messages.

15 A Yes.

16 Q Those are the text messages that

17 were provided to us during the deposition

18 today, correct?

19 A Yes.

20 Q What is -- can you give me a

21 little bit of the circumstances leading up

22 to --

23 A Well, she reached out to me and

24 actually was very warm and supportive, but

25 then was kind of like -- I would have one

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1 really, really friendly conversation with

2 her. And then she would call me up and say

3 things like -- she lived a couple of hours

4 away from the city -- like you need to

5 drive out and meet with me at 9:00 tomorrow

6 morning and I'm going to tell you

7 something. And I'd be like, I'm a little

8 busy right now, I can't just bail. And

9 then she would like get really angry at me

10 that I wouldn't come out.

11 I mean, I'm not sure I'm

12 remembering exactly right, but you know, it

13 was these -- and then like I'd have another

14 conversation with her a couple of hours

15 later where she was like warm, funny Liz

16 Securro, great, I'm on your side -- and

17 then I think late at night, I'd get a

18 really angry text message from her, you

19 know, the next day. I would get suddenly

20 her saying, hey, how are you doing, you

21 know, very friendly calls.

22 Q How is it you came to be

23 introduced to Ms. Securro?

24 A Because she called me in the

25 immediate aftermath of when the story was



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1 published.

2 Q Did you have any communications

3 with her pre-publication?

4 A No, no.

5 Q And what -- under what -- what

6 did she call you to discuss?

7 A To kind of say I'm with you, on

8 your side. You know, she was very

9 supportive of the story.

10 Q And this was in the immediate

11 aftermath of the publication?

12 A I believe so. I don't remember

13 exactly the first time she called me.

14 Q And describe for me, if you

15 will, did you ever meet with her? Did you

16 ever talk with her again?

17 A I tried to explain I can't get

18 away -- you know, I don't have -- right now

19 at this point, I can't really take a day to

20 come meet you and, you know, why can't you

21 just tell me over the phone what you need

22 to tell me.

23 Q Did she ever provide you with

24 any substantive information?

25 A I feel like she provided me with

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1 enough substantive information to make me

2 think that this wasn't going to be worth

3 taking a day off work at this particular

4 moment to come listen to it.

5 Q What did she tell you?

6 A You know, I don't exactly

7 remember, but it was kind of -- it was kind

8 of nothing, as I recall.

9 Q Did she ever discuss with you

10 Jackie or Jackie's account?

11 A Yeah. She spent a lot of time

12 discussing the Jackie, Jackie's account,

13 Jackie's -- you know, she never met Jackie.

14 But based on her experience with being

15 raped kind of explained to me, you know,

16 sort of what are often the thought patterns

17 of a rape victim. Because, you know, she

18 has then become -- like she's worked with a

19 lot of rape victims and some valuable

20 things that she told me about sort of, you

21 know, what rape victims share in common.

22 I mean she was very open and

23 these were the -- you know, I mean, I would

24 say most of our conversations were very,

25 very friendly. And then there were these

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1 sort of weird moments that I could never --

2 that's why I said it to Sabrina, because I

3 think I was having trouble squaring like

4 this woman who is so warm and friendly, and

5 then suddenly I get this angry text message

6 one night, and then I get these like kind

7 of weird like spy novel things, like come

8 meet me tomorrow morning at 9:00, you know,

9 two and a half hours away from where you

10 live. And then I talked to her again and

11 she's back to being this, you know,

12 extremely friendly, nice person.

13 Q Did --

14 A So that's what I was referring

15 to.

16 Q When it started to become public

17 that there were problems with the article,

18 and I mean after some of these statements

19 that you've made that we've been looking

20 at, what was her attitude towards the

21 story, towards you, towards Rolling Stone

22 and the like?

23 A You know, basically it was

24 always very warm and empathetic and, you

25 know, you guys made an honest mistake, you

Page 269

1 know, I believe you were trying to do the

2 right thing, you know, you had the right

3 instincts, and it was brave of you to take

4 on Jackie's story, you know, but the thing

5 spun out of control -- but, you know, I

6 think that, what I also believe myself is

7 that the mistakes we made were honest ones.

8 Q I'm going to hand you what I'm

9 marking Plaintiff's Exhibit 102.

10 (Whereupon, Exhibit 102 was

11 marked for Identification.)

12 MR. CLARE: I only have the two

13 copies.

14 MS. McNAMARA: No, I'm sorry, we

15 should have given you one.

16 MR. CLARE: That's okay.

17 BY MR. CLARE:

18 Q So I've handed you what we've

19 just marked as Plaintiff's Exhibit 102.

20 A Yeah.

21 Q Is this the text exchange or a

22 text exchange that you had with Liz

23 Securro?

24 A Yes.

25 Q How is it, if you know, that she



Page 270

1 had your phone number to be able to send  
 2 you these text messages?

3 A Because we had talked a bunch of  
 4 times like when I was out of the office. I  
 5 mean we were talking, you know, I can't  
 6 tell you exactly how many phone calls we  
 7 had, but we were in touch with each other  
 8 for these couple of weeks.

9 Q And am I interpreting these text  
 10 messages correctly that the words on the  
 11 left side of the page that are not in the  
 12 little cartoon bubbles, those are what  
 13 Ms. Securro was texting, and the ones that  
 14 are in the little cartoon bubbles are what  
 15 you were responding to her?

16 A I believe so, yes.

17 Q She makes reference to you  
 18 having thrown -- or the publication having  
 19 thrown her under the bus.

20 Do you know what that was a  
 21 reference to?

22 A You know, these were things  
 23 where I was sort of -- I didn't quite  
 24 understand what she was talking about. You  
 25 know, these things would come -- like this

Page 271

1 was -- I guess that was a few hours  
 2 later -- I guess she was referring to the  
 3 story, which I'm not sure I had read.

4 I think I was already sleeping  
 5 by 12:46 that night -- was I not -- yeah.  
 6 So I answered it.

7 Yeah, so she is referring, I  
 8 guess, to the daily piece saying I didn't  
 9 throw you under the bus, right.

10 Q Right, she's --

11 A And then in the piece she talked  
 12 about her own rape. So that's what I was  
 13 responding to the next morning when I woke  
 14 up.

15 Q She wrote, "Also, I'm the only  
 16 truthful person you have in your piece."

17 Is that something she also  
 18 expressed to you verbally?

19 A Wait, where does it say that?

20 Q It's on the page at the bottom  
 21 8217.

22 A What was your question?

23 Q So in the middle of this page,  
 24 she writes, "You do realize I can throw you  
 25 under the bus tomorrow. I'm the only

Page 272

1 truthful person you have in the piece. You  
 2 think everybody's going to forget, but they  
 3 are not."

4 What did you understand her to  
 5 be saying?

6 A I understood to be the only  
 7 truthful person in my piece is that she  
 8 believed that not only was Jackie not  
 9 telling the truth, but that everybody at  
 10 UVA was also a liar, I think is what she's  
 11 referring to. She had a very dim view of  
 12 the UVA administration.

13 Q Did she also -- she was also  
 14 expressing a view to you that Jackie had  
 15 lied?

16 A I think at this point, she had  
 17 concluded that Jackie was not telling the  
 18 truth.

19 You know, once again, I believe  
 20 she also -- and I think I'm getting this  
 21 from our phone calls -- that she very much  
 22 believed that Jackie had been sexually  
 23 assaulted in some way, but that whatever  
 24 story she told us was not true.

25 Q What did you understand her to

Page 273

1 mean when she says, "You do realize I can  
 2 throw you under the bus tomorrow?" What  
 3 did you understand her to be threatening to  
 4 do?

5 A To say something bad about  
 6 Rolling Stone, I think.

7 Q And in response to that, among  
 8 other things, you said, "I've been thrown  
 9 under a lot of buses the last couple of  
 10 weeks, so that's not really my concern.  
 11 What's one more bus?"

12 What were you making reference  
 13 to in terms of having been thrown under a  
 14 lot of buses?

15 A Oh, just that there had been a  
 16 lot of criticism of me in the press for the  
 17 past couple of weeks.

18 Q Okay. All right. You can set  
 19 that aside.

20 A Uh-huh.

21 Q All right. I'm going to hand  
 22 you what's been marked as Plaintiff's  
 23 Exhibit 19.

24 (Whereupon, Exhibit 19 was  
 25 marked for Identification.)



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1 BY MR. CLARE:

2 Q Plaintiff's Exhibit 19 is, I

3 believe, the first time you and I

4 communicated.

5 A Uh-huh.

6 Q This was an e-mail and a letter

7 attached to it from my partner and I on

8 December 23rd, 2014 addressed to you,

9 asking for an in-person meeting with you

10 and your counsel.

11 A Uh-huh.

12 Q Is that correct?

13 A Yes.

14 Q Did you receive this exhibit,

15 Plaintiff's Exhibit 19?

16 A I believe I did. I mean, I have

17 to say these weeks are a little bit of a

18 blur for me, but I'm sure if it came to me,

19 I did.

20 Q And in this letter that's

21 attached to Plaintiff's Exhibit 19, my

22 office, on behalf of Dean Eramo, requested

23 an in-person meeting with you, correct?

24 A I believe so, yes.

25 Q You did not attend an in-person

Page 275

1 meeting with us, my office, on behalf of

2 Dean Eramo, did you?

3 A I did not.

4 Q You can put that aside.

5 I'm going to hand you what we've

6 marked as -- well, let me ask you this: As

7 the managing editor of Rolling Stone, in

8 the aftermath of all of this, did you

9 conduct your own examination of the

10 reporting that went into this article?

11 MS. McNAMARA: He can answer

12 that question and then the content of

13 that -- because that was under --

14 that's the internal investigation

15 conducted under supervision of

16 counsel. I mean he can -- so he can

17 answer that yes or no, but I think the

18 content of that is privileged.

19 A Yes.

20 Q We'll start there.

21 You told the New York Times,

22 after the Columbia report came out, that

23 you had done your own examination of it.

24 A Yeah.

25 Q To what were you referring?

Page 276

1 A Can I see the quote?

2 Q Sure.

3 A Let me just refresh my memory.

4 So what's the quote you're referring to?

5 Q Sites on page 1, 2, 3 at the

6 very top. And I guess it's not a quote, so

7 let me -- it's the very top.

8 This is an April 5, 2015 New

9 York Times article that makes reference to

10 having given an interview with you, and

11 this was sort of in the immediate aftermath

12 of the Columbia report, correct?

13 A Yes.

14 Q And did you participate in an

15 interview with the New York Times in

16 connection with that?

17 A Yes.

18 Q And it attributes to you,

19 although it doesn't quote, the sentiment

20 that you had reached many of the same

21 conclusions as the Columbia report in your

22 own efforts to examine the article.

23 Do you see that?

24 A Yes.

25 Q Okay.

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1 What -- did you say that, in

2 words or substance, to the New York Times?

3 A I believe I did, yes.

4 Q All right.

5 And in communicating that to the

6 New York Times, what were you referring to

7 when you described your own efforts to

8 examine the article?

9 A Wait, ask the question again?

10 Q What were you referring to when

11 you told the New York Times or described to

12 the New York Times your own efforts to

13 examine the article?

14 A I was referring to my own

15 efforts to examine the article.

16 Q Okay.

17 A I mean isn't that fairly --

18 Q Well, you know, I think so, but

19 I'm trying to understand is how many

20 different internal considerations there

21 were.

22 I mean, as I understand your

23 instruction, there was an internal

24 investigation conducted by counsel.

25 Did you, independent of that,

Page 278

1 just as the managing editor of Rolling  
2 Stone, do an examination of the article  
3 or --  
4 A Yeah, I would tell you I took  
5 this very, very seriously.  
6 Q Yeah, and I'm not disputing  
7 that. What I'm trying to understand is  
8 what were you referring to here when you  
9 told the New York Times that you had  
10 reached the same, many of the same  
11 conclusions in your own efforts to examine  
12 the article?  
13 A I think it's pretty clear, if  
14 you read the report, that I'm saying that I  
15 agreed that I had reached a lot of the same  
16 conclusions that Steve Coll did.  
17 Q And when, in time, did you reach  
18 those conclusions?  
19 A You know, I started -- I started  
20 looking at everything. I spent the entire  
21 weekend in the office. You know, the thing  
22 broke on Friday. And basically I came back  
23 to the office from the entire weekend and  
24 probably, you know, spent many, many hours  
25 and days over the next few weeks.

Page 279

1 Q Okay.  
2 And in the course of those  
3 hours, or days, or weeks after December  
4 5th, is that when you came to many of the  
5 same conclusions that were ultimately  
6 reported in the Columbia --  
7 A I think that's fair to say, but  
8 I think I also -- I thought about it a lot  
9 over -- I mean, I had now 4 months to think  
10 about it at this point, and I probably had  
11 not thought about a lot of other things  
12 besides that in those 4 months, you know.  
13 So I was -- you know, I deeply  
14 pondered everything before I read the  
15 report.  
16 Q At what point in time did you,  
17 Mr. Dana, come to the conclusion that the  
18 article needed to be retracted?  
19 A You know, I'm not entirely sure  
20 when -- when you say retracted, do you mean  
21 taken down? I mean is this the same thing  
22 in your mind?  
23 Q Well, that's a question I'm  
24 going to ask you, was going to ask you  
25 later in the deposition. But you've said

Page 280

1 that Rolling Stone has retracted the  
2 article. You've said that publicly,  
3 correct?  
4 A I said that here, right?  
5 Q Among other places.  
6 A Yeah. I mean, to me, retraction  
7 and taking it down are synonymous. So I  
8 mean just semantically. Maybe other people  
9 have different views of them.  
10 You know, I think that once  
11 we -- you know, my decisions about the  
12 article -- you know, I honestly can't tell  
13 you exactly when I decided that it had to  
14 be taken down. And partially it's because  
15 it wasn't my decision in the end.  
16 Q And whose decision was it?  
17 A It was Jann's.  
18 Q When did you first go to  
19 Mr. Wenner with your conclusion that the  
20 article needed to be taken down?  
21 A Probably within -- it's hard for  
22 me to pinpoint exactly when it was.  
23 Q Give me your best estimate.  
24 A I would say it was -- I think  
25 it's one of the things that led to us

Page 281

1 bringing in the outside people into the  
2 investigation. You know, Jann was like  
3 okay, I hear you, but I don't want -- you  
4 know, this is a very important thing and  
5 what I'd rather do is put it on pause and  
6 bring outsiders in to examine the process  
7 and, you know, so that when that  
8 determination is made, it has sort of the  
9 premature, the Columbia School of  
10 journalism.  
11 Q And so this discussion that  
12 you're referencing with Mr. Wenner about  
13 taking the article down, that took place  
14 prior to reaching out to Columbia?  
15 A I believe it did, yeah.  
16 Q Okay.  
17 And it was -- as I understand,  
18 it was at least, in part, your belief and  
19 your decision that the article should be  
20 taken down that led to the discussion that  
21 led to the outreach to Columbia, do I have  
22 that right?  
23 A Yeah, because I think over  
24 the -- from December 5th to over the next  
25 week, or 10 days, or 2 weeks, or whatever



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1 time period, I'm not sure exactly what it  
 2 is, it became increasingly clear day by day  
 3 that the problems with the article were  
 4 bigger and more serious than we had  
 5 initially, than we had initially realized.  
 6 Q And so at least by the time that  
 7 you reached out to Columbia, you, as the  
 8 managing editor, had reached the conclusion  
 9 that the article would need to be taken  
 10 down?  
 11 A Yeah, I think that's fair to  
 12 say. I mean unless, you know, unless they  
 13 were somehow to have discovered that, in  
 14 fact, she was telling the truth, you know.  
 15 I mean who knows.  
 16 Q And it was -- and you discussed  
 17 that view with Mr. Wenner?  
 18 A What?  
 19 Q That the article needed to be  
 20 taken down.  
 21 A I believe I did, yeah.  
 22 Q And Mr. Wenner, it was his  
 23 decision whether to take it down or not at  
 24 that point, correct?  
 25 A Yes, yes.

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1 Q And Mr. Wenner decided that the  
 2 article should not be taken down, but  
 3 rather outsiders should be brought in?  
 4 A Yeah, I think, I mean -- I don't  
 5 want to speak for him.  
 6 Q Sure.  
 7 A But that's my memory of it. I  
 8 mean he might remember it differently.  
 9 Q Okay, that's fair.  
 10 All right. I'm going to --  
 11 let's -- if you have that in front of you,  
 12 you can put that aside -- I'm going to hand  
 13 you what we've marked as Plaintiff's  
 14 Exhibit 25.  
 15 (Whereupon, Exhibit 25 was  
 16 marked for Identification.)  
 17 BY MR. CLARE:  
 18 Q I'm not going to ask you about  
 19 this whole document.  
 20 Plaintiff's Exhibit 25 is a  
 21 printout from the Cavalier Daily, which is  
 22 the UVA's student newspaper.  
 23 A Uh-huh.  
 24 Q As you can see, it's a printout  
 25 dated, or the article that's referenced in

Page 284

1 here is dated November 24, 2014. So this  
 2 is 5 days after the publication of the  
 3 article.  
 4 Do you see that?  
 5 A Yes.  
 6 Q And were you aware or made aware  
 7 of this open letter and letters that were  
 8 published in the Cavalier Daily in support  
 9 of Dean Eramo in the aftermath of the  
 10 article?  
 11 A Yeah. I mean, I remember  
 12 reading this letter that Jackie wrote.  
 13 Q And so you were aware at or  
 14 around this time, November 24th, that  
 15 Jackie had commented on Dean Eramo in an  
 16 open letter?  
 17 A I believe I was, yeah. I mean  
 18 this sort of comes back to me now.  
 19 Q And was there any discussion of  
 20 this internally at Rolling Stone that  
 21 Jackie had publicly voiced such support for  
 22 Dean Eramo?  
 23 A I honestly -- I'm sure there  
 24 was. I don't -- I don't remember it, but I  
 25 can't imagine that people weren't talking

Page 285

1 about this.  
 2 Q Did anyone internally comment in  
 3 words or substance to you on the, on any  
 4 disconnect between the way Dean Eramo --  
 5 A Well, what I do remember is, was  
 6 that she had sent a text message at some  
 7 point after the story came out to Sabrina  
 8 thanking her for the story and saying how  
 9 amazing it was.  
 10 Q Okay.  
 11 A So I think that -- you know, I  
 12 think we saw this sort of in terms of that,  
 13 as I recall.  
 14 Q I don't understand. You saw  
 15 it --  
 16 A Well, I think we were a  
 17 little -- I mean, I remember thinking that  
 18 she had told Sabrina how great she thought  
 19 the article was.  
 20 Q Did you perceive any disconnect  
 21 between that statement by Jackie and this?  
 22 A Not really, because also the  
 23 article made it clear that many people --  
 24 that she was a beloved figure on campus,  
 25 which I think was a phrase that we used in

Page 286

1 the story.

2 Q Did anyone internally at Rolling

3 Stone express concern about the disconnect

4 or any disconnect between how Nicole or

5 Dean Eramo was portrayed in the Rolling

6 Stone article versus how Jackie was

7 describing her here?

8 MS. McNAMARA: Objection. Lack

9 of foundation.

10 A I will say, though, that I

11 believe we had described her as someone who

12 was beloved on campus.

13 Q We saw earlier some of the

14 descriptions of the articles, and you

15 described, I think we talked about the

16 ordeal that Jackie was put through by

17 university administrators and that her

18 claim was met with indifference, we talked

19 a little bit about that.

20 A Yeah.

21 Q Do you believe that the story

22 attributes that indifference to Jackie's

23 claim to Dean Eramo?

24 A No. I believe we attribute it

25 to more of the culture on the campus, you

Page 287

1 know, and I think we were also under the

2 assumption that believing her story was

3 true. I think that if I had been gang

4 raped by somebody, had told the

5 administration about it, and the

6 administration took no action for a year

7 and a half, I'd be -- you know, I would

8 find that concerning -- that if they have

9 information that there might have been this

10 thing that happened at the fraternity house

11 and they're not somehow warning students to

12 stay away from there, you know, I think

13 that raises some real questions. Okay, you

14 know, I mean this is me from what we knew

15 before the article was published, okay.

16 Q Okay, I didn't mean to interrupt

17 you.

18 A I'm finished my answer. So I

19 would think that that would be potentially

20 a very difficult environment to be in.

21 Q You described in one of your

22 prior statements as the ordeal that the

23 university administrators put her through.

24 Was --

25 MS. McNAMARA: Objection.

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1 Mischaracterization. The ordeal was

2 in a press statement written by the

3 press office that -- it was not a

4 statement by Mr. Dana.

5 MR. CLARE: That's a fair

6 objection. Most of her objections are

7 good, because I ask a lot of bad

8 questions.

9 MS. McNAMARA: I haven't made

10 many objections.

11 MR. CLARE: No, I'm doing good

12 today -- but no, that's a fair one.

13 BY MR. CLARE:

14 Q So you recall that we did look

15 at, together, a press statement that

16 described --

17 A Yeah.

18 Q -- Jackie as having been

19 subjected to an ordeal by university

20 administrators.

21 A Yes.

22 Q And was it your understanding of

23 the article that the article, the

24 instrumentality of the administration that

25 put Jackie through that ordeal was Dean

Page 289

1 Eramo?

2 A No. I would say Dean Eramo was

3 a representative of administration -- Dean

4 Eramo was not the problem, as far as I see

5 the article. It was sort of the culture of

6 the university and just the unbelievable

7 complexity of dealing with this matter,

8 which I would actually think in many ways

9 puts administrators in an almost no win

10 situation.

11 You know, I think we were very

12 careful to say that Dean Eramo was actually

13 a beloved figure on campus who many people

14 had great affection for and respect for.

15 Q After this open letter written

16 by Jackie was published in the Cavalier

17 Daily, was there any discussion about, at

18 Rolling Stone, about reexamining whether or

19 not the article had fairly portrayed Dean

20 Eramo?

21 A Well, I think that probably our

22 discussions about the article -- we spoke

23 in a much larger frame than just, you know,

24 than were we nice to Dean Eramo. I think

25 we thought --



Page 290

1 Q Sorry, go ahead.

2 A I think we thought we published

3 something that had serious flaws in it

4 through -- you know, and made some, made

5 some judgments about our source that we

6 regret. And, you know, now what we need to

7 do is figure out how this happened and how

8 we go forward.

9 Q And I want to be very specific

10 to this document that we're looking at,

11 Plaintiff's Exhibit 25 in this description

12 here of Dean Eramo and Jackie's open

13 letter.

14 Was there any discussion after

15 this article came out, or this open letter

16 came out by Jackie, that the Rolling Stone

17 article had not accurately portrayed Dean

18 Eramo?

19 A Ask the question again?

20 Q After Jackie came out publicly

21 in support of Dean Eramo in this open

22 letter in Plaintiff's Exhibit 25, was there

23 any discussion internally about wondering,

24 questioning whether the Rolling Stone

25 article had accurately portrayed Dean

Page 291

1 Eramo?

2 A No. Because I think we said she

3 was a beloved figure on campus and we made

4 it very clear that many people had great

5 respect and affection for her in the

6 article.

7 Q Was it -- is it fair to say,

8 though, from looking at these reader

9 letters, some of which we looked at and

10 some of the other response that not

11 everybody had a favorable impression of

12 Dean Eramo from reading the article?

13 A Yeah. I'd have to look back at

14 the exact text of the article to see, which

15 I could do if you want to do right now.

16 Q Do you think -- and we can look

17 at it in some detail if you want -- but as

18 a whole, do you think the article portrays

19 Dean Eramo in a positive light, a negative

20 light, or neutral light, or some other

21 adjective?

22 A I think it portrays the UVA

23 administration in a negative light and

24 presents her as someone -- as a good person

25 doing a tough job in an environment which

Page 292

1 is very difficult.

2 Q Besides Dean Eramo and Mr. Alan

3 Groves, are there any other -- and Theresa

4 Sullivan, the president, are there any

5 other folks in the university

6 administration who are identified by name

7 in the article?

8 A You know, I'd have to read the

9 article again right now. We can look at

10 the article.

11 Q It says what it says, right?

12 A Yeah.

13 Q All right. You can put that

14 aside.

15 If you would pull back in front

16 of you Plaintiff's Exhibit 55, which is the

17 December 5th e-mail from --

18 A Our worst nightmare?

19 Q Yes.

20 A Uh-huh.

21 Q Do you have that in front of

22 you?

23 A Yep.

24 Q So just to go through this

25 document now in a little bit more detail,

Page 293

1 the title of the e-mail, our worst

2 nightmare, that was something that was

3 written by Ms. Erdely, correct?

4 A Yes.

5 Q And she sent that e-mail to you,

6 it looks like around 1:54 a.m. on December

7 5th, correct?

8 A Yes, yep.

9 Q And according to your response,

10 you were just seeing it the next morning?

11 A Yeah. I was asleep at the time

12 when this came. So I think this is

13 probably after I woke up that morning.

14 Q And in that article -- or I'm

15 sorry, in Ms. Erdely's e-mail to you, she

16 says, "Wil and Sean" -- I assume that's a

17 reference to Mr. Woods?

18 A Yeah.

19 Q "We can't run the statement

20 tomorrow." Is that a reference to a

21 statement that was in development to --

22 A Yeah, we had --

23 Q Can I just -- let me just finish

24 the question.

25 A Yeah, sorry.

Page 294

1 Q Is that a statement that was in  
2 development for submission to the  
3 Washington Post in response to their  
4 inquiries?

5 A No. I think what we had her  
6 working on was a sort of -- a piece  
7 describing how she reported the story and  
8 how she made the judgments about Jackie  
9 and, you know, which was going to hopefully  
10 sort of explain, to answer all the  
11 questions people were asking of her and was  
12 going to be written by her. So she had  
13 worked on it for a couple of days before  
14 that.

15 Q Okay.

16 And this was sort of a longer  
17 form statement.

18 A Yeah, yeah.

19 Q We're going to look at a couple  
20 of drafts in a minute, but this is a longer  
21 form piece that she was working on to kind  
22 of explain the reporting?

23 A Yes, yes.

24 Q And what was the intention for  
25 that piece, was it to be published online

Page 295

1 in Rolling Stone?

2 A The intention, I believe, was to  
3 put it online that day, on Friday.

4 Q Okay.

5 And what was driving the timing  
6 of that?

7 A That, you know, we were facing  
8 so much criticism, you know, throughout the  
9 national media and we felt we had to  
10 address it.

11 You know, and as I said, at this  
12 point, we still thought we had a reason to  
13 believe, to largely believe Jackie, you  
14 know, until Sabrina -- you know, until the  
15 night of December 4th or December 5th.

16 Q Okay.

17 And then in this e-mail, after  
18 she says we can't run the statement, that's  
19 a reference to her statement?

20 A I believe so, yeah, yes.

21 Q And she says, in fact, we're  
22 going to have to run a retraction?

23 A Uh-huh.

24 Q And then she goes on to give a  
25 series of reasons why Ms. Erdely has

Page 296

1 concluded that Jackie isn't credible and  
2 was not being truthful, is that correct?

3 A Uh-huh -- wait, say it again, I  
4 was reading the thing, sorry.

5 Q Then she gives a series of  
6 reasons about why she, Ms. Erdely, had  
7 concluded that Jackie is incredible and was  
8 not being truthful?

9 A Uh-huh.

10 Q Is that correct?

11 A Sabrina says that.

12 Q Yes.

13 A Yes. This is when Sabrina loses  
14 faith in Jackie, at this moment.

15 Q All right.

16 And then she says it again at  
17 the end, we have to issue a retraction?

18 A Yeah.

19 Q And what did you understand her  
20 to be advocating for here in terms of  
21 retraction? Are you talking about taking  
22 it down from the website?

23 A I think I was not sure if she  
24 meant -- like -- I think that, you know, I  
25 wasn't sure if she meant -- I mean, I think

Page 297

1 she meant that we have to take the story  
2 down. I mean that's what I thought it  
3 meant. I don't know what she thought it  
4 meant.

5 Q So two times in this e-mail --

6 A Yeah.

7 Q -- Ms. Erdely is saying we have  
8 to issue a retraction?

9 A Yeah.

10 Q Which you understood to mean  
11 take it down from the website?

12 A Yeah.

13 Q And as I understand it, over the  
14 course of some point that day, you  
15 discussed that issue with Mr. Wenner?

16 A Yes.

17 Q And Mr. Wenner made the decision  
18 not to?

19 A Exactly.

20 Q Was there anybody at Rolling  
21 Stone, Mr. Woods, you, Mr. Wenner,  
22 Ms. McPherson, Ms. Garber-Paul, anyone else  
23 who was involved in the publication with  
24 the story that had spent more time with  
25 Jackie than Ms. Erdely?



Page 298

1 A No.

2 Q Why then did the magazine not

3 follow through on Ms. Erdely's statement

4 twice that the magazine would have to run a

5 retraction for the article?

6 A When you say run a retraction,

7 what do you mean?

8 Q Well, you've just told me you

9 understood it to mean take it down from the

10 website?

11 A Is that what you're asking?

12 Q Yes.

13 A Well, I would say that was not

14 my decision to make.

15 Q What were the reasons that were

16 given to you why, by Mr. Wenner presumably,

17 about why the article would not be taken

18 down from the website even though the

19 reporter who had spent the most time with

20 Jackie had reached the conclusion that the

21 article should be taken down?

22 A Because I believe that Jann was

23 not absolutely convinced still that Jackie

24 was not credible. But I'm not really

25 comfortable -- I mean, I think he's got

Page 299

1 to -- I mean, I don't want to put thoughts

2 in his mouth.

3 Q I'm not -- I'm only -- you were

4 part of the conversation or the discussion,

5 so I can only get your impressions or

6 recollection. We'll certainly have a

7 chance to ask him to speak for himself.

8 I'm not asking you to speak for him.

9 A Yeah.

10 Q All right.

11 So just to close this out, the

12 magazine did not, in fact, take the article

13 off the website or otherwise take any steps

14 to retract it in response to Ms. Erdely's

15 our worst nightmare e-mail, is that

16 correct?

17 MS. McNAMARA: Objection.

18 Mischaracterization.

19 A Well, I mean we issued the

20 statement a few hours later, which we

21 amended a couple of times, and then left up

22 on the website with a much longer statement

23 basically saying that -- I mean let me just

24 find the longer statement. That one

25 said -- okay, so this is before we've

Page 300

1 brought the -- I mean the problem is we

2 don't exactly know when this longer

3 statement went up, and I don't remember.

4 Q Do you consider that to be --

5 MS. McNAMARA: Just a second.

6 Can he finish the answer?

7 BY MR. CLARE:

8 Q Sorry.

9 A I was finished.

10 Q Do you consider anything in that

11 longer editor's note to be a retraction of

12 the article?

13 A You know, we're getting into

14 semantics here. What I think we are saying

15 to the readers is we realize that there are

16 serious problems with this article that the

17 entire nation's been talking about and

18 pending our figuring out how this happened,

19 we are going to leave it up with a long

20 explanatory note.

21 Q Does that long explanatory note

22 use the word retraction or any derivation

23 of it?

24 A Well, you can tell me that,

25 can't you?

Page 301

1 Q I can, but I'd like you to.

2 A Why? I mean what's the

3 difference?

4 Q Well, only because -- I mean it

5 doesn't, to my understanding, but again I

6 don't want to be semantic about this.

7 A Uh-huh.

8 Q You know, I don't see anything

9 in there that uses the word retract,

10 retraction, or any derivation of that word.

11 A Well, I think at this moment, we

12 don't know necessarily at this exact moment

13 if we need to retract it. We -- but that

14 does not mean that we are not furiously

15 trying to figure out what's going on.

16 Q And you left it up on the

17 website while you tried to figure that out,

18 correct?

19 A Yes.

20 Q And so I guess when, in time,

21 did the magazine retract the article?

22 A I guess we officially fully

23 retracted it when the Columbia report came

24 out.

25 Q When you say officially --

Page 302

1           A       I mean that's when it was taken  
2 down.  
3           Q       Was there any point prior to  
4 that that in your mind constituted a  
5 retraction of the article?  
6           A       No. I think between -- I think  
7 we put up something -- I believe another  
8 note went up after the Columbia report was  
9 assigned.  
10          Q       Uh-huh.  
11          A       Which I mean we can look at the  
12 text, because I don't want to characterize  
13 it because I don't remember what it said.  
14          Q       Did that note, to your  
15 recollection --  
16          A       Well, why don't we look at it  
17 rather than make me guess. I mean, I can  
18 be much more effective if you put it in  
19 front of me, because I don't remember what  
20 it said.  
21          Q       What does it mean to you as a  
22 journalist to retract a story?  
23          A       Well, it doesn't feel good. I  
24 mean, it means that we are acknowledging  
25 that we made a huge mistake.

Page 303

1           Q       Okay.  
2                    What act constitutes a  
3 retraction of an article? Taking it down  
4 from the website, is that a retraction?  
5           A       You know, I don't exactly know  
6 how to answer that question. That's where  
7 I feel it's getting into semantics.  
8           Q       And I'm not trying to pin you  
9 down on semantics. I really just want to  
10 try to understand what your position is,  
11 because you were the managing editor at the  
12 time when all of this was happening. So  
13 I've got to accept your view on all of  
14 this.  
15          A       Right.  
16          Q       You said that the article was  
17 officially retracted when the Columbia  
18 report came out, correct?  
19          A       Yes, yeah. I mean we made the  
20 decision once the Columbia report was  
21 assigned that this is out of our hands, we  
22 are going to have outside people come in,  
23 review it and make a recommendation, and we  
24 will act upon -- actually, I don't think  
25 they recommended one way or the other that

Page 304

1 we took it down. But having read their,  
2 having read their report, that's when we  
3 took it down.  
4                    And I think the idea was we're,  
5 you know, we're going to post a note on top  
6 of the article saying that this article is  
7 under serious review.  
8                    I mean we can look at the note,  
9 because I don't want to characterize it too  
10 much. And the feeling was that -- well,  
11 let me -- let's not have me characterize  
12 that note until we see it, because I don't  
13 really remember what it said.  
14          Q       And we will look at it.  
15          A       Yeah.  
16          Q       Did you believe that you had  
17 unofficially retracted the article at some  
18 point prior to the official retraction of  
19 the article contemporaneous with the --  
20          A       I think -- I mean, once again,  
21 this is the semantics. I would say we had  
22 acknowledged that there were serious  
23 problems with the article and that we were  
24 now in a very intensive process and review.  
25          Q       And while -- strike that.

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1                    During the time that the article  
2 was up on the website from December 5th  
3 through the time it was taken down when the  
4 Columbia report was issued, did Rolling  
5 Stone continue to display advertisements  
6 with the article on its website?  
7          A       You know, I don't know.  
8          Q       Who would be the person at  
9 Rolling Stone who could answer that  
10 question for me?  
11          A       That's a good question. I mean,  
12 I don't know who is in charge of that now.  
13 I've been gone for a while.  
14          Q       Who was, at the time, if you  
15 wanted to know -- when you were managing  
16 editor, if you wanted to get to the bottom  
17 of that question, is that a digital editor  
18 question?  
19          A       You know, those people came and  
20 went. There was such turnover. I'm  
21 honestly not sure who I would ask that  
22 question of, and I have no idea now.  
23          Q       Okay.  
24                    All right. You can put 55  
25 aside.



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1 MS. McNAMARA: Is this a good  
2 time to take a quick break?  
3 MR. CLARE: Sure.  
4 MS. McNAMARA: I'm not holding  
5 you to anything. Do you have a sense  
6 of how long you're going to go?  
7 MR. CLARE: Let's go off record.  
8 THE VIDEOGRAPHER: This  
9 concludes tape number four. The time  
10 is 4:25 p.m. and we're off the record.  
11 (Recess taken 4:25 p.m.)  
12 (Resumed 4:47 p.m.)  
13 THE VIDEOGRAPHER: This begins  
14 tape number five. The time is 4:47  
15 p.m. We are back on the record.  
16 A Can I just say something before  
17 we start again?  
18 Q Sure.  
19 A I just feel like I got so caught  
20 up in the semantics of the word retraction.  
21 You know, I was thinking of this when I was  
22 walking around the hallways, is, you know,  
23 we officially retracted the story after the  
24 Columbia report came out in April. I  
25 believe we actually used those words.

Page 307

1 Q Officially retracted?  
2 A Yeah, which is why I was shying  
3 away -- but I really believed that with the  
4 note we put up, especially the longer note  
5 which I now remember I think we put up on,  
6 it was that weekend, so it was December 5th  
7 or 6th, because I now remember being at  
8 home, working on that note with Jann that  
9 night, and I just feel like whether the  
10 word was retraction or not, it seems to me  
11 you could not read that note and conclude  
12 in any way that Rolling Stone was standing  
13 by Jackie's account of what happened to her  
14 that night.  
15 And that's what I think we  
16 wanted to make very clear, is whether we  
17 want to use the word unofficial retraction  
18 or what since -- you know, I think we made  
19 it very clear that we acknowledged that  
20 this story had extremely serious problems  
21 and that we no longer -- and we were  
22 announcing to the world that we no longer  
23 had faith in the story that Jackie told us.  
24 Q Did you believe with that longer  
25 editor's note, the one that you've just

Page 308

1 described, that you were telling the world  
2 that you had no longer had faith in the  
3 story that Jackie was telling you,  
4 including Jackie's account of her  
5 interactions with Dean Eramo?  
6 A I'm not sure, because at that  
7 moment I had not received information  
8 about -- I had not received any further  
9 information about the Dean Eramo side of  
10 the story.  
11 I mean, I -- so I would think  
12 what we were really talking about was her  
13 account of what happened that night in  
14 September.  
15 Q When in this progression of  
16 things -- let me ask it a different way.  
17 When Rolling Stone officially  
18 retracted the story contemporaneous with  
19 the Columbia report coming out --  
20 A Yeah.  
21 Q -- was Rolling Stone also  
22 retracting those portions of the story  
23 related to Dean Eramo?  
24 A When we officially retracted the  
25 story, we took the whole thing down. The

Page 309

1 whole story was officially retracted at  
2 that moment.  
3 Q Okay.  
4 And was that the first time that  
5 the whole story, the whole article was  
6 retracted officially or unofficially?  
7 A Well, I'd say officially,  
8 because I think that -- I think the long  
9 note really is tantamount to -- whatever  
10 word you want to use, I think that it was  
11 impossible to read that story saying that  
12 the magazine was standing behind Jackie's  
13 account that she gave us.  
14 Q Well, right, and I don't want  
15 to, you know, debate with you. I really  
16 want your honest testimony here, and I  
17 believe you're trying to give it to me.  
18 A Uh-huh -- no, I'm not trying to,  
19 I am.  
20 Q You are.  
21 A Yeah.  
22 Q What you told me a minute ago is  
23 that what you were intending to communicate  
24 to the world was that Rolling Stone was no  
25 longer standing behind Jackie's account of

Page 310

1 what happened to her.

2 A Yeah.

3 Q Did I get that right?

4 A Yes.

5 Q And that was with the longer

6 editor's note, correct?

7 A Yep.

8 Q At that time with the longer

9 editor's note, were you also communicating

10 to the world that Rolling Stone was no

11 longer standing behind the portrayal of

12 Dean Eramo in the article?

13 MS. McNAMARA: Objection.

14 Vague. Ambiguous.

15 A Well, I mean let's -- I'd like

16 to go through -- maybe we'll get there,

17 because I don't want to answer that

18 question until I had the text in front of

19 me.

20 Q Isn't that what we were just

21 looking at, Plaintiff's Exhibit 4?

22 A Yeah, I mean do you want to --

23 Q Sure.

24 A Okay.

25 Q Because, look, you know, I

Page 311

1 understand what you're saying about no

2 longer standing behind Jackie's account of

3 what happened to her.

4 A Yeah.

5 Q But there is obviously some

6 difference between --

7 A Well, I guess what I would say

8 is that, are we also then retracting that

9 she's a beloved figure on campus -- no. I

10 mean that --

11 Q How are readers supposed to

12 determine what portions of the story were

13 retracted and when?

14 A Well, okay. So it says -- I

15 would say at this point, what we have

16 really investigated at this point and for

17 which we are being, the world is sort of

18 shining a beam on us is Jackie's account of

19 what happened that night.

20 Q Okay.

21 You mean specifically at the

22 fraternity house?

23 A Yes, yeah.

24 MS. McNAMARA: Well --

25 A And afterwards.

Page 312

1 Q Okay.

2 And so what -- is it fair to say

3 that with this longer editor's note, you

4 were attempting to communicate to the world

5 that everything Jackie told you, you were

6 no longer standing behind?

7 A Certainly, it hasn't represented

8 her description of the rape that night.

9 Q Okay.

10 And did it extend to her

11 description of her interactions with Dean

12 Eramo?

13 A I would say at that point, this

14 is not something that we have had time

15 yet -- I mean this is 24 hours later, we

16 have not had time to pick apart that part

17 of the story yet.

18 Q The only thing I'm trying to

19 understand, what are readers supposed to

20 take away from this? When readers take

21 away -- when the managing --

22 A Readers are supposed to take

23 away what's exactly said here, which is

24 that -- I mean, I think we -- right here,

25 we enumerate right here that the fraternity

Page 313

1 denies there is a date function that night,

2 that Jackie is now herself unsure if the

3 man she says lured her into the room where

4 the rape occurred identified in the story

5 was the Phi Psi brother -- I mean all these

6 things enumerated in the second to last

7 paragraph of the story.

8 Q Okay.

9 And do any of those things have

10 any reference to Dean Eramo?

11 A No, they do not right here.

12 Q Okay.

13 So when in this progression of

14 communications that you had with your

15 readers did Rolling Stone retract

16 officially or otherwise the portions of the

17 article that dealt with Dean Eramo?

18 A After we've retracted the entire

19 thing.

20 Q So in April, when Columbia came

21 out with its report?

22 A Uh-huh.

23 Q That was the first time that the

24 magazine retracted officially or

25 unofficially the portions of the story



Page 314

1 dealing with Dean Eramo?

2 A Yeah, because I would say that

3 once we brought the Columbia folks in, you

4 know, we didn't really make any comments

5 or, you know -- we put, we sort of put

6 it -- we put the pause button, we left it

7 here with a note on.

8 I think we had announced also

9 that Columbia was doing this report and as

10 soon as they turned it in, we'd post it --

11 I can't remember the exact language of that

12 note, but.

13 Q So is the answer to my question

14 yes, that that was in April --

15 A Yeah, yeah.

16 Q -- the first time that the

17 magazine had retracted officially or

18 unofficially the portions of the article

19 dealing with Dean Eramo?

20 A Yes.

21 Q Okay. Thank you.

22 A Although, I think anyone can

23 conclude that Jackie is potentially an

24 unreliable witness here.

25 Q Someone could have concluded

Page 315

1 that earlier to the official retraction?

2 A Yeah, yeah.

3 Q Let me hand you what's been

4 marked as Plaintiff's Exhibit 13.

5 (Whereupon, Exhibit 13 was

6 marked for Identification.)

7 BY MR. CLARE:

8 Q So, Mr. Dana, I've handed you

9 what's been marked as Plaintiff's Exhibit

10 13.

11 A Right.

12 Q Which is a press release issued

13 by the Charlottesville Police Department on

14 March 23, 2015.

15 A Uh-huh.

16 Q Do you see that?

17 A Yep.

18 Q What discussion, if any,

19 occurred at Rolling Stone when this came

20 out about whether the article should be

21 retracted or taken down from the website or

22 some further communication made to readers?

23 A Well, I think at this point,

24 what we knew was that the Columbia report

25 was going to be delivered imminently. I

Page 316

1 think we knew -- we knew we were days away

2 from the Columbia report being issued.

3 Q Didn't the Columbia report come

4 out nearly a month later?

5 A Well, when it comes into the

6 office.

7 Q Oh, delivered to you.

8 A Yeah. I think it was right

9 around this time. And I actually think --

10 I think I was on vacation this week when

11 this report happened.

12 Q And one of the conclusions, or I

13 guess the conclusion of this

14 Charlottesville Police Department

15 investigation says, "Having exhausted all

16 investigative leads, our investigation

17 concludes that there is no substantive

18 basis to support the accounted alleged in

19 the Rolling Stone article."

20 A Uh-huh, yeah.

21 Q Did that conclusion of the

22 Charlottesville Police Department cause

23 Rolling Stone to consider or discuss

24 whether the article should be retracted?

25 A Well, as I said, I was on

Page 317

1 vacation when this, the day that this came

2 out. So I was not in the office or in

3 contact with people in the office that day.

4 Q All right.

5 A I mean, I don't think I even

6 read it on vacation.

7 But I think we also knew that --

8 I mean, I believe, and I can't say this for

9 sure, but I believe that the Columbia folks

10 actually delayed releasing -- because they

11 knew that this was about to be released,

12 and I think that they delayed submitting

13 the report for a couple of days until this

14 came out, I think.

15 Q So the report was issued

16 publicly almost a month later?

17 A Uh-huh.

18 Q I believe.

19 A Is that right? I don't

20 remember.

21 MR. BAYARD: Objection.

22 Mischaracterizes the record. April

23 5th.

24 MR. CLARE: It was April 5th,

25 oaky.

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1 MS. McNAMARA: Yeah.

2 MR. CLARE: Fair enough. I'm

3 sorry. I didn't mean to say almost a

4 month later. Meaning the next month.

5 Good. Good catch.

6 BY MR. CLARE:

7 Q Was it your understanding, I

8 guess at this point -- strike that.

9 You were on vacation when this

10 came out?

11 A Yeah.

12 Q When you came back, was there

13 any discussion that you were a part of in

14 terms of --

15 A Well, when I came back --

16 Q Just let me finish.

17 A Okay, yes.

18 MS. McNAMARA: I sympathize with

19 Mr. Clare that he does need to finish

20 a question, because otherwise the

21 record won't be clear what the

22 question is.

23 THE WITNESS: Yeah, I'm sorry.

24 MS. McNAMARA: I know you

25 understand what it is.

Page 319

1 BY MR. CLARE:

2 Q That was the best admission that

3 I got all day, was that Liz sympathizes

4 with me.

5 So anyway, when you came back

6 from vacation, was there any discussion

7 that you were a part of about whether

8 Rolling Stone should take any action in

9 retracting the article or communicating

10 with readers directly based on the findings

11 of the Charlottesville Police Department?

12 A Okay. Well, my recollection is

13 that I got the report from Columbia a day

14 or two later while I was still on vacation.

15 And we're on a two-week production cycle.

16 So I believe that when I came back from

17 vacation, it was shipping week for the

18 report.

19 So I came back from vacation.

20 The report was being prepared for

21 publication. The decision was being made

22 to take the article down. It was all

23 happening imminently, you know, and we were

24 going to wait until, you know -- it was

25 just we were waiting until we were

Page 320

1 publishing the report to take the thing

2 down.

3 Q Okay.

4 A It just -- within the production

5 cycle, it just took a few days.

6 Q Was there any discussion about

7 taking the article off the website in

8 response to the Charlottesville Police

9 Department?

10 A Not that I was part of.

11 Q There is information in here

12 about meetings that took place between

13 Jackie, Dean Eramo, and the Charlottesville

14 Police Department.

15 A Uh-huh.

16 Q I can point you to those.

17 A Uh-huh.

18 Q But including in the middle of

19 the second page, sort of down near the

20 bottom, where it says the Charlottesville

21 Police Department first became aware of

22 Jackie's allegations on April 22, 2014.

23 A Yeah.

24 Q What information, if any, did

25 Rolling Stone have in its possession prior

Page 321

1 to publication about Dean Eramo's efforts

2 to put Jackie in touch with the

3 Charlottesville Police Department?

4 MS. McNAMARA: Wait. And I

5 caution the witness at this point to

6 speak to your knowledge at the time of

7 publication, not your knowledge that

8 you may have gleaned from an internal

9 investigation by the magazine.

10 A I have to say that from --

11 MS. McNAMARA: He interrupts me,

12 too. So it's an equal opportunity.

13 A Free publication, I'm not sure.

14 There will be people who can tell you that.

15 Q All right.

16 Is it fair to say that at some

17 point you became aware of that fact, that

18 Dean Eramo had taken Jackie to meet with

19 police on multiple occasions?

20 MS. McNAMARA: Objection. Lack

21 of foundation.

22 A I honestly don't quite remember.

23 I mean it's a little hazy now, because it

24 was a year and a half ago already, exactly

25 all that bits of timeline.



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1 Q So as you sit here today, you  
2 can't recall when you learned that  
3 information?  
4 A No.  
5 MS. McNAMARA: Objection. Lack  
6 of foundation.  
7 BY MR. CLARE:  
8 Q Is it fair to say that -- let me  
9 ask you a foundational question.  
10 Did you read this press  
11 statement by the Charlottesville Police  
12 Department when it was issued or when you  
13 came back from vacation?  
14 A Yeah, I'm pretty sure I read it  
15 right around the same time that I read the  
16 Columbia report.  
17 Q Okay.  
18 A And I was probably a little bit  
19 more focused on the Columbia report than at  
20 this point.  
21 Q Is it fair to say that at least  
22 as of the time that you read this press  
23 statement by the Charlottesville Police  
24 Department that you were aware that Dean  
25 Eramo had taken Jackie to meet with the

Page 323

1 police?  
2 A You know, I honestly don't  
3 remember exactly when.  
4 Q Okay. All right. You can put  
5 that aside.  
6 What was your role in  
7 coordinating with the Columbia folks in  
8 their investigation?  
9 A I think that I, you know, helped  
10 gather the transcripts and, you know, sort  
11 of told them who the main players at  
12 Rolling Stone were to speak to.  
13 But beyond that, I had no -- I  
14 mean I had contact with them in that I did  
15 an interview with them in February and then  
16 I talked to them again once they filed the  
17 piece. But there was no -- you know, there  
18 was no sort of editorial guidance, per se.  
19 You know, they were free to talk to whoever  
20 they wanted, you know, pursue any path that  
21 they wanted, you know, without us being  
22 consulted or anything.  
23 Q Did you provide your own  
24 documents and e-mails to them as part of  
25 their investigation?

Page 324

1 A I believe I did -- I think I  
2 did. I mean, I would have to look at what  
3 was in that drop box, but I mean I do  
4 remember sending them like -- I sent them a  
5 big pile of stuff and then I think the  
6 research department sent them a big pile of  
7 stuff.  
8 Q Did you review drafts of the  
9 report before it was issued?  
10 A No.  
11 Q So the first time you saw it was  
12 the time that it was made public?  
13 A No. I mean they delivered to us  
14 the draft, which we then, I oversaw its  
15 production in the magazine, and I mean --  
16 there were some fit issues and some copy  
17 editing things that I talked about with  
18 Steve Coll, but I didn't -- my editorial  
19 input was nothing of any substance. It was  
20 like can you cut two lines of the bottom of  
21 this column, you know, the copy editor  
22 things that there is a dangling parcel in  
23 this sentence -- that was my level of the  
24 communication I had with them while we were  
25 preparing the thing for publication.

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1 Q Did you coordinate with Mr. Coll  
2 or others about the timing of the release?  
3 A Yes.  
4 Q For what purpose?  
5 A You know, there was just --  
6 there was a lot of discussion of when we  
7 posted on our website, and when Columbia  
8 posted it, and there was a lot of back and  
9 forth that I actually found quite tedious.  
10 Q I'm going to hand you what we've  
11 marked as Plaintiff's Exhibit 41.  
12 (Whereupon, Exhibit 41 was  
13 marked for Identification.)  
14 BY MR. CLARE:  
15 Q Is Plaintiff's Exhibit 41 an  
16 e-mail exchange between you and Mr. Coll?  
17 A Yeah.  
18 Q And this is March 31, 2015,  
19 correct?  
20 A Yes.  
21 Q And you start at the thread at  
22 the bottom about the title of this e-mail  
23 is apparently timing re-think, and you're  
24 discussing with him about waiting until  
25 Wednesday to post the story. I assume

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1 that's a reference to the report and word  
2 about it leaking.

3 A Yes.

4 Q Do you recall a discussion with  
5 Mr. Coll about trying to prevent leaks of  
6 the report?

7 A Yeah.

8 Q Why was that?

9 A Just common, you know, in the  
10 business that you want to control the  
11 release of your own -- I mean, I think it's  
12 just, it's a discussion you're going to  
13 have about any story in any publication.

14 Q Is this a -- this e-mail  
15 exchange -- your efforts to coordinate with  
16 Mr. Coll about the timing and method of the  
17 release of the report?

18 A Yeah, because he wanted -- they  
19 wanted to do a press conference when the  
20 report was released. And we had agreed on  
21 Wednesday.

22 And then I think what I was  
23 writing him to say was actually, you know,  
24 I realized that if we wait until Wednesday,  
25 this is going to get out. So we should

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1 change our plans because, you know, they  
2 have made it clear that they wanted to do a  
3 press conference. I mean, I don't remember  
4 the exact details, but I mean this to me  
5 was just kind of housekeeping, what's going  
6 on here.

7 Q And you say in your e-mail to  
8 him that you were thinking about drafting a  
9 an announcement announcing you were  
10 retracting the story, explaining how and  
11 why we brought Columbia in and apologizing  
12 to all the principals. I'd actually like  
13 to send a draft of it to you, Mr. Coll, and  
14 hear your feedback.

15 A Uh-huh.

16 Q Do you see that?

17 A Yes.

18 Q I kind of paraphrased it, but  
19 did you, in fact, share with Mr. Coll a  
20 draft of your statement apologizing and  
21 retracting --

22 A I believe I did. I mean we  
23 published something on the website when we  
24 posted the story, did we not?

25 Q You did publish something, yes.

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1 A So I think I ran it by him just  
2 as a courtesy.

3 Q And did he suggest any edits to  
4 what you wrote?

5 A I honestly don't recall. I mean  
6 if they are, they're probably in the e-mail  
7 somewhere.

8 Q The e-mail exchange makes  
9 reference to going out for a meal or a  
10 drink with Mr. Coll when this is all over.  
11 Did that ever occur?

12 A No.

13 Q You're also coordinating with  
14 Mr. Cole here in terms of which reporters  
15 would get embargoed copies of the report,  
16 is that correct?

17 A Yeah, but that had more to do  
18 with, that the press person at Columbia  
19 was, at CJR, was just, you know, was very  
20 very focused on these issues, you know. It  
21 was just about that.

22 I mean, as I said, this just  
23 seems like housekeeping issues and, you  
24 know, it was our PR person, their PR  
25 person, and everyone just trying to

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1 coordinate.

2 Q And did, in fact, you provide an  
3 embargo copy of the report to the New York  
4 Times prior to its public release?

5 A I believe that we did. I can't  
6 remember exactly how, but we decided  
7 that -- you know, because we decided that  
8 we would give it to the Times first, yeah.

9 Q And decided that you would do an  
10 interview with the New York Times in  
11 connection with the issuance --

12 A And I think Steve Coll also  
13 talked to them for that piece.

14 Q And we looked at that earlier,  
15 one of the quotes from you in that --

16 A Uh-huh.

17 Q Were there other publications  
18 that Columbia wanted to provide and did, in  
19 fact, provide embargo copies to?

20 A You probably have to ask them  
21 that. I don't remember.

22 Q So in Mr. Coll's e-mail to you,  
23 he says, "We have a bunch of requests for  
24 embargoed access to the report and we may  
25 want to propose a couple of trustworthy



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1 ones in addition to Ravi" -- the New York  
2 Times reporter -- "but let us talk and come  
3 back today."  
4 A Yeah.  
5 Q Did he, in fact, come back and  
6 propose to you a couple of trustworthy --  
7 A You know, what I believe  
8 happened and, you know, I might have this  
9 wrong, because this is really their  
10 strategy, was that they got a lot of  
11 interest -- and I think what they ended  
12 up -- we're just going to do a press  
13 conference, so I'll talk to everybody at  
14 once, rather than spend 3 days on the phone  
15 giving the same interview, is my  
16 recollection of what Steve told me.  
17 (Whereupon, Exhibit 98 was  
18 marked for Identification.)  
19 BY MR. CLARE:  
20 Q All right. I'm going to hand  
21 you what we've marked as Plaintiff's  
22 Exhibit 98. I think I may have already  
23 handed that to you.  
24 Would you check your pile in  
25 front of you? This is the New York Times

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1 article that we talked about a little bit  
2 earlier.  
3 A Yep, okay.  
4 Q You told the New York Times that  
5 you disagreed with the assertion in the  
6 Columbia report that the magazine had  
7 staked its reputation on the word of one  
8 source.  
9 A Uh-huh.  
10 Q And then there is a quote there,  
11 I think you took a step back, "our  
12 reputation rests on a lot more than this  
13 one story."  
14 Would you explain what you meant  
15 by that?  
16 A Well, the magazine had been  
17 around for nearly 50 years. They published  
18 some of the most important pieces of  
19 journalism in that period, you know, under  
20 my stewardship, had published a number of  
21 extremely powerful stories that got, made  
22 worldwide impact, we won a bunch of awards.  
23 You know, I felt that we were more than  
24 this.  
25 Q Were there any other conclusions

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1 in the Columbia report, and specific to  
2 this article, the Rape on Campus article,  
3 that you disagree with?  
4 A Not substantially, no.  
5 Q Are there any that come to mind  
6 that you disagree with, even at any level?  
7 A I'd have to look at it. I'd  
8 have to go through the whole thing again,  
9 which I'm happy to do if you want to do  
10 that.  
11 Q Anything that come to mind,  
12 anything significant?  
13 A No, nothing, you know, nothing  
14 of great significance.  
15 Q If you turn to the next page,  
16 please, of this exhibit, Plaintiff's  
17 Exhibit 98, the middle paragraph, there is  
18 a paragraph that reads, "Rolling Stone's  
19 fundamental mistake, Mr. Dana said, was in  
20 suspending any skepticism about Jackie's  
21 account because of the sensitivity of the  
22 issue."  
23 Do you see that?  
24 A Page 4, got it.  
25 Q Are we on the same page?

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1 A Uh-huh.  
2 Q Was -- did you tell the New York  
3 Times that Rolling Stone's fundamental  
4 mistake was suspending any skepticism about  
5 Jackie's account because of the sensitivity  
6 of the issue?  
7 A I don't know if I used the  
8 phrase fundamental mistake. I mean, I  
9 don't know if that was my phrase or his,  
10 but this was certainly, this was certainly  
11 a factor that informed our judgment.  
12 Q Did you believe that prior to  
13 publication, Rolling Stone had suspended  
14 its skepticism of Jackie's account because  
15 of the sensitivity of the issue?  
16 A Once again, I don't think I used  
17 the word suspending skepticism, but I think  
18 that we made a mistake in hanging the story  
19 of the assault completely on her account,  
20 and its immediate aftermath.  
21 Q Did you believe that the New  
22 York Times mischaracterized what you told  
23 them in the interview here in this article?  
24 A I don't think it's a  
25 mischaracterization. I think it's just --



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1 you know, what I was saying is I'm not sure  
 2 I used the words fundamental mistake or  
 3 suspending skepticism. But, you know, if  
 4 that's how he interpreted what I said,  
 5 yeah, I -- it would not anger me or, you  
 6 know --

7 Q You don't take any issue with  
 8 the way your views are portraying you?

9 A No.

10 Q You wrote, and this is a quote  
 11 that's attributed to you, it says, "We  
 12 didn't think through all the implications  
 13 of the decisions that we made while  
 14 reporting the story and we never sort of  
 15 allowed for the fact that maybe the story  
 16 we were being told was not true," you said?

17 A Yes.

18 Q Did you give that quote to the  
 19 New York Times?

20 A Yeah.

21 Q What decisions did you not think  
 22 through all of the implications of?

23 A Well, I think what we never,  
 24 what we never accepted was the fact that --  
 25 or we never considered was the fact -- and

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1 for reasons which I think I've tried to  
 2 explain -- that maybe she was making up  
 3 large parts about, that she was making  
 4 up -- that what she told us was, in fact,  
 5 appears to be a fabrication about the  
 6 assault of that night.

7 Q So what decision specifically  
 8 were you referring to that you told the New  
 9 York Times?

10 A The decision that we were going  
 11 to base our account of that evening on her,  
 12 which I think was at the time a sound and  
 13 rational decision, because I think it was  
 14 very hard to imagine that someone in her  
 15 position would put herself out in a  
 16 national magazine telling an outlandish  
 17 story like that.

18 Q Down at the bottom of this  
 19 page --

20 A I shouldn't say outlandish. I  
 21 should say -- because I have no idea -- I  
 22 mean, as I said, I believe that something  
 23 happened to this woman and I believe that  
 24 what happened to this woman was traumatic.  
 25 You don't know what it was. So, you know,

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1 I don't want to, in any way, minimize what  
 2 she's gone through, and whatever she's done  
 3 to process it.

4 But it did not occur to me that  
 5 somebody -- to any of us -- not me, to the  
 6 very many talented experienced people who  
 7 worked on this story, that she was, that  
 8 she was fabricating or she appeared to be  
 9 fabricating so many of the details.

10 Usually, I mean, I think it's  
 11 very common that through a fact checking  
 12 process, as you interview someone, more and  
 13 more they begin to reveal cracks, you know,  
 14 that she was so consistent in her stories,  
 15 you know, you know, that we did not see,  
 16 that we didn't see it.

17 Q So the consistency of the story  
 18 that she told to Rolling Stone over time,  
 19 that was one of the factors that informed  
 20 your judgment or the magazine's judgment  
 21 that she was credible?

22 A Yeah, yeah.

23 Q What is the basis for your  
 24 belief that something happened to Jackie?

25 A Well, because she's continued to

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1 insist, you know, very strongly that she  
 2 was assaulted that night.

3 Q She's -- and where has she  
 4 continued to insist that? What do you have  
 5 in your mind?

6 A I can't tell you exact -- well,  
 7 I know her father posted something on  
 8 Facebook. You know, I can't remember  
 9 exactly where I read that, but I know that  
 10 she continues to insist that she was  
 11 assaulted.

12 Q Okay.

13 Is that your only basis for  
 14 believing that something happened to her  
 15 that night, that she has continued to  
 16 insist --

17 A Well, you know, a lot of people,  
 18 I mean even people who know her were  
 19 saying -- and I don't know what they're  
 20 saying now -- but they were saying up  
 21 through the aftermath of the period that  
 22 they still believe something happened to  
 23 her, and they just don't know what it is.

24 Q Why --

25 A I mean, I think there are people



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1 on the record in the Washington Post saying  
 2 that, you know, even after all this came  
 3 out, that they believed something happened  
 4 to her.

5 Q So you're crediting their  
 6 judgments?

7 A Well, it just seems to be a lot  
 8 of people -- yes, I mean, I can't say for  
 9 sure, but I will continue to give her the  
 10 benefit of the doubt that something  
 11 happened that night.

12 Q Is it true, though, that you no  
 13 longer believe the account that was  
 14 published in Rolling Stone?

15 A I would say that all I know is  
 16 that what she told us does not appear to  
 17 have happened that night, but I don't know  
 18 what happened that night or at any other  
 19 period, you know.

20 Q Does the fact that she appears  
 21 to have told you a false story about  
 22 certain elements of what happened to her  
 23 impair the credibility of other statements  
 24 that she would make as a source?

25 A You could conclude that, but I'm

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1 not willing to definitively say that right  
 2 now, because I don't know enough about  
 3 everything else that she said.

4 Q To your knowledge, was Jackie a  
 5 source for any Rolling Stone article prior  
 6 to A Rape on Campus?

7 A No.

8 Q To your knowledge, did Jackie  
 9 have any track record of credibility with  
 10 Ms. Erdely prior to being introduced to  
 11 her?

12 A No, no.

13 Q The bottom of this same page  
 14 that we were just looking at here, the next  
 15 to the last page of Plaintiff's Exhibit 98,  
 16 it says -- again, the New York Times says,  
 17 "Mr. Dana said that the report was  
 18 punishment enough for those involved and  
 19 that they did not deserve to lose their  
 20 jobs because the article was not the result  
 21 of patterns in the work of these people."

22 A Uh-huh.

23 Q Did you express that view, in  
 24 words or substance, to the New York Times?

25 A Yes.

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1 Q Do you believe that the Columbia  
 2 report -- I guess that's what you're  
 3 referring to -- that was punishment enough  
 4 for the people that were involved in the  
 5 story?

6 A Well, I guess what I believed --  
 7 I mean maybe not to answer your question  
 8 directly, but that I don't think that  
 9 anyone involved in the story acted with an  
 10 intention to deceive, or be dishonest, or  
 11 maliciously, or in any way try to sort of  
 12 put one over on us.

13 I think it was a chain of  
 14 unfortunate honest mistakes. And then if I  
 15 was going to have to fire one person, I'd  
 16 probably have to fire six people, all of  
 17 whom had done a very good job for Rolling  
 18 Stone over the years.

19 Q What steps, if any, did Rolling  
 20 Stone take after all of this to examine  
 21 Ms. Erdely's prior articles for Rolling  
 22 Stone to determine if there were similar  
 23 problems with sourcing or verification or  
 24 reporting?

25 A I don't recall that we did -- I

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1 mean, I know a lot of other people in the  
 2 world did that work for us, and I -- I  
 3 can't recall all the details now of all the  
 4 inconsistencies that people claim they  
 5 found in their stories.

6 Q Who was involved in making the  
 7 decision, if you will, not to discipline or  
 8 terminate the employment of any of the  
 9 people that were involved?

10 A Well, I mean who is quoted in  
 11 the story saying that? I mean, I think me  
 12 and Jann basically.

13 Q Right. I'm just asking, was  
 14 that your decision, was it his decision,  
 15 was it a combination?

16 A It was a -- I mean, I think it  
 17 was something that we both agreed upon.

18 Q All right.

19 And you stand by that decision  
 20 as having been the right one?

21 A Uh-huh.

22 Q Yes?

23 A Yes.

24 Q I'm going to hand you what we've  
 25 marked as Plaintiff's Exhibit 6.

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1 (Whereupon, Exhibit 6 was marked  
2 for Identification.)  
3 BY MR. CLARE:  
4 Q This is the Columbia version of  
5 the report, which we've printed out here,  
6 and I'm going to have a couple of questions  
7 about it.  
8 If you'd turn to, please, the  
9 page Bates numbered at the bottom 04543.  
10 A Uh-huh.  
11 Q And in the top portion of the  
12 page, kind of down to the middle of the  
13 page, there is a -- this is Ms. Erdely's  
14 account of the pre-Thanksgiving  
15 conversation she had with Jackie.  
16 A Yeah.  
17 Q And in the middle of the page,  
18 she says she discussed her concerns with  
19 her editors.  
20 A Where is that?  
21 Q It's in the paragraph that  
22 begins, "Over the next few days, worried  
23 about the integrity of her story, the  
24 reporter investigated the name Jackie had  
25 provided, but she was unable to confirm

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1 that he worked with the pool, etc."  
2 A Yeah.  
3 Q "She discussed her concern with  
4 her editors."  
5 Were you among the people that  
6 she discussed those concerns with?  
7 A I believe I was. I can't, I  
8 can't recall specific conversations, but  
9 I'm pretty sure I was in touch with her  
10 that week.  
11 Q And did Ms. Erdely communicate  
12 to you, in words or substance, that she was  
13 worried about the integrity of her story as  
14 she undertook these efforts?  
15 A Yeah. I think it was concerns,  
16 you know, and we were monitoring it and  
17 looking at every detail through the course  
18 of that week.  
19 Q So is the answer yes, that  
20 she --  
21 A And I had also, you know, asked  
22 her to find out as much as she can to reach  
23 Jackie to talk to people and see what she  
24 could find out.  
25 Q So, sorry, is the answer to my

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1 question -- and you can give whatever  
2 explanation you want -- yes, that she did  
3 convey to you, in words or substance, as  
4 she took these steps that she was worried  
5 about the integrity of her story?  
6 A Yes, I would say more that she  
7 communicated concerns to me about the  
8 story.  
9 Q All right.  
10 A I don't know if we had quite  
11 risen to questioning the entire integrity  
12 of the story at this point.  
13 You know, to me, that bigger  
14 question was one we started asking on  
15 Friday morning. But we were concerned.  
16 Q If you turn to the next page,  
17 please, 4544, at the very bottom there is a  
18 quote that is attributed to you.  
19 It says, "In retrospect, Dana,  
20 the managing editor who has worked at  
21 Rolling Stone since 1996, says the story's  
22 breakdown reflected both 'individual  
23 failure' and 'procedural failure and  
24 institutional failure.' Every single person  
25 at every level of this thing had

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1 opportunity to pull the strings a little  
2 harder to question things a little more  
3 deeply, and that was not done."  
4 A Uh-huh.  
5 Q Did you give that quote?  
6 A Yes.  
7 Q Is that an accurate reflection  
8 of your feelings about --  
9 A Yes.  
10 Q If you turn to page 4556,  
11 please.  
12 A Yep.  
13 Q Read the first two paragraphs to  
14 yourself.  
15 A Wait, 45546?  
16 Q 4556. We're skipping way ahead.  
17 A Sorry, I had gotten confused.  
18 Okay.  
19 Q The first paragraph of this  
20 page --  
21 A Wait, sorry, I'm still reading.  
22 Okay.  
23 Q It says that the report  
24 concludes that you might have looked more  
25 deeply into the story drafts that you read,



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1 spotted the reporting gaps and insisted  
 2 that they be fixed, but you did not -- and  
 3 then you're quoted saying, "It's on me."  
 4 Dana says, "I'm responsible."  
 5 With that -- is that a quote  
 6 that you gave to Columbia?  
 7 A Yes.  
 8 MS. McNAMARA: And just so the  
 9 record is clear, the quote is, "It's  
 10 on me, I'm responsible."  
 11 The rest of it wasn't a quote.  
 12 MR. CLARE: Correct. That's  
 13 right.  
 14 A Yeah.  
 15 Q The quote -- did you give the  
 16 quote to Columbia saying, "It's on me. I'm  
 17 responsible"?  
 18 A Yes.  
 19 Q And are you, in fact, taking  
 20 responsibility for not having looked at the  
 21 drafts --  
 22 A I actually think what I said was  
 23 that -- and I believe that the point I was  
 24 trying to make was that the way I ran the  
 25 magazine was to delegate and put a lot of

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1 trust in people. And I was taking  
 2 responsibility for having run the magazine  
 3 that way and still believing that, you  
 4 know, that's a way of operating things that  
 5 I was happy with and proud of, and that it  
 6 worked to great effect for a long time.  
 7 Now -- so that's what I -- you  
 8 know, I feel it's on me and I'm responsible  
 9 because I was at the helm, you know, and  
 10 these things that happened, you know,  
 11 because of decisions that I had made, you  
 12 know, and how we put the magazine together.  
 13 Q Do you agree with the conclusion  
 14 of the report that you might have looked  
 15 more deeply into the drafts that you read,  
 16 spotted the reporting gaps, and insisted  
 17 that they be fixed?  
 18 A In hindsight, yes. I mean at  
 19 the time, at the time I was doing it, I  
 20 felt I was doing my job responsibly because  
 21 it did not occur to me that large parts of  
 22 the story were fabricated.  
 23 Q The next paragraph says that,  
 24 "In hindsight, the most consequential  
 25 decision Rolling Stone made was to accept

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1 that Erdely had not contacted the three  
 2 friends who spoke with Jackie on the night  
 3 she said she was raped."  
 4 A Yeah.  
 5 Q Putting aside whether it was the  
 6 most consequential decision or not, do you  
 7 agree that the decision not to contact  
 8 those three friends or to accept the fact  
 9 that those three friends had not been  
 10 contacted was a consequential one for the  
 11 course of reporting?  
 12 A Yeah. I think in hindsight,  
 13 that would have been the easiest way to  
 14 find out the flaws in her story.  
 15 Q Do you recall having talked with  
 16 Mr. Woods or Ms. Erdely about that decision  
 17 at all, the friends?  
 18 A I don't recall that, no.  
 19 Q If you'd turn over to the next  
 20 page, please, right before the subhead "I  
 21 had a faith."  
 22 A Uh-huh.  
 23 Q The paragraph there talks  
 24 about -- the few paragraphs before this  
 25 talk about efforts that Ms. Erdely was

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1 discussing with Mr. Woods about trying to  
 2 find this lifeguard Drew.  
 3 And the report then says, "But  
 4 when Jackie became unresponsive to Erdely  
 5 in late October, Woods and Dana gave in.  
 6 They authorized Erdely to tell Jackie they  
 7 would stop trying to find the lifeguard."  
 8 Is that true, did you,  
 9 personally, Mr. Dana, authorize Ms. Erdely  
 10 to tell Jackie that the magazine would stop  
 11 trying to find him?  
 12 A I don't literally remember that  
 13 conversation, but -- and I'm not sure --  
 14 but I assume -- I mean, I would say I  
 15 don't -- I don't recall that conversation.  
 16 Perhaps Sean does. I'm not saying that I  
 17 didn't have it.  
 18 Q Okay.  
 19 Do you have any reason to  
 20 dispute Mr. Woods' recollection, if he had  
 21 one, that you were involved in that  
 22 decision?  
 23 A No, no, no.  
 24 Q If you turn over to the next  
 25 page, please, 4558.



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1 In the middle of the second  
2 paragraph on the page, there is a quote  
3 attributed to you. "If I had been informed  
4 ahead of time of one problem or discrepancy  
5 with her overall story, we would have acted  
6 upon that very aggressively. There were  
7 plenty of other stories we could have told  
8 in this piece."  
9 A Uh-huh.  
10 Q You're referring to if there had  
11 been any -- if you had been informed of any  
12 problems or discrepancies with Jackie's  
13 story --  
14 A Yeah.  
15 Q -- you would have taken steps to  
16 pursue them aggressively?  
17 A Yeah. And I think that anyone  
18 else on staff would have. I mean if Sean,  
19 or Coco, or Liz, or anyone discovered that  
20 discrepancy, they would have done the same  
21 thing. I mean it's not like I'm the only  
22 person who would have done it.  
23 Q That was my question. As the  
24 managing editor of Rolling Stone, was it  
25 your expectation that if anyone from Ms.

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1 Erdely, to Mr. Woods, to Ms. McPherson, to  
2 you, to anyone, had become aware of  
3 problems or discrepancies with the overall  
4 story, your expectation as managing editor  
5 were that those problems or discrepancies  
6 would be acted upon aggressively?  
7 A Oh, yeah, they would have been  
8 in my office with their hair on fire within  
9 moments.  
10 Q That was your expectation?  
11 A Yeah.  
12 Q The paragraph goes on to say,  
13 "If anyone had raised doubts about how  
14 verifiable Jackie's narrative was, her case  
15 would have been summarized 'in a paragraph  
16 deep in the story.'"  
17 A Uh-huh.  
18 Q The way it's written makes it  
19 sounds like that quote was attributed to  
20 you. Those words, in terms of the  
21 paragraph deep in the story, is that  
22 something that you --  
23 A I believe I said that, yeah.  
24 Q And is that true that --  
25 A Well, it's a big if. I mean, I

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1 think I was suggesting that as a  
2 possibility as to how it could have been  
3 handled, or, you know, or if it was handled  
4 at all. But I think I was offering an  
5 alternate version of how the story could  
6 have been told.  
7 Q Does Jackie bear any  
8 responsibility here at all in your view of,  
9 for having told apparent fabrications to  
10 the magazine?  
11 A Yeah, but I think that -- I do  
12 think she bears responsibility, but in  
13 retrospect, I think we bear also -- I mean  
14 a lot of responsibility for -- and I think,  
15 you know, for not having ferreted out her  
16 fabrications. And I think that, you know,  
17 out of respect -- like I feel bad what this  
18 girl has gone through since the story came  
19 out, it cannot have been fun for her, and  
20 we could have protected it from herself.  
21 Q How could you have done that?  
22 A By having discovered that much  
23 of what she said was a fabrication.  
24 Q I'm going to hand you what we've  
25 marked as Plaintiff's Exhibit 43.

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1 A And what she said about the -- I  
2 mean -- yeah, exactly.  
3 (Whereupon, Exhibit 43 was  
4 marked for Identification.)  
5 BY MR. CLARE:  
6 Q Do you recognize Plaintiff's  
7 Exhibit 43 as an e-mail exchange, in part,  
8 that -- or an e-mail set of questions that  
9 Mr. Farhi at the Washington Post had sent  
10 to you?  
11 A Uh-huh.  
12 Q And these are your proposed  
13 answers that you're running by Mr. Wenner?  
14 A Yeah.  
15 Q Is that --  
16 A I believe this -- yes, the  
17 details are a little fuzzy, but I believe  
18 that's what this is.  
19 Q And this is dated April 5, 2015.  
20 The context appears to be in connection  
21 with the issuance of the Columbia report.  
22 A Yes.  
23 Q And your answers that you  
24 drafted you're sending to Mr. Wenner for  
25 review and approval?



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1 A Yeah, yeah.

2 Q Is that correct?

3 A Yes.

4 Q So looking at Mr. Farhi's

5 questions and your answers, question 1 is:

6 Do you have any objections or

7 clarifications about the report, that is,

8 do you accept its narrative and conclusions

9 as accurate?

10 Your draft answer was: No

11 objection to think the report is accurate

12 and fair.

13 A Uh-huh.

14 Q Is that true, is that your view

15 of the Columbia report, that it's accurate

16 and fair?

17 A Yeah.

18 Q Turn over to the next page,

19 please, question number 6.

20 A Uh-huh.

21 Q Mr. Farhi asks you, "What, if

22 anything, have you or your staff said to

23 Jackie or her family since the story was

24 published? Will you say anything now?"

25 Your draft answer was: "We have

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1 tried to reach out to her. She has not

2 responded."

3 What efforts did the magazine

4 make to reach out to Jackie after the story

5 was published?

6 A I don't remember specifically,

7 but I do remember that there were attempts

8 to reach her through her lawyer.

9 Q Okay.

10 For what purpose?

11 A We wanted to talk to her.

12 Q For what purpose did you want to

13 talk to her?

14 A You know, I think we had a lot

15 of questions we wanted to ask her.

16 Q Since the article was published,

17 has the magazine made any effort to reach

18 out to Dean Eramo?

19 A Well, I don't know since I left

20 in July.

21 Q Okay.

22 Before the time you left in

23 July, were you aware of any efforts the

24 magazine made to reach out to Dean Eramo?

25 A No. Partially, I think that's

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1 because there was a pending legal action,

2 so, you know.

3 Q Independent of that, and that's

4 a fine answer, just are you aware of any --

5 A I'm not aware of any.

6 Q I'm going to hand you what's

7 been marked as Plaintiff's Exhibit 30.

8 (Whereupon, Exhibit 30 was

9 marked for Identification.)

10 BY MR. CLARE:

11 Q Do you recognize the second page

12 of Plaintiff's Exhibit 30 as a note that

13 was -- note to readers that was placed in

14 the April 23rd, 2005 edition of the

15 magazine?

16 A Yeah.

17 Q And is this the note to readers

18 that accompanied the publication of the

19 Columbia report?

20 A I believe -- I would have to

21 look online, but I believe this is the same

22 text that appeared online, but I'm not

23 entirely sure. Do you have that here?

24 Q I wasn't really asking that

25 question. I was just more saying is this

Page 357

1 the note -- this is one of the

2 communications that you made to readers in

3 connection with the issuance of the report?

4 A Yes.

5 Q What was the date that Rolling

6 Stone took the article down from the

7 website?

8 A I don't recall the exact date.

9 Q Was it -- what was the -- can

10 you place it with an event? Is it the same

11 time that you released --

12 A I believe it was as this issue

13 came out. So this issue came out -- let's

14 see, what's the date on it, it's blocked --

15 April 23rd. So it would have come out

16 April 8th. So probably sometime during

17 that week.

18 Q The report itself, as your

19 counsel has helpfully pointed out earlier,

20 came out on April 5th.

21 A Yeah, okay.

22 Q After the report came out, was

23 there some gap before it was taken down

24 from the website?

25 A I believe it was taken down that

Page 358

1 day. I honestly don't remember the timing,  
 2 but my understanding was that it was all  
 3 happening at once.  
 4 Q Now this statement here --  
 5 strike that.  
 6 Let me ask you this. Was the  
 7 article, to your knowledge, the Rape on  
 8 Campus article then available on Rolling  
 9 Stone's web site continuously with these  
 10 different editors' notes that were  
 11 published with them from the date it was  
 12 published, November 19, 2014, until the  
 13 date it was taken down contemporaneous with  
 14 the Columbia report?  
 15 A Yes.  
 16 Q In this note to the editor's  
 17 note to the readers, it comes out over your  
 18 signature, correct?  
 19 A Yep.  
 20 Q And it says here in the next to  
 21 the last paragraph, it says, "We would like  
 22 to apologize to our readers and to all  
 23 those who were damaged by our story in the  
 24 ensuing fall-out, including members of the  
 25 Phi Kappa Psi fraternity and UVA

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1 administrators and students."  
 2 Do you see that?  
 3 A Yes.  
 4 Q The statement does not apologize  
 5 to Dean Eramo by name, correct?  
 6 A No, but I think we apologized to  
 7 Dean Eramo by name at another point.  
 8 Q We're going to come to that.  
 9 I'm going to show you that. But this  
 10 statement here does not, is that correct?  
 11 A Uh-huh.  
 12 Q Was there any consideration  
 13 given to apologizing to her by name?  
 14 A I don't recall.  
 15 Q Did you believe at the time this  
 16 apology was made in April of 2015 that Dean  
 17 Eramo was one of those "damaged by the  
 18 article"?  
 19 A Well, she was a UVA  
 20 administrator, right?  
 21 Q Yes.  
 22 A Okay, so I think she's included  
 23 under that.  
 24 Q So you believed that at the time  
 25 you wrote this that Nicole Eramo was one of

Page 360

1 those who had been damaged by the article?  
 2 A We would like to -- who were  
 3 damaged by our story and the ensuing  
 4 fall-out, yes, that's I mean --  
 5 Q How did you believe that UVA  
 6 administrators, in general, and Dean Eramo  
 7 in particular, had been damaged by the  
 8 story?  
 9 A Well, I certainly think in the  
 10 report they're quoted at length of saying  
 11 how they were damaged.  
 12 Q Which report are you referring  
 13 to?  
 14 A The Columbia report.  
 15 Q And so you were apologizing for  
 16 the damage that was referenced in the  
 17 Columbia report?  
 18 A No. We were apologizing for the  
 19 damage caused by the story in the ensuing  
 20 fall-out.  
 21 Q And in your mind that damage was  
 22 the damage that was referenced in the  
 23 Columbia report?  
 24 A I believe so, yeah. I mean, I  
 25 honestly don't know. I'm not sure that I

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1 laid it all on the table and decided what  
 2 was -- it seemed to be a blanket thing for  
 3 the, for the story, and then what  
 4 transpired afterwards.  
 5 Q To your knowledge, did anyone  
 6 from Rolling Stone make an effort to  
 7 communicate directly with Nicole Eramo when  
 8 the story was retracted?  
 9 MS. McNAMARA: Objection.  
 10 That's been asked and answered.  
 11 A Yeah, I believe -- I think I --  
 12 Q I think I asked it in a  
 13 different way.  
 14 A Yeah.  
 15 Q But when the story was retracted  
 16 and this apology was given, did anyone from  
 17 Rolling Stone make an effort to contact  
 18 Dean Eramo to apologize directly to her?  
 19 A Well, I would say I did not, and  
 20 as far as I know, no one else did.  
 21 Q Besides this statement here that  
 22 we've looked at and talked about --  
 23 THE WITNESS: You know, can we  
 24 take a break? I've got to run. I've  
 25 had a lot of this water.



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1 MR. CLARE: Sure.

2 MS. McNAMARA: How much time?

3 THE VIDEOGRAPHER: This

4 concludes tape number five. The time

5 is 5:42 p.m. and we're off the record.

6 (Recess taken 5:42 p.m.)

7 (Resumed 5:46 p.m.)

8 THE VIDEOGRAPHER: This begins

9 tape number six. The time is 5:46

10 p.m. and we are back on the record.

11 BY MR. CLARE:

12 Q Okay, Mr. Dana, before the break

13 we were looking together at the note to

14 readers in --

15 A Yeah.

16 Q -- in the April 23rd, 2015

17 edition of Rolling Stone.

18 In this note to readers, you

19 state that with the publication of the

20 report, the Columbia report, Rolling Stone

21 is officially retracting A Rape on Campus.

22 Do you see that?

23 A Yep.

24 Q And if I understand your

25 testimony correctly, roughly

Page 363

1 contemporaneous with the issuance of the

2 Columbia report, Rolling Stone took the

3 article A Rape on Campus down off its

4 website, correct?

5 A Yes.

6 Q At any point in time while the

7 article was up on the website, did Rolling

8 Stone take any steps to lock user comments

9 on that online edition?

10 A You know, I'm not sure. I want

11 to say I think that we did, but I'm not

12 positive. And I'm pretty sure that we did.

13 Q Okay.

14 Who at Rolling Stone, if we

15 wanted to know the answer of if that was

16 done and if so when, who would be the right

17 person for us to ask that?

18 A The person who ran the website

19 is no longer there. So I don't know who

20 you talk to now.

21 Q Who was that person?

22 A Caryn Ganz.

23 Q Caryn Ganz.

24 Besides stating in this reader

25 note that Rolling Stone is officially

Page 364

1 retracting the article and taking the

2 article down from the Rolling Stone

3 website, what other steps, if any, did

4 Rolling Stone take to retract the article?

5 A To me, that is retracting the

6 article. But I mean I'm not sure what else

7 we could have done. I mean, I guess we

8 could have gone to everyone's house and

9 taken their issue away from them -- but

10 yeah.

11 Q But I'm asking what steps, if

12 any, you did take besides those two.

13 A I think that, to me, is

14 retracting. I mean, I don't know what

15 other step there could have been to take in

16 retracting an article.

17 Q Did Rolling Stone take any

18 efforts to disable the ability of users to

19 download issue 1223, the one that included

20 A Rape on Campus, from the iTunes app?

21 A That I do not know.

22 Q Or discontinue selling back

23 copies of 1223?

24 A That I do not know.

25 Q Did Rolling Stone undertake any

Page 365

1 efforts to request or demand removal of A

2 Rape on Campus from other web sites that

3 were not controlled by Rolling Stone or

4 Wenner Media?

5 A I don't know.

6 Q Did Rolling Stone take any

7 effort to announce the retraction on social

8 media?

9 A I don't recall.

10 Q Did Rolling Stone undertake any

11 effort to send a retraction notice to the

12 same media outlets as the press release

13 that we looked at earlier today?

14 A I believe this went out as a

15 press release. I mean, I don't recall, but

16 it got a lot of attention and, you know, I

17 just -- I don't remember.

18 Q But is it your --

19 A It would have been customary

20 that this would have been -- that this note

21 would have gone out as a press release, but

22 I'm not positive.

23 Q As you sit here today, you don't

24 remember one way or the other whether that

25 was done?

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: right;">Page 366</p> <p>1 A Un-huh. But certainly we did a</p> <p>2 lot of interviews. The world was made</p> <p>3 aware of it.</p> <p>4 Q I'm going to hand you what we've</p> <p>5 marked as Plaintiff's Exhibit 31.</p> <p>6 A Uh-huh.</p> <p>7 (Whereupon, Exhibit 31 was</p> <p>8 marked for Identification.)</p> <p>9 BY MR. CLARE:</p> <p>10 Q Plaintiff's Exhibit 31 is an</p> <p>11 excerpt from issue 1235 of Rolling Stone</p> <p>12 and there is, in the reader page, I guess</p> <p>13 notes, letters to the editor.</p> <p>14 A Yeah.</p> <p>15 Q There is an excerpt of a letter</p> <p>16 that Dean Eramo sent that is published</p> <p>17 there and then there is an editor's reply.</p> <p>18 A Uh-huh.</p> <p>19 Q Do you see that?</p> <p>20 A Yes.</p> <p>21 Q Is that what you were making</p> <p>22 reference to earlier when you said that</p> <p>23 Rolling Stone had apologized specifically</p> <p>24 to Dean Eramo by name?</p> <p>25 A Yes.</p>                                                                                                                               | <p style="text-align: right;">Page 368</p> <p>1 e-mail exchange apparently between you and</p> <p>2 Mr. Woods. Looks like there's some cutting</p> <p>3 and pasting going on here.</p> <p>4 A Uh-huh.</p> <p>5 Q And it appears to me that this</p> <p>6 was a draft of a statement that you were</p> <p>7 working on together with Mr. Woods that you</p> <p>8 were providing some input on. And I want</p> <p>9 to make sure I'm understanding what's going</p> <p>10 on in this e-mail.</p> <p>11 The lower case text, is that the</p> <p>12 draft that you were presented with, and</p> <p>13 then the caps text and the strike-outs, is</p> <p>14 that edits or suggestions that you were</p> <p>15 making?</p> <p>16 A You know, can I just --</p> <p>17 Q Of course.</p> <p>18 A I'm embarrassed to say that I --</p> <p>19 there were so many different things like</p> <p>20 this happening this week. And what this</p> <p>21 one is and -- I mean I'm not sure -- I just</p> <p>22 don't know if it's my writing in his caps,</p> <p>23 or his writing in my caps.</p> <p>24 I guess -- so, yeah, I just -- I</p> <p>25 don't remember. I mean, I was working on</p>                                                     |
| <p style="text-align: right;">Page 367</p> <p>1 Q To whom should this editor's</p> <p>2 reply be attributed? Did this come from</p> <p>3 you? Does this come from --</p> <p>4 A Yeah, I assume -- I mean, I</p> <p>5 don't remember if I was literally the</p> <p>6 person who wrote it, but I approved it.</p> <p>7 Q And it says, "We'd like to</p> <p>8 apologize to Dean Eramo and express our</p> <p>9 sincere regrets."</p> <p>10 This language about sincere</p> <p>11 regrets, what specifically did you have</p> <p>12 sincere regret for that you were expressing</p> <p>13 to Dean Eramo?</p> <p>14 A I think I'm responding to her,</p> <p>15 you know -- you know, I don't know of any</p> <p>16 specific thing. I would just say we regret</p> <p>17 this whole unfortunate episode and her</p> <p>18 being dragged into it.</p> <p>19 Q All right. You could put that</p> <p>20 aside. I'm going to hand you what was</p> <p>21 marked as Plaintiff's Exhibit 37.</p> <p>22 (Whereupon, Exhibit 37 was</p> <p>23 marked for Identification.)</p> <p>24 BY MR. CLARE:</p> <p>25 Q Plaintiff's Exhibit 37 is an</p> | <p style="text-align: right;">Page 369</p> <p>1 so many different types of things this</p> <p>2 week, sending them to Sean, to Jann, and I</p> <p>3 just don't remember which one this is. I</p> <p>4 think you probably have to go by the text</p> <p>5 of what we published, because I don't</p> <p>6 remember what this one was.</p> <p>7 Q In this, regardless of whose</p> <p>8 word it is, at the very bottom of</p> <p>9 Plaintiff's Exhibit 37, someone had written</p> <p>10 that the essence of Jackie's story was that</p> <p>11 in September of 2012, Jackie was sexually</p> <p>12 assaulted and the school's administration</p> <p>13 acted with indifference to her claim.</p> <p>14 Do you see that?</p> <p>15 A Yeah.</p> <p>16 Q And do you agree, we've had some</p> <p>17 discussion about this already, but that is</p> <p>18 the essence of Jackie's story?</p> <p>19 A You know, I don't know who wrote</p> <p>20 this and we didn't publish it. So, you</p> <p>21 know, I'm not sure where this came from.</p> <p>22 Q But do you agree with it,</p> <p>23 regardless of where it came from and</p> <p>24 whether it was published or not, do you</p> <p>25 agree that that was the essence of Jackie's</p> |



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1 story?

2 A No. I would take a more nuanced

3 view of it.

4 Q So what would be your view of

5 the essence of Jackie's story?

6 A Well, in what I was thinking on

7 December 12th or what I'm thinking today?

8 Q Well, I'm not -- what was the

9 essence of the story that you were trying

10 to tell in the magazine article when you

11 published it?

12 A The essence of story, to me, was

13 that we were trying to demonstrate the

14 unbelievable complexities of trying to

15 adjudicate sexual assault on campus, and

16 that it puts administrators and victims and

17 sometimes even perpetrators in almost

18 impossible positions, and that almost

19 everybody comes out of the process somehow

20 hurt by it.

21 Q At the time of publication, did

22 you believe that UVA administrators, in

23 general, and Dean Eramo in particular, had

24 treated Jackie with indifference?

25 A I'm not sure indifference is the

Page 371

1 word I would use. But as I said, I think

2 it was -- I think we demonstrated that,

3 that the entire culture at UVA created an

4 incredibly difficult situation for her.

5 Q Do you think it's a fair reading

6 of the article for a reader to come away

7 with the impression that Dean Eramo treated

8 Jackie with indifference?

9 MS. McNAMARA: Objection. Calls

10 for speculation.

11 A Yeah, I mean I was going to say

12 that I feel so many readers -- depending on

13 what the reader brings to it -- I mean we

14 had letters that were very negative by Dean

15 Eramo, we had letters that were basically

16 saying, you know, criticizing these women

17 for coming forward and, you know, and

18 making accusations.

19 So, you know, I think this is

20 one of these hot button issues that, where

21 the discussion of it is so overheated and

22 painful that it's hard, you know.

23 Q How would you describe Dean

24 Eramo's interactions with Jackie as

25 reflected in the publication of the

Page 372

1 article?

2 A Well, let's go to the text and

3 see, because -- so why don't we point out

4 different places.

5 MS. McNAMARA: We're working

6 with two documents, but --

7 BY MR. CLARE:

8 Q I tell you what, we'll put in

9 front of you a better document to go

10 through that and we're going to go on to

11 something else and come back to that.

12 A Okay.

13 Q I want to go back to this notion

14 of Jackie's three friends.

15 A Uh-huh.

16 Q You recall our discussion about

17 that?

18 A Yeah.

19 Q You recall that the three

20 friends, at least for purposes of our

21 discussion, let's -- can we understand that

22 when I say to them, I'm talking about the

23 three UVA students that were portrayed in

24 the article as having met Jackie and spoken

25 with her immediately after the assault?

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1 A Yes, yes.

2 Q There was somebody referred to

3 in the article named Randall, and one

4 person Andy, and somebody named Cindy.

5 A Yes.

6 Q Now, when the article was

7 published, was it your belief, you,

8 Mr. Dana's belief, that Ms. Erdely had

9 spoken directly with one of the three of

10 those individuals as part of her

11 investigation?

12 A I don't recall exactly, I mean

13 exactly what I thought about that.

14 Q I'm going to hand you what we've

15 marked as Plaintiff's Exhibit 78.

16 (Whereupon, Exhibit 78 was

17 marked for Identification.)

18 BY MR. CLARE:

19 Q Just to orient us to this

20 document, Plaintiff's Exhibit 78 is a

21 December 4th, 2014 e-mail --

22 A Yeah.

23 Q -- from you to Mr. Woods and

24 Ms. Erdely, with the subject here it is,

25 and then attaching what's a response piece,

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1 and you're communicating to them. You say,  
 2 "My notes are pretty rough, so you guys  
 3 will need to work out the niceties."  
 4 A Uh-huh.  
 5 Q So does this document,  
 6 Plaintiff's Exhibit 78, reflect your notes  
 7 to the response piece that was being  
 8 prepared by Ms. Erdely?  
 9 A Yeah, the one that we ended up  
 10 never running, yeah.  
 11 Q Right, that's part of why I  
 12 wanted to ask you about this document. Is  
 13 this the longer statement that --  
 14 A I believe it is, yes.  
 15 Q That Ms. Erdely said in her  
 16 Friday morning e-mail we can't run the  
 17 statement?  
 18 A Yeah. I'm pretty sure that's  
 19 what this is, yeah.  
 20 Q And these are your notes the  
 21 night before on that statement?  
 22 A Yeah.  
 23 Q And am I interpreting this  
 24 attachment correctly that your notes are  
 25 what's reflected in the strike-out --

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1 A And caps, yeah.  
 2 Q And the lower case is the draft?  
 3 A Yes.  
 4 Q All right.  
 5 I'd like to invite your  
 6 attention to the last page of the  
 7 attachment.  
 8 A Uh-huh.  
 9 Q And one of your notes to the  
 10 draft here.  
 11 In the first full paragraph on  
 12 that page, at the very end, your notes to  
 13 Ms. Erdely and Ms. Wood says, "Also  
 14 mention: Of three friends that night who  
 15 were referred to, reached one who declined  
 16 to comment; other two never responded to  
 17 me."  
 18 Was that your comment to the  
 19 draft?  
 20 A Yeah. I think this was probably  
 21 me being unclear of all of the back and  
 22 forth, I mean because that's -- I made it  
 23 clear that what I'm writing here is not,  
 24 you know -- I was probably confused at that  
 25 moment as to who said what to who exactly

Page 376

1 when.  
 2 Q All right.  
 3 A So, you know, this -- if I said  
 4 that here, it's because I think I had a  
 5 mistaken impression of something.  
 6 Q That mistaken impression was  
 7 that Ms. Erdely had, in fact, reached one  
 8 of the friends who had declined to comment?  
 9 A Yes.  
 10 Q And what was the basis for that  
 11 mistake and impression?  
 12 A I don't recall. I mean there  
 13 was -- you know, you've got to understand,  
 14 just in this week, I'm just beginning to  
 15 really become more versed in a lot of very  
 16 complex strands that are being explained to  
 17 me by different people, you know, and I'm  
 18 sort of putting things together, maybe not  
 19 entirely correctly, which is why it said,  
 20 you know, I just sort of threw this out  
 21 there, then you guys actually make it  
 22 factual and make it right.  
 23 Q Okay.  
 24 But at least as of this point in  
 25 time, it was your impression, mistaken or

Page 377

1 otherwise, that Ms. Erdely had, in fact,  
 2 reached one of the friends. You had that  
 3 impression from somewhere?  
 4 A Yeah.  
 5 Q And it turned out to be  
 6 mistaken?  
 7 A Yeah.  
 8 Q After sending these notes, did  
 9 you later learn that Ms. Erdely had not  
 10 spoken directly with the person identified  
 11 in the article as Randall prior to  
 12 publication?  
 13 A I believe I did, yes.  
 14 Q And how did you find that out?  
 15 MS. McNAMARA: And I caution you  
 16 to -- I instruct the witness not to  
 17 answer if the answer is you found that  
 18 in the course of the internal  
 19 investigation conducted under the  
 20 guidance of counsel.  
 21 A Okay. So I'm not going to  
 22 answer that question.  
 23 Q So you can't answer that subject  
 24 to counsel's instruction.  
 25 A Yeah.



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1 Q You understand that all three of  
2 the friends have said publicly that they  
3 were never contacted directly.  
4 A Right.  
5 Q Do you have any reason to  
6 dispute that account of this three friends  
7 saying that they were never contacted  
8 directly?  
9 A No. But I believe this was  
10 written before they had said that. I mean  
11 this note here. That had not come out yet.  
12 Q Sure. You know, that was never  
13 published, obviously.  
14 A Yeah, yeah.  
15 Q But I'm just now asking a  
16 separate question. They've said that  
17 Rolling Stone never contacted them  
18 directly.  
19 A Right, right.  
20 Q And you were the managing  
21 editor. Do you have any basis to dispute  
22 that --  
23 A No, I do not.  
24 Q -- any information that they  
25 were, in fact, contacted directly?

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1 A No.  
2 Q You don't have any --  
3 A I have no basis to dispute that.  
4 Q Do you have any basis to dispute  
5 the statements that were made by Mr. Ryan  
6 Duffin, who is referred to as Randall in  
7 the article, that he was willing to be  
8 interviewed by Rolling Stone had he been  
9 contacted?  
10 A No.  
11 Q Do you have any basis to dispute  
12 that Mr. Duffin's public statements that if  
13 he had been contacted, he would have  
14 rebutted several --  
15 A Yes.  
16 Q You do have a reason?  
17 A Oh, no, I have no reason. I was  
18 agreeing, I have no reason to believe. He  
19 seems like a straight shooter to me.  
20 Q Okay.  
21 A I saw him on TV. I read stories  
22 about him.  
23 Q And you have no reason to doubt  
24 his public statements that if he had been  
25 contacted, he would have told Rolling Stone

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1 things that would have rebutted certain  
2 central aspects of Jackie's account?  
3 A Uh-huh.  
4 Q Yes.  
5 A Yeah, I have no reason -- I have  
6 no reason to disbelieve that. He seems  
7 like an honest person, and from what I  
8 could tell, see him on TV and reading him,  
9 he seems to be a credible person.  
10 Q Rolling Stone has been  
11 criticized for what was described as a  
12 misleading attribution in the article  
13 suggesting that Ms. Erdely had actually  
14 spoken to Randall, Ryan Duffin, herself.  
15 Do you think that's a valid  
16 criticism?  
17 A Yeah. I would probably chalk  
18 that up to an editing error.  
19 Q In the draft that we were just  
20 looking at together, the notes, Plaintiff's  
21 Exhibit 78, you said that the other two  
22 friends never responded to -- that was your  
23 suggestion for inclusion?  
24 A Yeah.  
25 Q You were also under the

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1 impression that the other two friends, the  
2 ones that were not referred to in the  
3 article, that were not quoted in the --  
4 strike that, that's a horrible question.  
5 You make a statement that the  
6 other two never responded to me. Were you  
7 under the impression on December 4th that  
8 two of the three friends had been contacted  
9 directly by Ms. Erdely, but had not  
10 responded to Ms. Erdely?  
11 A I guess what I would say and  
12 I -- I think I'm just kind of speculating.  
13 I mean, honestly, I don't know if someone's  
14 told me that Sabrina is or I'm just kind of  
15 guessing.  
16 Like I mean since this is a  
17 draft and these are editing notes, and I  
18 probably discussed it with them, you know,  
19 on the phone as well as this, you know, I'm  
20 just kind of riffing here. It's like I'm  
21 not going on information I feel good about,  
22 you know. And I think that this is a  
23 common thing. And I think that Sean and  
24 Sabrina know that when I do that, I'm sort  
25 of making more conceptual suggestions than

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1 actually trying to put words or facts in  
2 their mouths.

3 What I always tell people when I  
4 do things like this is like the words I'm  
5 writing here are not, you're not bound to  
6 use them. In fact, what I'd like you to do  
7 is to improve what I've done here, I'm just  
8 making an editing suggestion.

9 So this is in no way meant to be  
10 my comments here, you know, meant to be a  
11 document that will sort of hold any water  
12 beyond probably it's also a certain  
13 shorthand that the people who are working  
14 the story are going to understand.

15 Q If -- what was your  
16 understanding -- let me strike that.

17 What is your understanding about  
18 whether Ms. Erdely had the names of the  
19 friends to contact?

20 MS. McNAMARA: And objection. I  
21 instruct him not to answer to the  
22 degree that that information, if you  
23 hold it, derives from the independent  
24 investigation conducted under the  
25 guidance of counsel.

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1 BY MR. CLARE:  
2 Q You can't answer subject to  
3 that?  
4 A Yeah, yeah.  
5 Q Okay.  
6 Let me ask it this way. If  
7 Ms. Erdely had the full name of one or more  
8 of those three friends, what types of  
9 efforts would you, as the managing editor,  
10 have expected her to exhaust in order to  
11 track them down and contact them directly?  
12 MS. McNAMARA: Objection. Calls  
13 for speculation.  
14 A I mean I would expect that  
15 person to be contacted.  
16 Q If she had the full name?  
17 A Yeah.  
18 Q If Ms. Erdely had reached one of  
19 the three friends, Katherine Henley, for  
20 example, and she had disputed certain  
21 elements of Jackie's account of that  
22 evening, what would you expect to be done  
23 in response to that information?  
24 MS. McNAMARA: Objection. Calls  
25 for speculation.

Page 384

1 A I mean everybody get in my  
2 office, you know. We would -- I would have  
3 dealt with it very strongly.

4 Q And is that one of -- is that  
5 among the types of discrepancies or trouble  
6 with verification that you would have  
7 expected Ms. Erdely and Mr. Woods,  
8 Ms. McPherson, Ms. Garber-Paul to follow up  
9 on aggressively?

10 MS. McNAMARA: And again, I  
11 object. It calls for speculation. I  
12 don't know -- we're talking about a  
13 theoretical. We don't know how she  
14 objected. If she did object. What  
15 she was objecting to. We don't know.  
16 We're talking about a theory.

17 BY MR. CLARE:  
18 Q Yeah, I'm asking to posit that  
19 if Ms. Erdely had reached one of the three  
20 friends --  
21 A Yeah --  
22 Q Katherine Henley, in my example,  
23 and Ms. Henley had disputed several key  
24 elements of Jackie's account, would you  
25 have expected your team to follow up

Page 385

1 aggressively on those discrepancies?  
2 MS. McNAMARA: Same objection.  
3 A Yeah. I would say --  
4 MS. McNAMARA: Calls for  
5 speculation.  
6 A -- in general, I don't think  
7 there is any piece of information we had in  
8 this story that we left out of the story,  
9 because it didn't fit the narrative we  
10 wanted. So any bit of information that  
11 fills out a narrative, I'm going to insist  
12 on is in the story.  
13 Q Well, earlier we looked at a  
14 quote from you that said, it was in the  
15 Columbia report, it said that if anyone had  
16 brought issues to your attention, you would  
17 have followed up aggressively on  
18 discrepancies in Jackie's account.  
19 A Yeah.  
20 Q And I'm asking you to posit that  
21 one of the three friends gave you those  
22 types of discrepancies or gave someone on  
23 your team one of those discrepancies.  
24 Would you have expected that  
25 that would have been followed up on



Page 386

1 aggressively?

2 MS. McNAMARA: And I object.

3 Calls for speculation. You can

4 answer.

5 A Well, yes, and I think I said

6 that in the report and, you know, as an

7 editor, yeah, I would -- absolutely.

8 Q What did you know prior to

9 publication of the article about Dean

10 Eramo's actions to bring Jackie to the

11 police?

12 MS. McNAMARA: Objection. Asked

13 and answered. You can, if you recall,

14 answer it.

15 A I was not aware.

16 Q Did you eventually learn that

17 Dean Eramo did, in fact, bring Jackie to

18 the police regarding her allegations?

19 MS. McNAMARA: And I just

20 caution you to the degree that you

21 gained knowledge in answer to that

22 question through the independent, the

23 investigation conducted at the behest

24 of counsel, I instruct you not to

25 answer.

Page 387

1 If you gained that information

2 elsewhere, you can answer that

3 question.

4 A Well, I can answer the question

5 by saying I don't remember where I first

6 encountered that information.

7 Q Would you agree with me that

8 that fact, the fact of Nicole Eramo having

9 brought Jackie to the police and

10 accompanied her to those meetings is not

11 mentioned in the article?

12 MS. McNAMARA: Objection.

13 Mischaracterization.

14 THE WITNESS: Pardon?

15 MS. McNAMARA: I think that's a

16 mischaracterization of the article.

17 It is mentioned.

18 A Well, let's go back and see what

19 it says.

20 Q Okay.

21 A I mean what did she say.

22 MS. McNAMARA: I believe it says

23 that there was a police report and she

24 reported about the bottle incident, I

25 believe.

Page 388

1 MR. CLARE: Do you want to

2 direct us where you're referring to?

3 MS. McNAMARA: Well, if I had a

4 magazine, I could do it. Do you know

5 where it is, Sam?

6 BY MR. CLARE:

7 Q I'll tell you what, just in the

8 interest of time, let's let your counsel

9 try to find it for all of us and let me ask

10 you a couple of additional questions, just

11 so we can do a couple of things in

12 parallel.

13 A Okay.

14 Q I do want to come back to this,

15 and I will.

16 A Okay.

17 Q Would you agree -- let me ask

18 you this, do you think that Dean Eramo

19 treated Jackie with indifference?

20 MS. McNAMARA: Objection. Asked

21 and answered. And I think he asked

22 last time -- last time you asked, he

23 said he needs to look at the sections

24 of the article to answer that

25 question.

Page 389

1 A We can look at the sections and

2 we can determine that.

3 Q Do you know whether any other

4 university administrator besides Dean Eramo

5 interacted with Jackie?

6 A I don't remember. I mean, I

7 have to go back and look at the piece again

8 and see what the text says.

9 BY MR. CLARE:

10 Q I'm going to hand you what we've

11 marked as Plaintiff's Exhibit 1.

12 (Whereupon, Exhibit 1 was marked

13 for Identification.)

14 BY MR. CLARE:

15 Q I invite your attention

16 specifically to page 70 in the, magazine of

17 Plaintiff's Exhibit 1.

18 Do you have that?

19 A Yes.

20 Q And in particular, in the

21 right-hand column, closest to the

22 right-hand side, there is a sentence that

23 says, "But her concerns go beyond taking on

24 her alleged assailants and their

25 fraternity."

Page 390

1 Do you see where I'm reading

2 from?

3 A I'm sorry, where is it?

4 Q It's just below the full quote

5 in the right most column on page 70.

6 A Oh, yeah, yeah, got it.

7 Q It says, "But her concerns go

8 beyond taking on her alleged assailants and

9 their fraternity. Lots of people have

10 discouraged her from sharing her story,

11 Jackie tells me with a pained look,

12 including the trusted UVA Dean to whom

13 Jackie reported her gang rape allegations

14 more than a year ago."

15 A Uh-huh.

16 Q At the time of publication, did

17 you believe that Dean Eramo discouraged

18 Jackie from reporting her gang rape

19 allegations?

20 MS. McNAMARA: Objection.

21 Mischaracterization of the evidence in

22 front of the witness.

23 A Well, what I would say from

24 reading this comment is that Jackie felt

25 that -- that Jackie felt that way. That's

Page 391

1 exactly what the story says.

2 I mean We're reporting at this

3 point Jackie's perception. I'm sorry, go

4 ahead. Within the context -- I mean it's

5 within the context and it's purely on

6 Jackie. So we're, I mean --

7 Q And did you believe Jackie in

8 that account?

9 A At this point, yes, I had no

10 reason not to believe Jackie, you know, at

11 the point that we were in pre-publication.

12 Q And does the magazine stand

13 behind that today or at least as of --

14 A Well, I don't know what it

15 stands behind today.

16 Q Fair question.

17 When the magazine retracted the

18 article, did the magazine also retract the

19 assertion that --

20 A Well, we retracted the entire

21 article.

22 Q Okay.

23 Including this notion --

24 A Not retracted the entire

25 article. So that's the entire article.

Page 392

1 Q Okay. Every bit of it?

2 A We never tried to argue other

3 parts of the story. We said we're taking

4 this down.

5 Q Do you believe today based on

6 what you know now that the article

7 accurately portrays Dean Eramo?

8 A You know, I literally, I have

9 not thought about this in 8 months and, you

10 know, this is -- yeah, I don't know. I'm

11 trying to help you guys, but, you know, I

12 no longer work there.

13 MR. CLARE: Were you at all able

14 to find the reference in the article

15 that you were referring to?

16 MR. BAYARD: I have not been

17 able to find it, no.

18 MR. CLARE: Okay.

19 BY MR. CLARE:

20 Q Mr. Dana, as the managing editor

21 of Rolling Stone, were you aware that

22 months before the article was published,

23 Ms. Erdely had e-mails in her possession

24 confirming that Dean Eramo set up meetings

25 between Jackie and the police and

Page 393

1 accompanied her to those meetings?

2 A Wait, at what time frame are you

3 asking me?

4 MS. McNAMARA: Yes.

5 A During pre-publication?

6 Q Correct.

7 A No, I'm not.

8 Q Did you become aware of that

9 fact post publication?

10 MS. McNAMARA: And I object and

11 instruct the witness not to answer if

12 you became aware of that fact if in

13 the course of the independent

14 investigation conducted at the behest

15 of legal counsel.

16 A What she said.

17 Q So you can't answer subject to

18 those limitations.

19 All right. I'm going to hand

20 you --

21 A "... folks who answer late night

22 calls from victims and even make emergency

23 room visits." That's a line that just

24 jumped out to me.

25 (Whereupon, Exhibit 81 was



Page 394

1 marked for Identification.)

2 BY MR. CLARE:

3 Q I'm going to hand you what we've

4 marked as Plaintiff's Exhibit 81.

5 A I mean that seems like a

6 positive thing to say with UVA deans, very

7 clearly, right?

8 Q I don't have a question pending.

9 A Okay, okay.

10 Q I'm going to hand you what we've

11 marked as Plaintiff's Exhibit 81.

12 Plaintiff's Exhibit 81 is a long

13 exhibit. You're welcome to flip your way

14 through it.

15 A Uh-huh.

16 Q It's an e-mail thread that

17 starts out between Jackie and Nicole Eramo

18 that, among other things, discusses various

19 meetings that she was setting up with the

20 police.

21 And the last e-mail on the

22 thread is Jackie forwarding that e-mail

23 thread to Ms. Erdely on August 16th, at

24 2:25 p.m.

25 Do you see that?

Page 395

1 A Yeah.

2 Q Have you ever seen this document

3 before?

4 MS. McNAMARA: And I instruct

5 the witness not to answer if he saw

6 this document in the course of the

7 independent investigation conducted at

8 the behest of counsel. If you saw it

9 another time, you're welcome to answer

10 the question.

11 A I did not see this document

12 before publication.

13 Q Okay.

14 The e-mails here reflect efforts

15 by Dean Eramo to coordinate meetings

16 between Jackie and the police.

17 A This is after she's been struck

18 by the bottle, right?

19 Q Chronologically, is that what

20 you're asking?

21 A Well, that's when these meetings

22 are happening, correct?

23 Q That's correct.

24 A Okay.

25 Q And is that --

Page 396

1 MR. CLARE: Have you all been

2 able to find --

3 MR. BAYARD: I have not been

4 able to find it.

5 MR. CLARE: I don't believe it's

6 in there.

7 MS. McNAMARA: And I stand

8 corrected if I'm wrong. I mean, I

9 knew as a matter of this document,

10 Exhibit No. 81 bears out, these

11 communications reflect that Sabrina

12 was aware that she had gone to the

13 police concerning the bottle incident.

14 There is nothing in these

15 documents that evidence that she was

16 aware that Dean Eramo had taken her to

17 the police to discuss the sexual

18 assault.

19 And then, as I understand,

20 Sabrina confirmed that with the

21 police, that an incident, an assault,

22 concerning a battery on the corner had

23 occurred.

24 So that's what this evidence and

25 this witness is in not on this

Page 397

1 document, so I'm not sure if --

2 MR. CLARE: My only question is

3 this, and let's talk about the bottle

4 incident.

5 BY MR. CLARE:

6 Q The bottle incident is discussed

7 in the article, is that correct?

8 A Correct.

9 Q But the article does not make

10 any reference -- and I think your counsel

11 can confirm this for you, I don't want to

12 be the one to -- there is no reference to

13 Nicole Eramo having taken Jackie to the

14 police in connection with the bottle

15 incident, is that correct?

16 A Let me read it right now.

17 No, it does not say that she

18 took her to the police.

19 Q Ms. Erdely was contacted by the

20 Charlottesville Police Department after the

21 article was published, correct?

22 A You'd have to ask her that. I'm

23 not -- I mean I'm not -- I don't know.

24 Q I'm going to hand you what we've

25 marked as Plaintiff's Exhibit 63.

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1 (Whereupon, Exhibit 63 was  
2 marked for Identification.)  
3 BY MR. CLARE:  
4 Q It's a pretty exciting document.  
5 Most of it has been redacted, but I want to  
6 just orient you to the document.  
7 If you look at the last page of  
8 Plaintiff's Exhibit 63, it's an e-mail from  
9 Jake Via to Ms. Erdely, and the subject of  
10 it is Charlottesville Police detectives.  
11 A Uh-huh.  
12 Q And it's dated December 17,  
13 2014. Do you see that?  
14 A Yes. I guess I had forgotten  
15 this.  
16 Q That's fine.  
17 A Yeah.  
18 Q And this is after the  
19 publication of the article.  
20 A Yeah.  
21 Q It appears to me that Detective  
22 Jake Via is reaching out to Ms. Erdely in  
23 connection with the investigation of the  
24 gang rape piece.  
25 Do you see that?

Page 399

1 A Yes.  
2 Q And then there are a bunch of  
3 privilege redactions, and then at the very  
4 top of Plaintiff's Exhibit 63 there is an  
5 e-mail from you to Ms. Erdely presumably  
6 after she had spoken with Mr. Via asking a  
7 question.  
8 Did you get the feeling that he  
9 thought anything happened to her that  
10 night?  
11 A Uh-huh.  
12 Q What did Ms. Erdely tell you in  
13 response to this?  
14 A You know, I hate to keep on  
15 saying this, but I don't recall.  
16 Q Did you form any impression  
17 about what Ms. Erdely, if anything, had  
18 learned from the police about the events of  
19 that evening or Jackie's account or  
20 anything?  
21 A No, I don't remember that  
22 conversation, but it's clear in this  
23 period, though, that I'm not learning  
24 anything that's making me confident that  
25 anything that she said happened to her did,

Page 400

1 in fact, happen to her.  
2 I mean that would be the context  
3 in which this, these conversations are  
4 taking place.  
5 Q I'm going to hand you what we've  
6 marked as Plaintiff's Exhibit 59.  
7 (Whereupon, Exhibit 59 was  
8 marked for Identification.)  
9 BY MR. CLARE:  
10 Q We don't have to look through  
11 all of this.  
12 A Is this -- what is this we're  
13 looking at?  
14 Q So Plaintiff's Exhibit 59  
15 appears to be on its face a draft of the  
16 Columbia University report.  
17 A Uh-huh.  
18 Q I don't have any other context  
19 other than, for that other than it was  
20 produced to us from your --  
21 A Okay. Is it the same as this?  
22 Q No. This is a draft.  
23 A But it didn't change much,  
24 though, I don't think.  
25 Q I don't know whether it did or

Page 401

1 not, not really germane to my question.  
2 Besides you, who else had seen  
3 copies of the report or drafts of the  
4 report prior to publication?  
5 A Well, prior to publication  
6 anyone -- I mean most of the staff had seen  
7 it. I mean I think that I was sent -- I  
8 was sent it on vacation the previous week.  
9 I can't remember exactly who I sent it to.  
10 I'm sure I sent it to Jann and Sean right  
11 away, but honestly, I don't remember.  
12 I mean we were careful to make  
13 sure that fairly small group of people who  
14 we trusted had it because we didn't want it  
15 leaking.  
16 MS. McNAMARA: Can I just  
17 observe for the record, just a point  
18 of clarification?  
19 For Exhibit 59, it seems to be  
20 almost like a red line and there is  
21 some yellow highlighting. I don't  
22 know if that's how we produced it  
23 or --  
24 MR. CLARE: It is, and that's  
25 actually my question.



Page 402

1 MS. McNAMARA: Okay.

2 MR. CLARE: No, you're exactly

3 right, Liz. Thank you.

4 BY MR. CLARE:

5 Q Plaintiff's Exhibit 59 does have

6 some red lining and some highlighting on

7 it, and I'm not, I don't pretend to be an

8 expert with this stuff --

9 A I have a feeling that this was

10 actually, it was sent to us in this form, I

11 seem to remember.

12 Q Okay.

13 A With these red lines, you know,

14 because there were three people working on

15 the piece, so I think that they were

16 trading it back and forth, you know, and I

17 don't know whose marks are whose, but I do

18 kind of remember, because it was -- and I

19 didn't quite know how to get rid it. So I

20 remember really spending some time on my

21 own personal computer trying to get rid of

22 all these marks so I could read it without

23 being distracted.

24 Q If you could turn to me, turn

25 with me over to, at the bottom, page number

Page 403

1 10957. I think it's page 12 of the --

2 A Uh-huh.

3 Q And in the second paragraph

4 under the subhead a chilling effect, there

5 is a paragraph or part of a paragraph

6 that's highlighted that discusses

7 interactions between Jackie, Dean Eramo,

8 and the Charlottesville Police.

9 Do you see that?

10 A Uh-huh.

11 Q Yes?

12 A Wait, under the highlighted

13 part?

14 Q Yeah.

15 Do you see that some text is

16 highlighted here about her interactions

17 with the police?

18 A Yeah, yeah.

19 Q And if you turn to the next

20 page, there are some more paragraphs that

21 are highlighted that discuss the

22 interactions between Jackie and Eramo and

23 the police?

24 Do you see that?

25 MS. McNAMARA: I think you'll

Page 404

1 see in the record, if you want to

2 clarify this, is that I think the

3 record, as we've produced it, this was

4 sent -- this draft was sent to us and

5 I think pretty quickly Columbia sent a

6 second draft and said please disregard

7 this.

8 MR. BAYARD: I think we need to

9 do a comparison, though, to make sure.

10 THE WITNESS: This stuff in

11 yellow?

12 MS. McNAMARA: Yeah, that's what

13 I think.

14 MR. CLARE: It's not really

15 material to my question.

16 MS. McNAMARA: Okay.

17 BY MR. CLARE:

18 Q My question is, really, do you

19 know why these paragraphs are highlighted

20 and did you have any discussions --

21 A I tried to explain to you that

22 it was delivered to us with the highlights

23 on it.

24 Q Right.

25 A I didn't know what it was meant

Page 405

1 and I was trying to say when I was reading

2 it, I was finding it distracting, so I was

3 trying to figure out a way to get rid of

4 it, because I assume -- my assumption then

5 was there were three people working on the

6 story and that each person had a different

7 color or something.

8 MS. McNAMARA: I know what it

9 is. That's my question.

10 BY MR. CLARE:

11 Q Did you have any discussions

12 with Mr. Coll or anyone at Columbia about

13 these highlighted paragraphs?

14 A Not that I recall. I kind of

15 recused myself from any substantial

16 editorial discussions with him, because I

17 felt it was not appropriate for me to be

18 the person who was sort of discussing with

19 them as an editor.

20 MR. CLARE: Why don't we take a

21 short break. I'm either very close to

22 being done -- I just want to review my

23 notes, look at the documents, make

24 sure I didn't forget anything and

25 check with my lawyer.

Page 406

1 MS. McNAMARA: Great. Thank  
2 you.  
3 THE VIDEOGRAPHER: The time is  
4 6:31 p.m. and we're going off the  
5 record.  
6 (Recess taken 6:31 p.m.)  
7 (Resumed 6:55 p.m.)  
8 THE VIDEOGRAPHER: This is the  
9 continuation of tape number six. The  
10 time is 6:55 p.m. and we are back on  
11 the record.  
12 THE WITNESS: What are we on  
13 time?  
14 MR. CLARE: I don't have that  
15 much more, so.  
16 A Okay.  
17 Q We're not going to use all of  
18 it.  
19 A Okay.  
20 Q I do need to ask you some  
21 questions, Mr. Dana, about your departure  
22 from Rolling Stone.  
23 A Uh-huh.  
24 Q When was your last day at  
25 Rolling Stone?

Page 407

1 A I believe it was July 30th,  
2 2015.  
3 Q And would you describe for me  
4 the circumstances that led to your  
5 departure.  
6 A [REDACTED]  
7 [REDACTED]  
8 Q [REDACTED]  
9 [REDACTED]?  
10 A [REDACTED]  
11 [REDACTED]  
12 Q [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 A I [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED],  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 Q [REDACTED]

Page 408

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED].  
4 A [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED].  
9 I [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 Q Okay.  
14 A [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED].  
20 Q [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 A [REDACTED]  
25 [REDACTED]

Page 409

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 Q [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 A [REDACTED]  
10 Q [REDACTED]  
11 [REDACTED]  
12 [REDACTED]?  
13 A [REDACTED]  
14 [REDACTED]  
15 [REDACTED].  
16 Q [REDACTED]  
17 [REDACTED]?  
18 A [REDACTED]  
19 Q [REDACTED]  
20 [REDACTED]  
21 [REDACTED],  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]



Page 410

1 [REDACTED]  
 2 [REDACTED]  
 3 Q [REDACTED]  
 4 [REDACTED]  
 5 [REDACTED]  
 6 [REDACTED]  
 7 [REDACTED].  
 8 Q [REDACTED]  
 9 [REDACTED]?  
 10 A [REDACTED]  
 11 Q [REDACTED]  
 12 [REDACTED]  
 13 A [REDACTED]  
 14 a [REDACTED]  
 15 [REDACTED]  
 16 [REDACTED]  
 17 [REDACTED]  
 18 [REDACTED]  
 19 A [REDACTED]  
 20 Q [REDACTED]  
 21 [REDACTED] --  
 22 A [REDACTED].  
 23 Q [REDACTED]  
 24 [REDACTED]  
 25 THE WITNESS: Do I have to

Page 411

1 discuss that? I'd rather not discuss  
 2 it.  
 3 MS. McNAMARA: Is this relevant?  
 4 MR. CLARE: It's relevant to  
 5 credibility and bias of the witness.  
 6 I mean I'm not suggesting, but it  
 7 is -- you know, [REDACTED]  
 8 [REDACTED]  
 9 [REDACTED] I promise  
 10 you, I will not object to this portion  
 11 of the --  
 12 A Yeah, I'd rather not say. [REDACTED]  
 13 [REDACTED]  
 14 [REDACTED]  
 15 Q Okay.  
 16 Well, I have to ask you the  
 17 question. This is something that I'd hate  
 18 for us to have to come back on, on another  
 19 date, and bother you again.  
 20 A Yeah.  
 21 Q So I guess I'm going to ask you  
 22 the question, you can refuse to answer --  
 23 A Yeah, I would really rather not  
 24 have it out there.  
 25 MS. McNAMARA: Well, and I think

Page 412

1 what Mr. Clare is saying is that he's  
 2 probably entitled to have the answer  
 3 and we can be assured that he has put  
 4 the assurance on record that this  
 5 section of the deposition, this entire  
 6 section of the deposition concerning  
 7 your termination or departure from  
 8 Rolling Stone will be kept  
 9 confidential, in any event.  
 10 A [REDACTED]  
 11 [REDACTED].  
 12 Q Okay. Very good.  
 13 Let me just be clear about what  
 14 it is I'm agreeing to. I don't want to say  
 15 this entire section, but certainly I do  
 16 agree and will agree that this portion  
 17 relating to [REDACTED]  
 18 [REDACTED] your counsel  
 19 is going to designate this as confidential  
 20 under the protective order.  
 21 A Yeah.  
 22 Q And we have the right to  
 23 challenge those designations. I'm telling  
 24 you we're not going to challenge the  
 25 designation about [REDACTED]

Page 413

1 because I'd like to know this information,  
 2 but you don't have any interest in that  
 3 being de-designated.  
 4 MR. CLARE: So is that  
 5 acceptable?  
 6 MS. McNAMARA: Well, we don't  
 7 agree on what's confidential, because  
 8 I would probably take a broader stroke  
 9 on what's confidential concerning this  
 10 topic.  
 11 MR. CLARE: Sure.  
 12 MS. McNAMARA: I would probably  
 13 have the entire thing confidential,  
 14 but the understanding, I hear you  
 15 saying is that [REDACTED]  
 16 [REDACTED]  
 17 [REDACTED] will be strictly kept  
 18 confidential.  
 19 BY MR. CLARE:  
 20 Q And you're telling me while the  
 21 lawyers were talking over you that [REDACTED]  
 22 [REDACTED]  
 23 A [REDACTED]  
 24 Q [REDACTED]  
 25 [REDACTED]

Page 414

1 A [REDACTED].

2 Q [REDACTED]

3 [REDACTED]

4 A [REDACTED] --

5 [REDACTED]

6 [REDACTED]

7 Q [REDACTED]

8 A [REDACTED]

9 Q [REDACTED] --

10 A [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 Q [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]?

17 A [REDACTED]

18 [REDACTED]

19 Q [REDACTED]

20 A [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED],

Page 415

1 blah, blah, blah.

2 Q [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 A [REDACTED]

6 Q [REDACTED]

7 A [REDACTED]

8 MR. CLARE: Those are all the

9 questions that I have for you. Thank

10 you for your time.

11 A But, I want to just say --

12 MS. McNAMARA: No. Go off the

13 record.

14 THE VIDEOGRAPHER: This

15 concludes tape number six, also

16 concludes today's deposition.

17 The total time on the record is

18 6 hours and 50 minutes.

19

20 (Continued on next page to

21 include signature and jurat.)

22

23

24

25

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1 The time now is 7:02 p.m. and we

2 are off the record.

3 THE COURT REPORTER: Regular

4 delivery?

5 MS. McNAMARA: Yes.

6 THE COURT REPORTER: Regular

7 delivery?

8 MR. CLARE: Yes, please.

9

10

11

12

13 WILLIAM DANA

14

15

16

17 Subscribed and sworn to

18 before me this day

19 of , 2016.

20

21

22 NOTARY PUBLIC

23

24

25

Page 417

1 ----- I N D E X -----

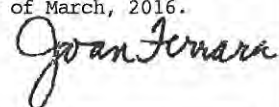
2

| 3  | WITNESS                                 | EXAMINATION BY        | PAGE |
|----|-----------------------------------------|-----------------------|------|
| 4  | WILLIAM DANA                            | MR. CLARE             | 5    |
| 5  |                                         |                       |      |
| 6  |                                         |                       |      |
| 7  | ----- EXHIBITS FOR IDENTIFICATION ----- |                       |      |
| 8  |                                         |                       |      |
| 9  | 1                                       | Bates RS001070        | 389  |
| 10 |                                         |                       |      |
| 11 | 4                                       | 12/11/14 printout of  | 255  |
| 12 |                                         | Rolling Stone Article |      |
| 13 |                                         |                       |      |
| 14 | 6                                       | Bates ERAMO-04541     | 342  |
| 15 |                                         |                       |      |
| 16 | 13                                      | Bates ERAMO-04882     | 315  |
| 17 |                                         |                       |      |
| 18 | 19                                      | Clare Locke Letter,   | 273  |
| 19 |                                         | dated 12/23/14        |      |
| 20 |                                         |                       |      |
| 21 | 23                                      | Bates ERAMO-04877     | 209  |
| 22 |                                         |                       |      |
| 23 | 24                                      | Bates ERAMO-04874     | 181  |
| 24 |                                         |                       |      |
| 25 |                                         |                       |      |



| Page 418 |                             |     |  | Page 420 |                                |     |  |
|----------|-----------------------------|-----|--|----------|--------------------------------|-----|--|
| 1        | EXHIBITS FOR ID (Continued) |     |  | 1        | EXHIBITS FOR ID (Continued)    |     |  |
| 2        |                             |     |  | 2        |                                |     |  |
| 3        | 25 Bates ERAMO-00878        | 283 |  | 3        | 92 Bates RS021604              | 166 |  |
| 4        |                             |     |  | 4        |                                |     |  |
| 5        | 28 Bates RS001045           | 135 |  | 5        | 93 Bates RS021657              | 166 |  |
| 6        |                             |     |  | 6        |                                |     |  |
| 7        | 29 Bates RS001099           | 63  |  | 7        | 94 Bates RS021662              | 166 |  |
| 8        |                             |     |  | 8        |                                |     |  |
| 9        | 30 Bates RS001130           | 356 |  | 9        | 95 Bates RS 021676             | 166 |  |
| 10       |                             |     |  | 10       |                                |     |  |
| 11       | 31 Bates RS001132           | 366 |  | 11       | 96 Bates RS021766              | 166 |  |
| 12       |                             |     |  | 12       |                                |     |  |
| 13       | 37 Bates RS002954           | 367 |  | 13       | 97 Bates RS021782              | 166 |  |
| 14       |                             |     |  | 14       |                                |     |  |
| 15       | 39 Bates RS004850           | 141 |  | 15       | 98 New York Times Article      | 330 |  |
| 16       |                             |     |  | 16       |                                |     |  |
| 17       | 40 Bates RS004860           | 124 |  | 17       | 99 Phi Kappa Psi Press Release | 240 |  |
| 18       |                             |     |  | 18       |                                |     |  |
| 19       | 41 Bates RS006502           | 325 |  | 19       | 101 Text Messages              | 244 |  |
| 20       |                             |     |  | 20       |                                |     |  |
| 21       | 43 Bates RS007462           | 353 |  | 21       | 102 Text Messages              | 269 |  |
| 22       |                             |     |  | 22       |                                |     |  |
| 23       | 44 Bates RS007829           | 228 |  | 23       |                                |     |  |
| 24       |                             |     |  | 24       |                                |     |  |
| 25       |                             |     |  | 25       |                                |     |  |

| Page 419 |                             |     |  | Page 421 |                                                                                       |  |  |
|----------|-----------------------------|-----|--|----------|---------------------------------------------------------------------------------------|--|--|
| 1        | EXHIBITS FOR ID (Continued) |     |  | 1        | C E R T I F I C A T E                                                                 |  |  |
| 2        |                             |     |  | 2        | STATE OF NEW YORK )                                                                   |  |  |
| 3        | 48 Bates RS008128           | 158 |  | 3        | : ss                                                                                  |  |  |
| 4        |                             |     |  | 4        | COUNTY OF QUEENS )                                                                    |  |  |
| 5        | 55 Bates RS010372           | 232 |  | 5        |                                                                                       |  |  |
| 6        |                             |     |  | 6        | I, Joan Ferrara, a Notary Public within                                               |  |  |
| 7        | 59 Bates RS010946           | 400 |  | 7        | and for the State of New York, do hereby                                              |  |  |
| 8        |                             |     |  | 8        | certify:                                                                              |  |  |
| 9        | 60 Bates RS011199           | 264 |  | 9        | That WILLIAM DANA, the witness whose                                                  |  |  |
| 10       |                             |     |  | 10       | deposition is hereinbefore set forth, was                                             |  |  |
| 11       | 63 Bates RS013209           | 398 |  | 11       | duly sworn by me and that such deposition is                                          |  |  |
| 12       |                             |     |  | 12       | a true record of the testimony given by the                                           |  |  |
| 13       | 78 Bates RS016434           | 373 |  | 13       | witness.                                                                              |  |  |
| 14       |                             |     |  | 14       | I further certify that I am not related                                               |  |  |
| 15       | 81 Bates RS017031           | 393 |  | 15       | to any of the parties to this action by                                               |  |  |
| 16       |                             |     |  | 16       | blood or marriage, and that I am in no                                                |  |  |
| 17       | 85 Bates RS018397           | 225 |  | 17       | way interested in the outcome of this                                                 |  |  |
| 18       |                             |     |  | 18       | matter.                                                                               |  |  |
| 19       | 89 Bates RS020610           | 97  |  | 19       | IN WITNESS WHEREOF, I have hereunto set                                               |  |  |
| 20       |                             |     |  | 20       | my hand this 24th day of March, 2016.                                                 |  |  |
| 21       | 90 Bates RS021092           | 236 |  | 21       |  |  |  |
| 22       |                             |     |  | 22       |                                                                                       |  |  |
| 23       | 91 Bates RS021352           | 166 |  | 23       |                                                                                       |  |  |
| 24       |                             |     |  | 24       | JOAN FERRARA                                                                          |  |  |
| 25       |                             |     |  | 25       |                                                                                       |  |  |

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1 DEPOSITION ERRATA SHEET

2 Case Caption: Nicole P. Eramo vs. Rolling

3 Stone, et al.

4

5 DECLARATION UNDER PENALTY OF PERJURY

6 I declare under penalty of perjury

7 that I have read the entire transcript of my

8 deposition taken in the captioned matter or

9 the same has been read to me, and the same

10 is true and accurate, save and except for

11 changes and/or corrections, if any, as

12 indicated by me on the DEPOSITION ERRATA

13 SHEET hereof, with the understanding that I

14 offer these changes as if still under oath.

15

16

17 \_\_\_\_\_

18 WILLIAM DANA

19

20 Subscribed and sworn to on the \_\_\_\_ day of

21 \_\_\_\_\_, 2016 before me,

22 \_\_\_\_\_

23 Notary Public,

24 in and for the State of \_\_\_\_\_

25

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1 DEPOSITION ERRATA SHEET

2 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_

3 \_\_\_\_\_

4 Reason for change: \_\_\_\_\_

5 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_

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7 Reason for change: \_\_\_\_\_

8 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_

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10 Reason for change: \_\_\_\_\_

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13 Reason for change: \_\_\_\_\_

14 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_

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16 Reason for change: \_\_\_\_\_

17 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_

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19 Reason for change: \_\_\_\_\_

20 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_

21 \_\_\_\_\_

22 Reason for change: \_\_\_\_\_

23 SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

24 WILLIAM DANA

25

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1 DEPOSITION ERRATA SHEET

2 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_

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4 Reason for change: \_\_\_\_\_

5 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_

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7 Reason for change: \_\_\_\_\_

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19 Reason for change: \_\_\_\_\_

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21 \_\_\_\_\_

22 Reason for change: \_\_\_\_\_

23 SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

24 WILLIAM DANA

25