

**For the Appellant
J Rich
Fifth
JR1
14.1.21**

Appeal Ref: A2/2020/2034

**IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST**

BETWEEN:

JOHN CHRISTOPHER DEPP II

Appellant

-and-

NEWS GROUP NEWSPAPERS LTD (1)

Respondents

DAN WOOTTON (2)

FIFTH WITNESS STATEMENT OF JOELLE RICH

I, JOELLE RICH, of Schillings International LLP, 12 Arthur Street, London EC4R 4AB, will say as follows:

1. I am a solicitor of the Senior Courts of England and Wales and a partner in the firm of Schillings International LLP, solicitors for the Appellant, of the above address.
2. I am the partner with conduct of the Appellant's appeal and am duly authorised by him to make this statement.
3. Save where stated otherwise, the matters in this statement are within my own knowledge and are true. Where matters stated are not within my own knowledge, I give the source, and those matters are true to the best of my information and belief.

4. I make this statement in support of the Appellant's application for permission to adduce fresh evidence in support of his appeal and give that fresh evidence.
5. There is now produced and shown to me a paginated bundle of documents marked **JR1** to which I refer to below.
6. There are two, new evidential matters and I address each separately. I do not rehearse the defamatory allegations published by the Respondents, and which they were required to prove were true at trial, or the history of the claim. These are set out in Mr Justice Nicol's judgment.
7. In respect of each element of the fresh evidence I set out (a) the relevant context, (b) the fresh evidence itself, (c) why it would probably have had an important influence on the outcome of the case, (d) its credibility, and (e) how and when the Appellant learned of it.

Ms Heard's evidence of donating her entire divorce settlement to charity

8. The Appellant and Ms Heard divorced in 2016 in California. The terms of their settlement were recorded in a Deal Point Memorandum Pursuant to Code of Civil Procedure §664.6 ("the DPM"). The DPM was signed by their respective attorneys on 15 and 16 August 2016 and by each of them. This was a disclosed document and was included in the trial bundle.
9. Under the settlement the Appellant agreed to pay US\$7 million to Ms Heard and the DPM provided a schedule for making the payment in instalments, with the final payment to be made by 1.2.18.
10. The DPM also included at clause 27 a provision for the Appellant and Ms Heard to make a Joint Statement about their divorce. That clause provided:

"Neither party shall make any public statements, including statements to the press, prior to the release of the following joint statement to be issued and disseminated with a header that reads: "Johnny Depp and Amber Heard have agreed to resolve their divorce proceeding privately. They are issuing this joint

statement: “*Our relationship was intensely passionate and at times volatile, but always bound by love. Neither party has made false accusations for financial gain. There was never any intent of physical or emotional harm. Amber wishes the best for Johnny in the future. Amber will be donating financial proceeds from the divorce to a charity. There will be no further public statements about this matter.*” (Emphasis added)

11. Ms Heard subsequently put out a statement, on or around 18.8.16 in which she stated that “*The amount received in the divorce was \$7million and \$7million is being donated. This is over and above any funds that I have given away in the past and will continue to give away in the future.*” She went on to announce that the \$7million was being “*divided equally between the ACLU [the American Civil Liberties Union] with a particular focus to stop violence against women, and the Children’s Hospital of Los Angeles...*” For completeness, I exhibit at pages 1 to 3 of JR1 a copy of Ms Heard’s statement. This is not part of the fresh evidence.
12. I refer to page 25 of JR1, which is the first page from a public document issued by the Children’s Hospital Los Angeles, the “*Honor Roll of Donors*” for the period 1.7.16 to 30.6.17. The full 93-page document lists all major donors. Ms Heard appears on the first page amongst the donors who have given or have an active pledge of between \$1m and \$4,999,999. This was a disclosed document and was in the trial bundle.
13. On 24.8.18, the Appellant paid \$100,000 directly to each of the above two charities in respect of the first instalment of the payment of the divorce settlement, in light of Ms Heard’s publicly stated pledges. The cheques were sent by Mr Ed White, the Appellant’s business advisor, under cover of letters from his firm (see pages 5, 6 and 148 of Exhibit JR1).
14. Ms Heard, through her attorneys, objected, including publicly, in the strongest possible terms to the Appellant making the payments direct to the charities, and alleged it was a breach of the DPM. I refer to the letter from Greenberg Clusker to Wasser Cooperman dated 9.9.16 at pages 149 to 151 of JR1 and to a press report in TMZ, an entertainment news website, on 25.8.16 at pages 152 to 153 of JR1.

15. The subsequent instalments of the \$7million divorce settlement were paid directly to Ms Heard, with the majority being paid by the end of 2017, and the final instalment of US\$2.3m being paid on 1.2.18.

16. In his statement for trial (Second Witness Statement, dated 12.12.20) the Appellant gave an overview of his relationship with Ms Heard. In doing so he said that he had come to realise that she had sought out the relationship to benefit herself, including financially. The Respondents put in responsive evidence from Ms Heard. In her third statement, dated 26.2.20, at paragraph 4, Ms Heard stated: *“As for what Johnny says about my so-called “agenda” in marrying him – for financial benefit or to somehow further my career – that is preposterous. I remained financially independent from him the whole time we were together and the entire amount of my divorce settlement was donated to charity. In fact, my desire to remain financially independent was one of the main sources of conflict during our relationship. ...”* At trial, Ms Heard confirmed that this evidence in her third statement was true (despite taking the opportunity to correct certain other matters in her statements).

17. The “Honor Roll of Donors” document referred to in paragraph 12 above had come to the Appellant's attention and he had disclosed it. The Respondents gave no disclosure in relation to the above matter. Ms Heard was not cross-examined on this part of her evidence; it was accepted at face value in the proceedings. However, it was the Appellant’s case that Ms Heard was generally dishonest and that she had given an untruthful portrayal of her relationship with the Appellant.

18. In terms of financial matters, Ms Heard was cross-examined on her refusal to sign a pre-nuptial or post-nuptial agreement. She denied that she had refused to sign such agreements, saying she hired an attorney to draft one. Her evidence was that *“I made it very clear from early days, and throughout the entirety of our relationship, that I was not interested in Johnny's money, I never have been, I never was, ...”* I refer to the Trial Transcript, from Day 10, pages 1527 to 1537 at pages 154 to 157 of JR1 on which that evidence from Ms Heard is highlighted.

19. In their closing speech, the Respondents placed material weight on Ms Heard’s donation of her entire divorce settlement to charity. I refer to page 158 of JR1 which is

pages 2380-2381 of the transcript of the proceedings, which is part of the Respondents' closing speech. The Respondents relied upon Ms Heard's public statement following the divorce and the Roll of Honour of Donors to the Children's Hospital in Los Angeles. It is apparent from this part of their closing that they deployed this evidence as an important part of their case that Ms Heard should be believed generally.

20. This matter was a material consideration in the Judge finding for the Respondents. I refer to paragraph 577 of the Judgment [Core Bundle/Tab 5/A176]. In that paragraph, the Judge relies upon Ms Heard's generosity to these charities as a reason to accept her evidence generally, it includes the following:

“A recurring theme in Mr Depp's evidence was that Ms Heard had constructed a hoax and that she had done this as an 'insurance policy' – presumably in the event that the marriage broke down. ... She was, according to this scenario, nothing more than a gold-digger. I have in the course of this judgment given reasons why I do not accept this characterisation of Ms Heard I had evidence as to what Ms Heard had received as a result of the divorce settlement. I have explained that there was no expert evidence to compare those figures with what she would otherwise have been entitled to under Californian divorce law. The principal element of that settlement was payment to her by Mr Depp of US \$ 7 million. Ms Heard's evidence that she had given that sum away to charity was not challenged on behalf of Mr Depp and the joint statement issued by Mr Depp and Ms Heard as part of the Deal Point Memorandum acknowledged that this was her intention (see file 9/139/L78). I recognise that there were other elements to the divorce settlement as well, but her donation of the \$ 7 million to charity is hardly the act one would expect of a gold-digger.”

21. Since the Judgment was handed down on 2.11.20, we have obtained documents which show that Ms Heard has not donated any of \$3.5million to the Children's Hospital (other than the \$100,000 sent directly by the Appellant on her behalf). She has also not donated \$3.5 million to the ACLU. These new documents show that Ms Heard's evidence that “*the entire amount of my divorce settlement was donated to charity*” was not true – and she must have known that it was a lie.

22. While it will be a matter for submissions, the Appellant makes this fresh evidence application because the evidence would have had a material impact on the Judge's decision, as paragraph 577 of the Judgment shows. If Ms Heard wilfully gave false evidence about giving a substantial amount of money to a children's hospital and an organisation which campaigns on behalf of victims of domestic violence, then it will be submitted on the Appellant's behalf that she was clearly capable of lying about her relationship with Mr Depp.
23. The Appellant will contend that this fresh evidence goes to the heart of the matter. It demonstrates that Ms Heard was a dishonest witness.
24. Further, it was Ms Heard's very dishonesty in her evidence which meant that the Appellant did not consider challenging this part of her evidence at trial and putting to her that her confirmation that she had donated the \$7million to charity was false.
25. Had the Appellant been in a position to do, the trial judge would have had to re-assess Ms Heard's credibility, and also reconsider how he had assessed the Appellant's evidence.

Children's Hospital of Los Angeles – documents

26. There are presently ongoing proceedings between Mr Depp and Ms Heard in Fairfax County Court, Virginia, USA (Case No CL-2019-0002911) in which Mr Depp sues Ms Heard for defamation and she has counterclaimed for defamation ("the US Proceedings").
27. On 29.6.20, on an application by Mr Depp, the Fairfax County Court issued a subpoena duces tecum against the Children's Hospital, and a supporting subpoena to the Children's Hospital was concurrently issued in the State of California, where the Children's Hospital is located.
28. Below I address the history of that application and Ms Heard's attempts to prevent disclosure by the charities, when I address why the Appellant could not with reasonable diligence have obtained this evidence for trial.

29. The subpoena required the Children’s Hospital to produce all documents “*that refer, reflect, or relate to any donations made to [it] or for [its] benefit by Ms Heard from January 1, 2016 and including the present*”, communications with Ms Heard about donations from her and other documents. I refer to pages 159 to 183 of JR1 to a copy of the subpoena. Following an attempt by Ms Heard to quash the subpoena, the US court in the State of California rejected Ms Heard’s substantive arguments but narrowed the scope of the subpoena on the Court’s own motion so that the hospital was only ordered to comply with Request Nos. 1, 2 and 5.
30. The Children’s Hospital complied with the subpoena on 18.12.20. I refer to its response to the subpoena at pages 21 to 23 of JR1, which formed part of the documents supplied by the Children’s Hospital.
31. The documents supplied included Mr White’s letter of 24.8.16 and a copy of the cheque for \$100,000 sent on the same day which I referred to in paragraph 13 above and the “Honor Roll of Donors” which I referred to in paragraph 12 above. The other documents supplied were as follows:
- a. A letter from Vanguard Charitable of 1.6.17 referring to an anonymous donation of \$500,000 and a copy of the cheque (see pages 7 to 9, Exhibit JR1).
 - b. A letter of thanks from the hospital of 27.6.17, noting that the above anonymous donation was made “in honor of Ms Amber Heard” (see page 10, Exhibit JR1).
 - c. A letter to Ms Heard of 18.7.17 thanking her for recommending the hospital to the anonymous donor (see page 11, Exhibit JR1).
 - d. A letter from Fidelity Charitable on 9.1.18 enclosing a donation of \$250,000 from a donor who wished to remain anonymous but designated the donation in Amber Heard’s name (see pages 12 and 13, Exhibit JR1).
 - e. A letter from the Children’s Hospital to Mr White dated 14.6.19 following up the \$100,000 donation made on 24.8.16 and stating “*Since the first installment,*

CHLA Foundation has not received further installments.” (see page 15, Exhibit JR1).

f. A letter from the Children’s Hospital to Ms Heard dated 26.6.19 seeking information about the pledged \$3.5million and noting that since the \$100,000 donation in August 2016 “*CHLA Foundation has not received further installments.*” (see page 16, Exhibit JR1).

32. The complete set of documents supplied by the Children’s Hospital are at pages 4 to 147 of JR1.

33. Mr White has informed me that he had no recollection of receiving the letter in paragraph 31(e) above. Further, although Ms Heard had made clear that she would not countenance her divorce settlement being sent directly to the charities by Mr White’s firm, Mr White tells me that he is confident that had he seen the letter from the Children’s Hospital in June 2019, he would have provided it to the Appellant and his attorneys and would have appreciated that it could have some significance in relation to the US Proceedings. As a result of the disclosure by the Children’s Hospital, Mr White informs me that he had 6 members of staff at his firm search through electronic and hard copy records to see whether that letter was received at his office. Those searches have not found the letter or any copy of it.

34. What these documents show is that Ms Heard did not personally donate any money to the Children’s Hospital, over and above the \$100,000 of her divorce settlement which the Appellant sent directly to the hospital.

35. It appears that Ms Heard was instrumental in one or more anonymous donors making two donations, but those sums – even if given in her name – were not funds from her divorce settlement.

ACLU – documents

36. On 29.6.20, the Fairfax County Court, Virginia, issued a subpoena duces tecum against the ACLU in the US Proceedings, supported by another subpoena issued in the State of

California. A copy is at pages 184 to 208 of JR1. I understand from Brown Rudnick LLP, the Appellant's US attorneys, that the ACLU has until 25.1.21 to comply with it, but that were Ms Heard to attempt to quash it, as she did with the Children's Hospital subpoena, the date for compliance would be postponed. I considered that I should not wait until after 25 January or later to have this application issued as I consider that it is important for the Court to be aware of it when considering the Appellant's application for permission to appeal. The Appellant will seek to add to this application any related, relevant documents which are supplied by ACLU in response to this subpoena.

37. On a separate application by Mr Depp, the Fairfax County Court made an order against Ms Heard on 18.12.20. I refer to pages 209 to 252 of JR1. I understand from the Appellant's US attorneys, Brown Rudnick LLP, that the order has not been sealed, due to a dispute about the scope of the further information to be given by Ms Heard, but it required her to produce all documents and communications with the ACLU pertaining to her donations by 4.1.21.

38. As a result of that order, the Appellant's US attorneys and, through them, my firm has obtained copies of the following documents (see pages 253 to 257 of JR1):

- a. An undated and unsigned form in which Ms Heard pledges to donate \$3.5million over 10 years to the ACLU, with payments to commence on 19.8.16.
- b. A document confirming that the ACLU will recognise the entire gift from Ms Heard in its 2016 list of donors.
- c. A letter from Anthony Romero, Executive Director of the ACLU, to Ms Heard dated 9.9.16 confirming that she had donated \$350,000 to the ACLU.
- d. An email exchange between Ms Heard and Anthony (presumably the same Anthony Romero) of the ACLU on 20.6.17 which refers to an anonymous donation made via "Vanguard", which I understand would be Vanguard Charitable referred to above. The ACLU says it will count this donation towards Ms Heard's pledge. In light of the documents supplied by the Children's

Hospital and the anonymous donation sent via Vanguard to it, this email exchange shows or appears to show that someone other than Ms Heard made the \$500,000 donation, albeit giving it in her name. The ACLU asks Ms Heard to confirm whether the \$500,000 is her money. These documents do not include any response from Ms Heard doing so. Until the ACLU responds to the subpoena, I cannot know how it treated the anonymous donation.

39. I understand from Mr White the pledge document referred to in paragraph 38(a) above would not be binding upon Ms Heard.

Important and credible evidence

40. The nature and source of the documents listed in paragraphs 31 and 38 above mean that they are credible (the Appellant will say indisputable) evidence of what they show and do not show. These documents come from the alleged donor, i.e. Ms Heard herself, or the donee. The scope of search ordered by the Fairfax County Court means that the lack of any documentation is as relevant as what has been produced.

41. There is no evidence that Ms Heard donated her \$7 million divorce settlement to these two charities. The most which the Children's hospital received from her was \$100,000 (sent directly by the Appellant) and it appears the most she personally gave to the ACLU was \$450,000, although the email exchange with ACLU referred to in paragraph 38(d) above introduces some lack of clarity about a further \$500,000.

42. The above evidence would 'probably have had an important influence on the outcome of the case'.

43. Of the 14 alleged assaults which were pleaded in the Defence, save for one (which is addressed below), there were no witnesses who testified to seeing the Appellant be violent towards Ms Heard. The Respondents were dependent on their principal witness's accounts being accepted - which the Judge largely did. Ms Heard's credibility was central to the assessment of the evidence. The Judge would have had to take account of her making such a knowingly false statement in her 3rd witness statement,

and his assessment of the overall picture at [J/577] would have been unsupportable in light of it.

The evidence could not have been obtained with reasonable diligence for the trial

44. Each of the above documents which the Appellant seeks to rely upon as fresh evidence was in the control of a third party domiciled in the United States, namely Ms Heard or the two charitable organisations.

45. The documents only came to the Appellant's attention as a result of the fact of the US Proceedings and the scope of discovery permitted within the laws of the State of Virginia and the State of California. It is generally acknowledged that in US proceedings, there is a more extravagant approach to disclosure (or "discovery") than in English proceedings. We would have needed to point to some evidentiary basis to make an independent application for these documents from the charities or indeed Ms Heard. The Honor Roll of Donors for the Children's Hospital stated that Ms Heard was a major donor, falling in the bracket commensurate with her having given \$3.5m. We were misled by that and her evidence in her witness statement. Ms Heard's word was accepted at face value and so the matter was not considered to be a point to be pursued in disclosure. We are also confined under English law and procedure to the issues arising out of the statements of case. In respect of disclosure generally, I suggest that had Ms Heard been the defendant in these proceedings, as she is in the US proceedings, the documents would have been disclosable.

46. The Appellant's attorneys, Brown Rudnick applied for the subpoenas in June. The subpoena was served on the Children's Hospital on or around 29.6.20. Because of Covid-19 related restrictions and closure of the ACLU's offices, it was not served with a subpoena until 22.12.20.

47. I draw this Court's attention to the fact Ms Heard strongly resisted the applications for her to provide discovery and the charities to provide documents.

48. On 29.7.20, Ms Heard petitioned to quash the subpoena against the Children's Hospital. I refer to the petition at pages 258 to 268 of JR1. The Superior Court of California,

County of Los Angeles denied the petition on 29.10.20, although limited the scope of the documents to be provided. I refer to the decision of the Honorable Judge Bowick at pages 269 to 281 of JR1.

49. On 23.11.20, Ms Heard submitted an objection to the proposed order following the above decision. Judge Bowick overruled the objection. I refer to both documents at pages 282 to 288 of JR1.

50. I also understand from the Appellant's attorneys in the US, Brown Rudnick LLP, that Ms Heard sought to appeal the order in an application to the Court of Appeals in California. This appeal was denied on or around 11.12.20.

51. Separately, in the US Proceedings, Mr Depp sought documents from Ms Heard pertaining to her alleged donations to the Children's Hospital and ACLU, as I stated in paragraph 37 above.

52. Ms Heard resisted the application for discovery and a hearing took place on 18.12.20. I refer to a transcript of that hearing where this application was considered at pages 211 to 243 of JR1. On page 20 of the transcript (at page 231 of JR1), Ms Heard's counsel appears to make a submission that is an acceptance that she had not, in fact, given her divorce settlement to those charities. He informed the court: *"As I understand it, a significant proportion of those pledges have been fulfilled, and to the extent they haven't been fulfilled, there's a multi-year process through which Ms Heard can fulfil them, and she certainly intends to do that, but when you're sued for defamation based on an article that appears in the Washington Post, Ms Heard spent a significant amount of money on this defense, and – what they're trying to do is criticize Ms Heard for giving a significant amount to charity, but taking a pledge that's going to take some time to pay off, which she certainly intends to do."*

53. As I noted above, the Appellant had transferred the majority of the \$7 million settlement by the end of 2017, with the final instalment of \$2.3million on 1.2.18.

54. The Appellant's libel action in the US was not commenced until over a year later, on 1.3.19.

55. Ms Heard was in a position to donate at least \$3 million by April 2017 and a further \$1.5 million by the end of 2017. She could have donated the entire \$7 million by mid or late February 2018 at the latest. She did not do so. The costs of the Libel Proceedings in the US, which did not commence until 1.3.19, cannot be a truthful explanation.
56. Moreover, her evidence at trial was not that she had pledged to donate her settlement but had not fulfilled the pledge, or that she was donating it in the future, or that one of the donees had chased her enquiring about whether she would be fulfilling her pledge. Her evidence was that she had donated all monies received from the Appellant to charity and she had never been interested in his money.
57. The Appellant could not with reasonable diligence have obtained the above documents for trial. The lie in Ms Heard's statement contained no hint that the true state of affairs was very different from her earlier public announcements that she was donating the \$7m to charity. Even if we had assumed that she may not have done so, had my firm applied for third party disclosure of the categories of documents supplied or ordered against third parties in the US Proceedings or against Ms Heard as a party, I am sure that it would have been refused.
58. After my firm was instructed by the Appellant in February 2020, I was acutely aware that there was an imbalance in the disclosure between the parties. The Respondents, news publishers, clearly had no direct knowledge of the relationship between my client and Ms Heard, and would have held few disclosable documents from the private relationship. The central factual dispute was between the Appellant and Ms Heard, but while my client had disclosure obligations, she had none. Ms Heard supplied documents to the Respondents for them to disclose but she was able to select those documents.
59. As I explained above, because of Ms Heard's lie in her witness statement, my firm had no reason to doubt that she had donated all the settlement to charity or, therefore, make an application for third party disclosure against her or the charities themselves for the above category of documents.
60. Because Ms Heard misled the Court and the Appellant about the true position and because no disclosure indicated that the true position might be different from her

evidence, it did not occur to us that it would be appropriate to challenge this part of her evidence in cross-examination.

61. The Appellant did make one application for third party disclosure against Ms Heard. Mr Justice Nicol refused it in its entirety. I refer to his judgment of 2.7.20 (paragraphs 31-64 of [2020] EWHC 1734 (QB)). The documents applied for were not related to the charitable donations (and we had no grounds on which to seek such documents), but I consider that the judgment indicates that any third party disclosure request against the Children's Hospital and ACLU would have been refused.

The evidence of Jennifer Howell

62. Of the 14 alleged assaults pleaded in the Defence, Ms Heard was the Respondents' only witness who gave direct evidence as to what occurred, save in respect of an alleged assault in March 2015, referred to as Incident 9. Mr Justice Nicol addresses this incident in paragraphs 371 to 386 of the Judgment [Core Bundle/Tab 5/A130-A134].

63. Ms Heard's evidence was that the Appellant assaulted her on this occasion and that she had hit him on this occasion to protect her sister, Whitney Henriquez. Ms Heard's account was supported by Ms Henriquez's testimony. Mr Justice Nicol accepted their evidence in its entirety.

64. In the course of cross-examination, Ms Henriquez said that after the Appellant told her to leave one his of apartments where she had been living next to Ms Heard and the Appellant, she "*was sleeping on the couch of my boss's office*".

65. I understand from one of the Appellant's legal advisers in the United States, Mr Adam Waldman, that, on Friday, 24 July, Ms Jennifer Howell spoke with Christi Dembrowski, the Appellant's sister after being told about Ms Henriquez's evidence. Ms Howell had employed Ms Henriquez at her foundation, the Art of Elysium, and recognised herself as the "boss" who Ms Henriquez must have been referring to.

66. Mr Waldman then spoke with Ms Howell. She then provided a signed Declaration on 26.7.20 to Mr Waldman for use in the US Proceedings. I exhibit a copy of that signed declaration at pages 289 to 292 of JR1.

67. Ms Howell says in her declaration that she put Ms Henriquez up in her spare room when she left the Eastern Columbia Building, where the Appellant owned a number of penthouses. Ms Henriquez was not therefore 'sleeping on her couch' but she did give her place to stay.
68. Ms Howell has provided my firm with a signed statement. The Appellant wishes to rely upon the contents of Ms Howell's statement as fresh evidence.
69. While she did not witness the incident on the stairs in March 2015, Ms Howell says that Ms Henriquez spoke about an incident on the stairs which is similar to Incident 9. As Ms Howell states she had understood, from how Ms Henriquez told her about it, that this incident had only recently occurred.
70. Ms Howell's evidence is that Ms Henriquez told her of an incident on the stairs, but it was Ms Heard who was attacking the Appellant and it was Ms Heard (and not the Appellant) who had nearly pushed her down the stairs. This completely contradicts Ms Heard's and Ms Henriquez's evidence at trial.
71. Ms Howell's evidence is that Ms Henriquez, to whom she became particularly close during the many months she stayed with her in 2015 and 2016 (a period when Ms Henriquez and Ms Heard were sometimes estranged), told her about Ms Heard having been violent towards her on a number of occasions and also using her to essentially come to Ms Heard's assistance whenever demanded. This rebuts Ms Henriquez's denial in cross-examination that her sister was violent towards her.
72. Ms Howell's evidence is that Ms Henriquez regularly confided in her about Ms Heard's behaviour and conduct towards her and towards the Appellant, including the history of violence by Ms Heard towards the Appellant. In another example she refers to Ms Henriquez proclaiming in the office to Ms Howell and other staff in earshot that Ms Heard had cut the Appellant's finger off. This was in relation to an incident in Australia in March 2015.

Important and credible evidence

73. It is apparent from her statement that Ms Howell knows Ms Henriquez well and is very fond of her. She refers to her as a “*dear friend*”.
74. I understand from the Appellant and from Ms Howell’s statement that he and Ms Howell know each other through him having attended the Art of Elysium’s annual gala, called “Heaven”, on a number of occasions. During his relationship with Ms Heard, they attended together.
75. Ms Howell knew Ms Heard better because Ms Heard had volunteered at the Art of Elysium and had been put forward by its staff to receive its honour award, which was given to her at the annual gala in January 2015.
76. Ms Howell gives evidence in her statement that her close relationship was with Ms Henriquez.
77. Although Ms Howell appears to have been disappointed that Ms Heard did not pledge to give part of her divorce settlement to the Art of Elysium, she says that her organisation was subsequently the recipient of a substantial sum from an anonymous donor “*on behalf of Ms Heard*” (paragraph 11 of her Declaration).
78. I would invite the Court to find from those circumstances that Ms Howell’s evidence is credible and is in fact compelling. She has no personal interest in these proceedings and if anything, her friendship with Ms Henriquez means that her loyalties are with her, as she states in her statement. It is therefore striking that when she heard about Ms Henriquez’s evidence at the trial in July, her reaction was to let the Appellant’s sister know that Ms Henriquez’s evidence was the opposite of everything which she had told her during 2015. Ms Howell’s concern for Ms Henriquez is apparent from the letter she wrote to her on 25.7.20 exhibited to Ms Howell’s statement at pages 29 to 32 and the text she sent her on 26.7.20 (at page 22 of the exhibit to Ms Howell’s statement).
79. If it had been available at trial, the evidence would have had an important influence as it directly undermines the evidence on the only alleged assault for which the

Respondents had an eyewitness other than Ms Heard. The evidence is therefore highly relevant to that factual matter, and its potential importance is particularly great where the heart of the case was 14 or 15 alleged assaults to which, other than this one, there was no-one else present or who allegedly overheard the assault.

80. Further, it would also have given substantial evidential support for another aspect of how the Appellant responded to the Respondents' evidential case. It was the Appellant's case that Ms Heard and Ms Henriquez colluded in their evidence. The focus of that submission was in respect of another alleged assault, Incident 2. I refer the Court to the Supplementary Bundle at Tab 2/B20-B23, in which Ms Heard's shifting account is detailed and which was part of the Appellant's closing. In respect of that alleged incident, both Ms Heard and Ms Henriquez changed their evidence in the same material ways between giving their statements and the trial, namely they changed accounts of the date, the surrounding circumstances, and other material details.

81. The evidence from Ms Howell is compelling because it evidences that Ms Henriquez's evidence about Incident 9 was tailored to corroborate her sister's account and was inconsistent with previous near contemporaneous statements.

The evidence could not have been obtained with reasonable diligence for the trial

82. The Appellant could not have obtained the evidence before trial. He had no reason to believe that Ms Howell had relevant evidence to give as he was unaware that Ms Henriquez had spoken with Ms Howell about Ms Heard's violence.

83. We received Ms Howell's declaration at the end of the trial before Mr Justice Nicol, after the parties had closed their cases and the Respondents' closing speech had begun. I was advised by Counsel that it was too late to attempt to adduce the declaration as evidence.

The Appellant's application

84. The legal principles and how they are engaged will be a matter for submissions. However, for completeness I refer to the basis on which this application is being made.

85. Under Rule 52.21, this Court has a discretion to permit a party to adduce fresh evidence. That discretion is exercised “*in light of the overriding objective of doing justice*”: *Terluk v Berezovsky* [2011] EWCA Civ 1534 at [32]. I refer the Court to that paragraph, where the exercise of the discretion was considered. Whilst the *Ladd v Marshall* criteria are no longer primary rules, they “*effectively occupy the whole field of relevant considerations to which the court must have regard in deciding whether in any given case the discretion should be exercised to admit the proffered evidence*”, per Laws L.J.
86. In this statement, I have addressed matters showing that the three elements of the *Ladd v Marshall* test are satisfied in both categories and/or the evidence upon which the Appellant relies to demonstrate that the fresh evidence should be admitted “*in light of the overriding objective of doing justice*”.
87. Further in respect of the fresh evidence that Ms Heard lied in her evidence about the donation of her divorce settlement to charity, the Appellant also relies upon *Meek v Fleming* [1961] 2 QB 366. In that case, the appellant sought to adduce fresh evidence which went to the respondent’s credit in support of his appeal and a retrial. The fresh evidence was that the respondent police officer had knowingly withheld his demotion from the rank of inspector to sergeant from the judge and jury. (Unlike the Appellant’s appeal against Mr Justice Nicol’s decision, there was no other ground of appeal in *Meek*’s case.)
88. Comparable to the present case, the “*character of the parties was of peculiarly vital significance, so that failure to disclose the defendant’s record amounted in effect to presenting the whole case on a false basis.*” per Willmer LJ at 382.
89. I also refer the Court to 384 where Pearson LJ held: “*The fresh evidence has materiality. The main issue at the trial was whether the evidence of the plaintiff or the evidence of the defendant should be believed as to what happened in the passage at the police station. If the purport of the fresh evidence had become known in the course of the trial, it would have shown both that the defendant had taken part in the deception of a court in the matter for which he was demoted, and also that he was at the trial of this action participating in another deception of a court.*”

90. In *Meek v Fleming*, the Court of Appeal accepted that the fresh evidence would have been likely to have affected the jury’s verdict: “*Had [the truth come out during the trial], or had the plaintiff’s counsel known the facts, and elicited them in cross-examination, it seems very unlikely that the jury would accept the defendant’s case when they found how they had been deceived*” per Holroyd Pearce LJ at 377.
91. The fresh evidence goes to the heart of this appeal, namely whether the judgment can stand or whether the interests of justice require a retrial. I respectfully invite the Court to consider that the dishonest evidence from Ms Heard about her donation of her divorce settlement to charity and the impact which it had on the judgment mean that the judgment is tainted by her fraud upon the court.
92. Alternatively, if necessary, the Appellant will apply to add a new ground to his Grounds of Appeal, namely that there is fresh evidence which is cogent and compelling that the principal witness(es) for the Respondents gave false testimony and therefore the Judgment is unsafe and a retrial is necessary in the interests of justice.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed: 

Joelle Rich

Partner at Schillings International LLP

Date: 14 January 2021

Appeal No. A2/2020/2034

Claim No. QB-2018-006323

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

MEDIA AND COMMUNICATIONS LIST

BETWEEN:

JOHN CHRISTOPHER DEPP II

Claimant / Appellant

- and -

(1) NEWS GROUP NEWSPAPERS LTD

(2) DAN WOOTTON

Defendants / Respondents

**FIFTH WITNESS STATEMENT OF
JOELLE RICH**

Ref: JA/JR/VA/D0185/001

Schillings International LLP

12 Arthur Street
Candlewick
London
EC4R 9AB

Tel: 020 7034 9000

Appeal No. A2/2020/2034

Claim No. QB-2018-006323

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

MEDIA AND COMMUNICATIONS LIST

BETWEEN:

JOHN CHRISTOPHER DEPP II

Claimant/Appellant

-and-

(1) NEWS GROUP NEWSPAPERS LTD

(2) DAN WOOTTON

Defendants/Respondents

EXHIBIT JR1

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AUGUST 18, 2016

3:54pm PT by Ashley Cullins

Amber Heard Donates \$7M Divorce Settlement to Two Charities



Axelle/Bauer-Griffin/FilmMagic



The American Civil Liberties Union and Children's Hospital of Los Angeles receive \$3.5 million each.

Two days after announcing she would give her \$7 million divorce settlement to charity, Amber Heard is putting her money where her mouth is.

She has donated the full sum from [her split with Johnny Depp](#) to the ACLU and the Children's Hospital of Los Angeles.

"As described in the restraining order and divorce settlement, money played no role for me personally and never has," Heard said Thursday in a statement. "I know these organizations will put the funds to good use and look forward to continuing to support them in the future. Hopefully, this experience results in a positive change in the lives of people who need it the most."

In a joint statement Tuesday announcing the settlement, Depp and Heard described their relationship as "intensely passionate and at times volatile, but always bound by love."

READ MORE

[Johnny Depp and Amber Heard Settle Divorce Case](#)

It also made clear neither party made false accusations for financial gain, which, depending on how you interpret it, means that either her allegations of abuse were true or if not wholly true were not lies told for the sake of money.

Regardless, the emotional public split between Depp and Heard is over and will result in some good being done.

ACLU executive director Anthony Romero issued a statement, thanking Heard for her generous support.

"For years, we have worked through the courts and legislatures around the country to make sure that domestic violence

victims are fully protected by the law and receive the government assistance they deserve," he said. "We could not be more thankful for Ms. Heard's support — she can be confident that this gift will help other women live safely and freely."

The hospital's CEO Paul Viviano also thanked Heard in a statement. "Her generosity will support the lifesaving treatments and cures that Children's Hospital Los Angeles provides for critically ill children each year," he said.

Read Amber's full statement below.

As described in the restraining order and divorce settlement, money played no role for me personally and never has, except to the extent that I could donate it to charity and, in doing so, hopefully help those less able to defend themselves.

As reported in the media, the amount received in the divorce was \$7 million and \$7 million is being donated. This is over and above any funds that I have given away in the past and will continue to give away in the future.

The donation will be divided equally between the ACLU, with a particular focus to stop violence against women, and the Children's Hospital of Los Angeles, where I have worked as a volunteer for the past 10 years alongside organizations like the Art of Elysium. Over the years, I have seen firsthand how more funding for staffing, better equipment and better medication can make the difference between life or death for a child.

I know these organizations will put the funds to good use and look forward to continuing to support them in the future. Hopefully, this experience results in a positive change in the lives of people who need it the most.

— Amber

ADVERTISEMENT

Exhibit A

[REDACTED]

August 24, 2016

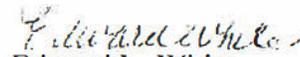
Ms. Tiffanie Al-Nasser
Children's Hospital

[REDACTED]
[REDACTED]
[REDACTED]

Dear Ms. Al-Nasser:

Enclosed is a check in the amount of \$100,000, which constitutes a donation to Children's Hospital Los Angeles Foundation in the name of Amber Heard. This donation is being made in accordance with Ms. Heard's pledged gift of \$3,500,000 to Children's Hospital Los Angeles Foundation. This check represents the first of multiple scheduled installments to honor the full amount of Ms. Heard's \$3,500,000 pledged gift.

Very truly yours,


Edward L. White

ELW:nv

JOHN C. DEPP II

CHILDREN'S HOSPITAL

8/24/2016

100,000.00

JOHN C. DEPP II

100,000.00

THIS CHECK IS VOID WITHOUT A GREEN & BLUE BACKGROUND AND A WATERMARK - HOLD UP TO THE LIGHT TO VERIFY

JOHN C. DEPP II

C/O EDWARD WHITE & CO., LLP

CITY NATIONAL BANK

Printed on Recycled Paper - 8/24/16 02:31 pm

DATE	8/24/2016
AMOUNT	**100,000.00

PAY 100,000.00 ONLY

PAY One Hundred Thousand and 00/100*****Dollars

TO THE ORDER OF CHILDREN'S HOSPITAL LOS ANGELES FOUNDATION

Edward White

DONATION BEING MADE IN THE NAME OF AMBER HEARD

The Value in Giving®

Vanguard
Charitable

Ms. Ellen Cheney
Children's Hospital of Los Angeles



vanguardcharitable.org

June 1, 2017

To Ms. Cheney:

I am pleased to attach a grant to Children's Hospital of Los Angeles from Vanguard Charitable, a 501(c)(3) nonprofit organization that administers a donor-advised fund. This grant was issued at the recommendation of one of our donors.

A grant from an anonymous donor

In the amount of \$500,000.00

To be used for: Unrestricted gift

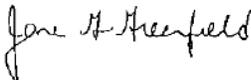
The recommending donor wishes to remain anonymous. Vanguard Charitable is unable to provide your organization with any identifying information.

At the request of the recommending donor, do not publish any identifying or contact information contained in this grant letter in your newsletters, web pages, reports, or other materials.

By accepting this grant, your organization agrees (a) to use the grant exclusively in furtherance of your organization's tax-exempt mission, (b) that the grant will not confer a prohibited benefit to the recommending donor, his or her family members, or certain entities that they own or control, and (c) to abide by the additional certifications, policies, and guidelines contained in the **Important information about grants** section on the following pages. If your organization is uncertain whether you can certify the accuracy of any of these statements, please contact Vanguard Charitable at 

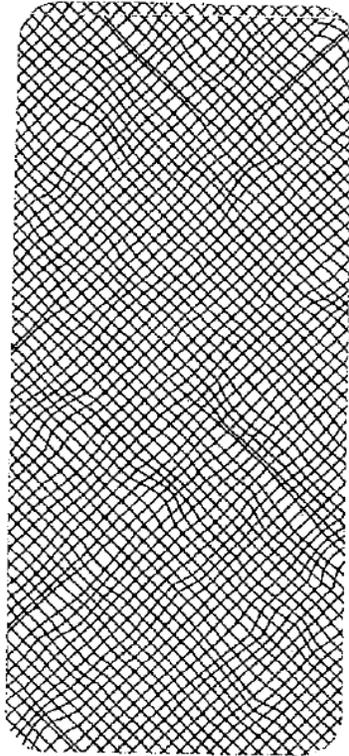
We are pleased to support your organization and its mission on behalf of our donors. More information is available at vanguardcharitable.org/nonprofits.

Best regards,



Jane G. Greenfield
President





FIRST-CLASS
MAIL
U.S. POSTAGE
PAID
VANGUARD
CHARITABLE

RECEIVED
JUN 05 2017
CHLA FOUNDATION

05/10/13 10:37:29

Date of check 06/01/2017

Check Number



\$

FIVE HUNDRED THOUSAND DOLLARS AND ZERO CENTS

Pay To The Order Of

Children's Hospital of Los Angeles



Bank of New York - Mellon
Everett, MA

Check Amount
\$500,000.00

Please cash this check within sixty days

Jane H. Hinesfield

Authorized Signature



We Treat Kids Better

June 27, 2017

Anonymous Donor
c/o Vanguard Charitable Endowment Program



Dear Anonymous Donor,

It is my great pleasure to thank you for the extraordinary contribution of \$500,000 to support our unrestricted program, the Children's Fund at Children's Hospital Los Angeles (CHLA). We are also pleased to acknowledge that this gift has been made in honor of Ms. Amber Heard.

Philanthropy is vital to CHLA's lifesaving work, and this remarkable donation will go further—and touch more lives—than you may realize. The CHLA Children's Fund gives hospital leadership the ability to direct funds to areas where they are most desperately needed. It provides doctors, researchers and staff with the indispensable resources necessary to perform miracles every day.

On behalf of every child who turns to us for care, thank you for your kindness and your commitment to making a difference in the lives of others.

Sincerely,

Ellen B. Cheney
Director
Foundation Relations

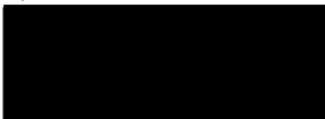




We Treat Kids Better

July 18, 2017

Ms. Amber Heard
c/o John Blakeman, CPA



Dear Ms. Heard,

Children's Hospital Los Angeles (CHLA) would like to extend our heartfelt appreciation to you for recommending that a \$500,000 donation be made to the hospital by an anonymous donor. This extraordinary new donation will support our Children's Fund, a vital unrestricted program that allows CHLA leadership to direct funds to areas of greatest need—all in the furtherance of our mission to create hope and build healthier futures.

CHLA is proud of its ability to attend to the complex medical needs of the many underserved children who turn to us for care, and is only able to do this with the assistance of remarkable friends like you.

Should you find the time, we would welcome the opportunity to offer you a tour of the campus so that you can see—firsthand—the difference our programs and services make in the lives of children and their families every day.

On behalf of every child seeking health and hope at CHLA, thank you!

Sincerely,

Ellen B. Cheney
Director, Foundation Relations

cc: S. Tudor





BFBGGMBBBBNQN
CHILDRENS HOSPITAL OF LOS ANGELES



January 09, 2018

Dear Colleague:

Enclosed is a check in the amount of \$250,000.00. This Fidelity Charitable grant is made possible through the generosity and recommendation of a Fidelity Charitable donor who wishes to remain anonymous.

Designation: Donation from Amber Heard

Grant Terms: No goods, services or more than incidental benefits may be provided in exchange for this grant. This grant may not satisfy a legally enforceable obligation/pledge. This grant may only support purposes deemed by you to be 100% tax deductible.

Please do not issue an acknowledgement or a tax receipt to Fidelity Charitable for this grant.

Fidelity Charitable is a public charity with a donor-advised fund program. Donors make irrevocable and tax-deductible contributions to Fidelity Charitable, which are owned and controlled by Fidelity Charitable in a segregated account known as a "donor-advised fund." Our donors exercise the privilege of, among other things, recommending grants to qualified public charities.

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OP=DCCO

Page 1 of 2

DCC_CEBFBGGMBBBBNQN_BBBBB 20180109 PLEASE FOLD AND DETACH AT PERFORATION BEFORE PRESENTING CHECK FOR PAYMENT

CHLA000009

VERIFY THE AUTHENTICITY OF THIS MULTI-TONE SECURITY DOCUMENT.

CHECK BACKGROUND AREA CHANGES COLOR GRADUALLY FROM TOP TO BOTTOM.



PAYABLE AT: THE BANK OF NEW YORK MELLON

January 09, 2018

PAY TO THE ORDER OF CHILDRENS HOSPITAL OF LOS ANGELES

\$250,000.00

*****Two Hundred Fifty Thousand & 0/100 DOLLARS*****

Paul D. Hing

VOID AFTER 60 DAYS

© 2018 Fidelity Investments

Exhibit B



June 14, 2019

Edward White & Co. LLP
attn. Edward L. White

Dear Mr. White:

I am following up on a letter and check mailed to Children's Hospital Los Angeles Foundation on August 24, 2016, in the name of Amber Heard. In the correspondence, see enclosed, it states, "the first of multiple scheduled installments to honor the full amount of Ms. Heard's \$3,500,000 pledged gift". Since the first installment, CHLA Foundation has not received further installments.

I am inquiring if you have knowledge if CHLA should except further installment(s) on behalf of Ms. Heard or if the pledge will not be fulfilled. I would appreciate any insights on this matter and can be reached at [REDACTED] or via email [REDACTED]

Sincerely,

A handwritten signature in cursive script that reads "Candie Davidson-Goldbronn".

Candie Davidson-Goldbronn
Associate Senior Vice President
Children's Hospital Los Angeles, Foundation

Enclosure



June 26, 2019

Ms. Amber Heard
c/o Jodi Gottlieb



Copy

Dear Ms. Heard:

I am following up on the correspondence that Children's Hospital Los Angeles Foundation received on August 26, 2016 which CHLA was notified by Edward White, Edward White & Company, that a \$3.5 million pledged gift had been made in your honor. In the correspondence, see enclosure, it states, "the first of multiple scheduled installments to honor the full amount of Ms. Heard's \$3,500,000 pledged gift". Since the first installment, CHLA has not received further installments.

I am inquiring if you have knowledge if CHLA should except further installment(s) on your behalf or if the pledge will not be fulfilled. I appreciate any insights on this matter and can be reached at via direct line at [REDACTED] CHLA Foundation at [REDACTED] or via email [REDACTED]

Sincerely,

Candie Davidson-Goldbronn
Associate Senior Vice President
Children's Hospital Los Angeles, Foundation

Encl.: documentation



LAW OFFICES

RMB Reback, McAndrews,
Blessey, LLP

WWW.RMBLAWYER.COM

November 17, 2020

Via E-Mail Only

Karen Prommer, RN
Director of Risk Management
Children's Hospital Los Angeles
[REDACTED]

Grace Oh
General Counsel
Children's Hospital Los Angeles
[REDACTED]

Re: John C. Depp, II v. Amber Laura Heard
Our File No. : 6143-0004

Dear Ms. Oh and Ms. Prommer:

Please be advised that the hearing of defendant Amber Heard's Petition to Quash the Subpoena to Children's Hospital Los Angeles in the above-referenced matter was advanced by the court and was heard on October 29, 2020 in Department "19" of the Stanley Mosk Courthouse. We just received a copy of the Notice of Ruling, a copy of which is enclosed for your file. You will note that the Petition was denied in part and granted in part. Children's Hospital Los Angeles was ordered to produce responsive documents in its possession, custody or control to Requests Nos. 1, 2 and 5 only, and the documents are specifically to exclude financial and accounting records. CHLA did not have in its possession any documents responsive to Requests Nos. 3 and 4, and no accounting records were going to be produced. As such, the documents that will be produced are the same as previously identified. Importantly, the Court did not specify when the documents are to be produced. Furthermore, counsel for Ms. Heard has informed us that they will be filing a Writ challenging the ruling. As such, the timing of the production has not yet been clarified. We will update you as soon as we have more information.

We will continue to keep you informed of all interim developments. Please don't hesitate to contact the undersigned with any questions or to discuss the matter further.

Very truly yours,

HEIDI L. KJAR
RAYMOND L. BLESSEY

Enclosure
[REDACTED]

CHLA000014
17

1 **DEPP v. HEARD**
2 **Our File No.: 6143-0004**

3 **SERVICE LIST**

4 ATTORNEYS FOR JOHN C. DEPP, II

5 Benjamin G. Chew, Esq.
6 Andrew C. Crawford, Esq.
7 Brown Rudnick LLP



11 Camille M. Vasquez, Esq.
12 Brown Rudnick LLP

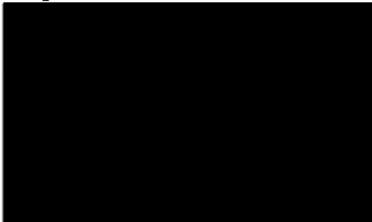


15 Adam R. Waldman, Esq.



20 ATTORNEYS FOR AMBER LAURA HEARD

21 Roberta A. Kaplan, Esq.
22 John C. Quinn, Esq.
23 Kaplan Hecker & Fink LLP



1 J. Benjamin Rottenborn, Esq.

2 Joshua R. Treece, Esq.

3 Woods Rogers PLC

4

5

6

7

8 Elaine Bredehoft, Esq.

9 Charlson, Bredehoft, Cohen & Brown

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1 Raymond L. Blessey, Esq. (176180)
Heidi L. Kjar, Esq. (184216)
2 REBACK, MCANDREWS & BLESSEY, LLP
1230 Rosecrans Avenue, Suite 450
3 Manhattan Beach, CA 90266
(310) 297-9900
4 Fax (310) 297-9800

5 Attorneys for Non-Party Witness,
CHILDREN'S HOSPITAL LOS ANGELES
6
7

8 CIRCUIT COURT OF THE STATE OF VIRGINIA
9 FOR THE COUNTY OF FAIRFAX
10
11

12 JOHN C. DEPP, II,) Case No.: CL-2019-0002911
13)
14) Petitioner,)
15) v.) **CHILDREN'S HOSPITAL LOS ANGELES'**
16) **RESPONSE TO PETITIONER JOHN C.**
17) **DEPP, II'S SUBPOENA FOR**
18) **PRODUCTION OF DOCUMENTS**
19)
20)
21)
22)

23 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

24 Children's Hospital Los Angeles hereby responds to Petitioner JOHN C. DEPP, II's Subpoena
25 for Production of Documents.

26 **REQUEST FOR PRODUCTION OF DOCUMENTS**

27 **REQUEST NO. 1:**

28 All DOCUMENTS that refer, reflect, or relate to any donations made to YOU or for
YOUR benefit by MS. HEARD, from January 1, 2016 through and including the present.

///

1 ///

2 **RESPONSE TO REQUEST NO. 1:**

3 The requested documents are attached hereto as Exhibit "A."

4
5 **REQUEST NO. 2:**

6 All COMMUNICATIONS between YOU and MS. HEARD regarding any donations
7 made to YOU or for YOUR benefit by MS. HEARD from January 1, 2016 through and including
8 the present.

9 **RESPONSE TO REQUEST NO. 2:**

10 The requested documents are attached hereto as Exhibit "A."

11
12 **REQUEST NO. 3:**

13 All COMMUNICATIONS between YOU and MS. HEARD regarding the DIVORCE
14 ACTION.

15 [THIS HAS BEEN STRICKEN BY THE COURT.]

16
17 **REQUEST NO. 4:**

18 All COMMUNICATIONS between YOU and MS. HEARD regarding the relationship
19 between MR. DEPP and MS. HEARD.

20 [THIS HAS BEEN STRICKEN BY THE COURT]

21 **REQUEST NO. 5:**

22 All DOCUMENTS, including all COMMUNICATIONS, that refer, reflect or relate to
23 any press releases, public statements, or other publicity related to any donations made by MS.
24 HEARD to YOU or for YOUR benefit, from January 1, 2016 through and including the present.

25
26 ///

27 ///

28

1 **RESPONSE TO REQUEST NO. 5:**

2 The requested documents are attached hereto as Exhibit "B."

3

4

5 Dated: December 10, 2020

REBACK, MCANDREWS & BLESSEY, LLP

6

7

8

By:



9

RAYMOND L. BLESSEY
HEIDI L. KJAR
Attorneys for Non-Party Witness,
CHILDREN'S HOSPITAL LOS ANGELES

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Honor Roll of Friends

Since 1983, Children's Hospital Los Angeles has worked with Children's Miracle Network Hospitals (CMNH) to raise funds through the organization's various partners and programs. Donations to CHLA from our local CMNH Partners totaled more than \$10 million in fiscal year 2017, an increase of more than \$1 million from the prior year.

We express our sincere gratitude and appreciation to our dedicated corporate partners, and to everyone who works tirelessly to raise these funds. Thank you to the many employees, customers and leadership teams who continue to exceed our expectations. We celebrated their accomplishments during Mega Miracle Day, held annually to honor the many miracles our corporate and CMNH partners create each year.

Our CMNH partners' contributions support the wrap-around care that makes our institution so unique—including family-centered patient care, surgical excellence, research and discovery, and education and training. Children's Hospital Los Angeles deeply appreciates the generous philanthropic partners that support our ability to offer comfort and hope to those who need it most. Their generosity helps make CHLA the best hospital for kids and families in California and on the West Coast, and we are deeply grateful.

We recognize these generous contributors in our Honor Roll of Friends.

To find out more about Children's Miracle Network Hospitals, please visit CHLA.org/Corporate-Partnerships.



In July, Panda Express announced a \$10 million pledge in support of CHLA. In recognition of this pledge, the sixth floor of the Marian and John E. Anderson Pavilion has been named the Panda Express Floor. Panda Express also gifted CHLA with a panda statue for the CHLA Emergency Department's (ED) bamboo garden, and has provided funding for activity booklets for patients in the ED.

- Ace Hardware Corporation
- Aflac
- Alex and Ani
- American Legion
- Car Program
- Carmike Cinemas, Inc.
- CDW Corporation
- Claremont Colleges
- Dance Marathon
- Chevron Corporation
- Chico's FAS Inc.
- CO-OP Financial Services
- Corner Stores
- Cosco Wholesale
- Credit Unions for Kids
- CSUN Matathon
- Dairy Queen
- Delta Air Lines
- Driven Brands
- Duracell
- Entrovision Communications Corporation
- Express Personnel Services
- Extra Life 24-Hour Gaming Marathon
- FirstGroup America
- F. Gaviña and Sons, Inc.
- Great Clips
- HMSHost
- IHOP Restaurants
- Kiewit International
- Kiwanis International
- Lazer Broadcasting Corporation
- Los Angeles Dance Marathon
- Love's Travel Stops & Country Stores
- Loyola Marymount University
- Dance Marathon
- Marriott International, Inc.
- Marriott Vacations, Inc.
- McLane Company, Inc.
- Miss America Organization
- Panda Restaurant Group, Inc.
- Phi Delta Epsilon International
- Medical Fraternity
- Phi Mu Sorority Foundation
- Precious Moments, Inc.
- Radio Lazer
- RE/MAX International
- Rite Aid Corporation
- Sigma Alpha Epsilon Fraternity
- Sigma Chi Fraternity
- Superior Grocers
- Torch Relay
- Trajan Dance Marathon
- United Networks of America
- Vallarta Supermarkets
- Walgreens
- Walmart and Sam's Club
- Yogurtland
- Zeta Beta Tau Fraternity

Children's Hospital Los Angeles

Honor Roll of Donors

For the time period of July 1, 2016, through
June 30, 2017

Through expert clinical care, research and medical education, Children's Hospital Los Angeles transforms the lives of innumerable children, adolescents and families in our community and across the globe. Children's Hospital Los Angeles is one of the only hospitals in Los Angeles and the surrounding region that is entirely focused on the care and treatment of children, helping patients more than half a million times each year in a setting designed just for their needs.

Our history began in 1901 in a small house on the corner of Alpine and Castelar Streets (now Hill Street in Chinatown), and today our medical experts offer more than 350 pediatric specialty programs and services to meet the needs of our patients. The hospital's international recognition is a testament to years of dedicated, compassionate efforts from faculty, staff and volunteers—as well as the individuals, organizations, corporations and foundations whose philanthropic support plays a pivotal role in our mission to create hope and build healthier futures for children.

We are honored to acknowledge our extraordinary donors for their generosity during fiscal year 2017. This Honor Roll recognizes donors for contributions of \$1,000 or more, as well as the full value of any active pledge commitments made in prior fiscal years. We are also proud to honor those who have contributed gifts of \$150 to \$999 on the Red Wagon Society Honor Roll of Donors, viewable at CHLA.org/HonorRoll. Additionally, we extend our gratitude to donors who directed their generosity through one of our Associate and Affiliate or allied groups.

On behalf of all the children and families whose lives you have impacted, and everyone at Children's Hospital Los Angeles, we offer our sincere thanks.

We strive to accurately recognize our donors. Please inform us of any errors or omissions by contacting Christian Nelson, assistant vice president of Stewardship and Donor Relations, at cnelson@chla.usc.edu or 323-361-1779.

\$50,000,000+
Marion and John E. Anderson

\$10,000,000 – \$49,999,999
Joyce and Stanley Black
and Family
Dr. Peggy Tsiang Cherng and
Mr. Andrew Cherng
Costco Wholesale
Panda Restaurant Group, Inc.
Walmart and Sam's Club

\$5,000,000 – \$9,999,999
The Associates
Credit Unions for Kids
Tom and Holly Gores
Los Madrinas
Patricia and John Merrell

\$1,000,000 – \$4,999,999
AEG
Alex's Lemonade
Stand Foundation
American Cancer Society, Inc.
Ronald W. Burkle

Steven & Alexandra
Cohen Foundation
Curing Kids Cancer
The Helen Dyess Living Trust
Entertainment Leadership Council
Epilepsy Foundation of Greater
Los Angeles - Care+Cure
Ms. Marylynn Evans
Don and Lorraine
Freeberg Foundation
Bob and Sami Freedman
The Stanley E. Hanson Foundation
Ms. Amber Heard

Heart Ambassadors of
Children's Hospital Los Angeles
Kimberly and Ronald D. Hegardt
The Hoag Foundation
The Hsieh Family Foundation
Mr. George Huber
Kohl's Department Stores, Inc.
The Kort Family Foundation
Los Angeles Kings -
Kings Care Foundation
The Gary Magness
Family Foundation
Ronald and Annette Massmon

The Harold McAlister
Charitable Foundation
The Shirley McKernan
Courage Foundation
MESF, Inc. - Nautico
Malibu Triathlon
The Moore Family



Keleigh and Michael Morgan
Names Family Foundation
Ms. Jane Vruwink Palmer
Pasadena Guild
Margie and Robert E.
Petersen Foundation
Teresa and Byron Pollitt
Alfred and Rozelyn Redisch Trust
Ruth and Arthur Rosinsky
Mr. Barry Rudin
Paula and Allan Rudnick
Mr. and Mrs. Theodore
R. Samuels
Sarah Silver
Victoria and Ronald Simms
The Simms/Monn
Family Foundation
St. Baldrick's Foundation
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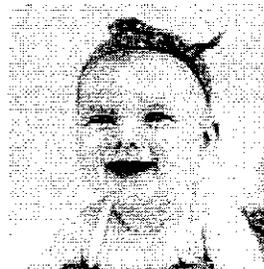
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As a pediatric academic medical center, we provide more than just the finest clinical care; we also remain at the forefront of research and training. Given the fundamental differences in the health care of kids and adults, the best place to discover and develop the safest, most effective therapies and devices for children is a hospital dedicated exclusively to their care. As a global leader in improving treatment options, developing cures and elevating the next generation of pediatric professionals, we have seen our commitment to caring—and the impact of our donors' support—grow and extend far beyond Los Angeles.

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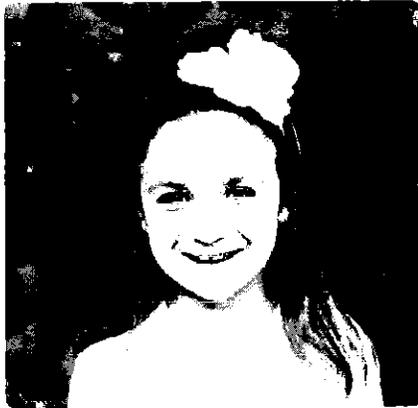
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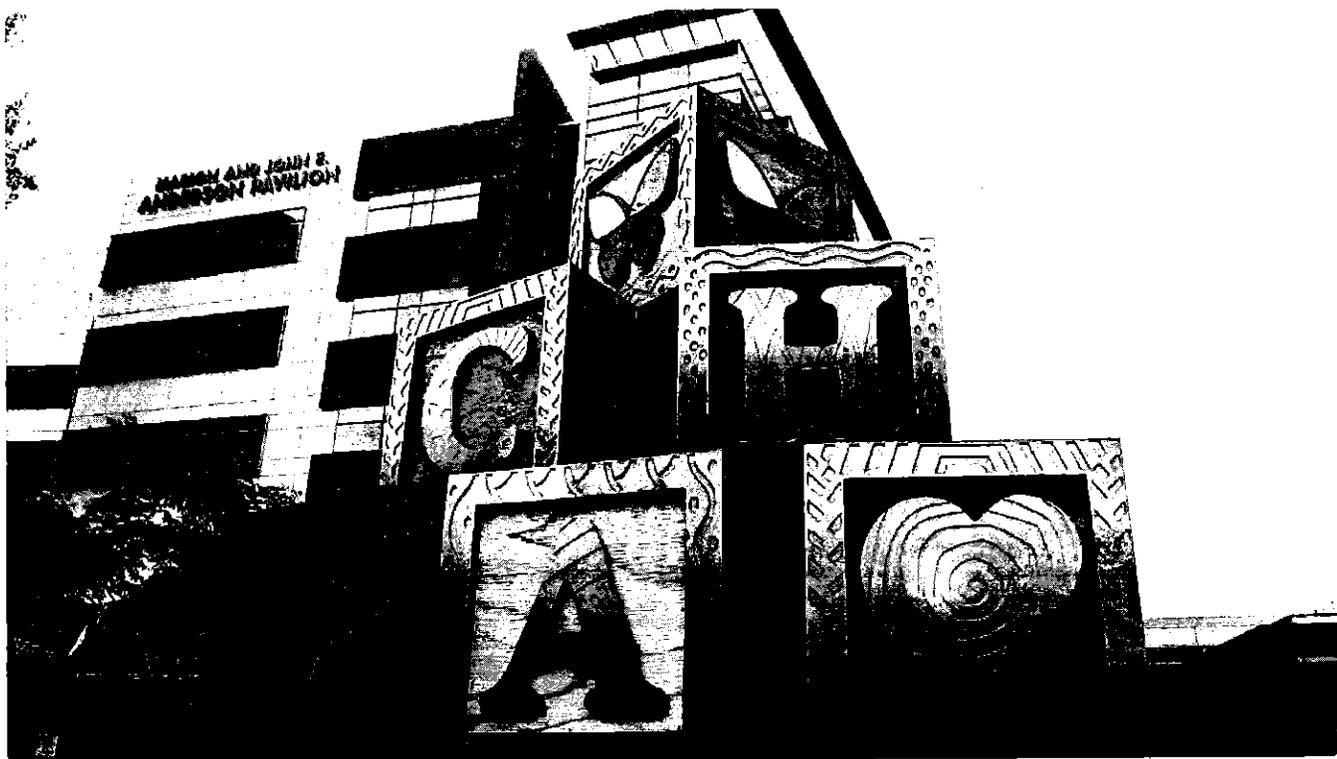
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Date:20161017 Check: Account: Amount:100000.00

Pierce O'Donnell
D: 310.201.7558
F: 310.201.1792
PODonnell@GreenbergGlusker.com
File Number: 35323-00002



September 9, 2016

Via Email

Laura A. Wasser, Esq.
WASSER, COOPERMAN & MANDLES
2049 Century Park East, Suite 800
Los Angeles, California 90067
Email: laura.wasser@wcmfamilylaw.com

Re: **Amber Heard / Johnny Depp**

Dear Laura:

Amber has not received the sum of \$200,000 due September 1 pursuant to the Deal Point Memo (“DPM”) executed August 15, 2016 between the parties. This letter constitutes a demand that Johnny make an immediate payment of the \$200,000 in order to cure his material breach of Paragraph 17 (a) of the DPM.

Your side has informed us that Johnny is claiming that he donated the first \$200,000 installment of the \$7 million that he agreed to pay Amber under the DPM directly to the two charities that Amber selected to donate her settlement proceeds. Frankly, I was baffled when this was first announced in the media in light to your previous statement to me that I should not worry whether the parties had a binding deal and Johnny would make the payments. Nonetheless, Johnny’s failure to pay Amber as unambiguously required by their settlement agreement constitutes a repudiation and material breach of the DPM by him.

Under the DPM, the payments to Amber are equalization payments which Johnny cannot take as tax deductions. Paragraph 19 of the DPM expressly states: “These [equalization payments] shall be considered non-taxable transfers between spouses incident to divorce pursuant to Internal Revenue Code Section 1041.” By misappropriating Amber’s money to pay his donations to these charities, Johnny is trying to illegally secure tax deductions and thereby reduce his out-of-pocket costs to \$3,500,000. If Johnny really wants to be philanthropic, Amber will agree to amend the DPM to provide that Johnny pay the full amount that he was supposed to pay Amber by donating \$14 million to the two charities, which after accounting for his tax deductions, is equal to his \$7 million non-deductible payment obligation to Amber.

Put another way, if Johnny wants to make a \$7 million donation to these charities, he can. That does not excuse, however, his obligation to pay Amber the \$7 million that she is donating. Amber, and not Johnny, should (and will) enjoy the benefits of her generosity. If Johnny is truly interested in such a gesture, he should pay Amber as required by the DPM, she will donate her \$7 million, and he can then donate his own \$7 million. Either way, the two charities will get \$14 million. But no matter what, Johnny must pay Amber the \$7 million that he owes her pursuant to the DPM.

We suspect that Johnny has not performed because he claims (falsely) that Amber breached the DPM. This is simply not true. The evidence will show that in fact Johnny's side has leaked confidential settlement information to the media. And even if Amber did breach the DPM (which she has not), her alleged breaches do not permit Johnny to repudiate or avoid the agreement.

California law abhors self-help. Johnny has no more right to divert Amber's settlement money to her charities than Amber has the right to give his artwork to Goodwill instead of him. If Johnny believes that Amber is in breach, he can file a lawsuit for damages. One thing he cannot do, however, is fail to pay her the money that he legally owes her.

There can be no question that the fully executed DPM is a binding and enforceable contract. Johnny and his counsel have acted as if there were in fact an agreement. Johnny's counsel filed a stipulation of dismissal of the domestic violence case pursuant to the DPM, eventually delivered to me the signature pages, have insisted that arrangements be made for him to retrieve his artwork, demanded that the lawsuit in Arizona be dismissed, and reassured me that Johnny would make the settlement payments to Amber. Johnny himself timely wired to Samantha Spector's Client Trust Account the first \$100,000 installment for attorneys' fees per Paragraph 25 (a) of the DPM. Johnny simply cannot pick and choose the provisions of the DPM that he will respect. His conduct has repeatedly ratified that the DPM is a binding and enforceable agreement.

Unless Johnny cures his material breach pays by wiring \$200,000 to Samantha Spector's Client Trust Account before the close of business on September 13, 2016, Amber will have no choice but to take such action as she deems necessary to enforce her legal rights and remedies under the DPM.

While no notice of default is required by the DPM, this notice is given in an effort to avoid further proceedings. No further notice will be given before enforcement proceedings are commenced if the DPM is not performed in accordance with its terms. All of Amber's rights, remedies and defenses, at law or in equity, are hereby expressly reserved.

Laura A. Wasser, Esq.
September 9, 2016
Page 3

Sincerely,



Pierce O'Donnell

POD:nl



[D.C. Officials, Cops Bracing for Unrest When Congress Counts Electoral Votes](#)



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Amber Heard Calls BS On Johnny's Charity Donation

AMBER HEARD CALLS BS ON JOHNNY'S CHARITY DONATION Now You Owe Double

8/25/2016 11:13 AM PT



TMZ/Getty

[Amber Heard](#) has just fired back at [Johnny Depp](#), saying if he really cares about donating Amber's divorce settlement he'll ante up \$14 million, not \$7 mil ... and in fact she's insisting



Amber's team tells TMZ, Johnny is not being up-front about his latest move ... giving Children's Hospital of L.A. and the ACLU the \$7 million earmarked for Amber.

Amber said last week she would donate the settlement money to the 2 charities, but her people tell us if Johnny sends the money **directly to the 2 organizations** he's not really paying \$7 mil, because he gets a charitable tax deduction.

And we're told Amber's position is that the money is not Johnny's to give away.

Amber's people tell TMZ, "If Johnny wishes to change the settlement agreement, we must insist that he honor the full amount by donating \$14M to charity, which after accounting for his tax deduction, is equal to his \$7M payment obligation to Amber."

The team goes on ... "We would also insist that the full amount be paid immediately and not drawn out over many years."

They blast Johnny's team, saying, "Anything less would be a transparent attempt by Johnny's counsel, Laura Wasser and Patti Glaser, to reduce their client's true payment by half under the guise of newfound concern for charities that he has never previously supported."

Contrary to that ... Johnny's team tells us he was honored by the Children's Hospital of L.A. in 2006 for his work with children worldwide.

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JOHNNY DEPP

AMBER HEARD

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DONALD TRUMP JR. MIFFED OVER CONGRESS PRAYER ... Man, Can't We Just Say Amen?!?!

1/4/2021 8:20 AM PT



[Page 1524]

1 HEARD - LAWS
 2 Q. Can I ask the question again?
 3 A. Sure.
 4 Q. Where was he living?
 5 A. Primarily in Sweetzer.
 6 Q. Thank you. But in fact, after starting your relationship with
 7 him, you then moved in with him. Was that at Sweetzer
 8 initially?
 9 A. No, it is a bit more complicated to describe because of the
 10 travel we did, both together and separately. So, we kind of
 11 split our, what we called home. I never really moved into
 12 Sweetzer. We talked about it, but at the time, there was too
 13 much travel so we kind of bounced around a lot.
 14 Q. So the penthouses at Eastern Columbia Building was where you
 15 both made your home; do you agree?
 16 A. We made a home there. He kept Sweetzer as his primary home.
 17 Q. And you, for a while ---
 18 MR. JUSTICE NICOL: Just a minute. (Pause) Yes.
 19 MS. LAWS: You, for a while, kept your rented home in Orange
 20 Avenue; is that right?
 21 A. Yes.
 22 Q. So the home you had together at Eastern Columbia was a group
 23 of penthouses, we have already heard, were they not?
 24 A. Yes.
 25 Q. And within a short period of time, in fact you moved some

[Page 1525]

1 HEARD - LAWS
 2 friends and your sister in at various times to live in those
 3 penthouses; is that right?
 4 A. Not exactly.
 5 Q. Let us break it down. I am not asking for dates or lengths of
 6 time, but did your sister come and live there?
 7 A. Eventually, yes.
 8 MR. JUSTICE NICOL: Just a minute.
 9 MS. LAWS: Did your friend, Raquel Pennington, come and live
 10 there?
 11 A. She was invited to live there before Johnny and I lived there,
 12 some time, yes, I would say months or maybe a year before we
 13 moved down there, and she stayed at his invitation until he
 14 asked her to leave.
 15 Q. Do not worry about times and dates.
 16 A. Okay.
 17 Q. Did she come and live there?
 18 A. She did.
 19 Q. And did she bring her partner, Josh?
 20 A. I believe Johnny invited Josh.
 21 Q. I did not ask who invited. I was just asking who was living
 22 there. Did Josh Drew come and live there?
 23 A. Yes, he did.
 24 Q. So your sister, Raquel Pennington and Josh Drew; is that
 25 right?

[Page 1526]

1 HEARD - LAWS
 2 A. Yes.
 3 Q. You said several times they were there at Mr. Depp's
 4 invitation. You have made that point with each of them?
 5 A. Uh-huh.
 6 Q. Did any of them pay any rent?
 7 A. No, they did not.
 8 Q. And they were all either friends or related to you; is that
 9 right?
 10 A. They were all my friends. I mean, not Issac, obviously, but
 11 they were my friends.
 12 Q. Yes, I had not asked you about Issac.
 13 A. Of course.
 14 Q. It was you who wanted them there?
 15 A. Pardon?
 16 Q. It was you who wanted them there, was it not?
 17 A. Yes, I loved that they are there.
 18 Q. And none of them paid any rent?
 19 A. No, Johnny would not let them.
 20 Q. He married you, did he not, in February 2015?
 21 A. That is right.
 22 Q. At that stage, according to you, you had been subjected to
 23 regular and repeated physical violence; is that right?
 24 A. Yes, that is right.
 25 MR. JUSTICE NICOL: Just a minute. (Pause)

[Page 1527]

1 HEARD - LAWS
 2 MS. LAWS: You got married without you having signed a pre-nuptial
 3 agreement; is that right?
 4 A. Yes, we did not sign anything.
 5 Q. We know, because we have already been shown texts, but I can
 6 go to them if I need, that in fact there was a very big
 7 argument about the pre-nuptial agreement at one point, was
 8 there not, between you and Mr. Depp?
 9 A. Not exactly.
 10 Q. You see, you were being asked to sign a pre-nuptial agreement,
 11 were you not?
 12 A. No, I was not.
 13 Q. Can I ask to you go to file 4, please, tab 130, page F755.
 14 Now, this is an e-mail from Connoll Cowan. We have heard
 15 reference to him. He was someone who in fact you were
 16 receiving, for a period of time, therapy from; is that right?
 17 A. Yes.
 18 Q. At the time of this e-mail, on January 27th, 2015, you were
 19 receiving therapy from him then; is that right?
 20 A. I believe so. That seems about right, yes.
 21 Q. And we can see from the body of the e-mail, which is dated
 22 27th January ---
 23 MR. JUSTICE NICOL: Just a minute. The e-mail itself, or at least
 24 the e-mail is headed from David Kipper.
 25 MS. LAWS: Yes, it starts off there, on November 10th, 2019, and

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1 HEARD - LAWS
 2 it is sent to John Harwell. In fact, the e-mail that I am
 3 going to ask you about is an e-mail that is dated 27th
 4 January, so if we look underneath that, you can see Connell
 5 Cowan, at 6.25 p.m., to David Kipper. David Kipper, we have
 6 heard about, is a doctor who was in fact treating both you and
 7 Mr. Depp, is that right, for a period of time?
 8 A. Yes.
 9 Q. What Connell Cowan is saying -- it starts off, in fact, if you
 10 go to the middle, "Con, sorry for getting back to you late.
 11 I am swamped, Amber and JD", that is Mr. Depp, is it not?
 12 A. Yes.
 13 Q. "... have been fighting non-stop since he confirmed his need
 14 for a pre-nup on their way to the airport going to Japan to
 15 promote his movie. She tried to push up the date of the
 16 wedding to avoid all this, but the reality is he'll need a
 17 pre-nup. If she fails to sign, they won't get married. Both
 18 behaved like super triple D types." Then it went on about the
 19 behaviour on the flight. There was an argument, was there
 20 not?
 21 A. There was an argument in the hotel room in Tokyo that resulted
 22 in Johnny kneeling on my back and hitting me in the back of
 23 the head, but that argument, actually, well, he toggled
 24 between it being in relation to -- he mentioned more, it was
 25 more about Christi, his sister, who handled most of his

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1 HEARD - LAWS
 2 affairs. He said it was Christi that had brought this up,
 3 that Christi's concerns were this, that he did not want that,
 4 that he trusted me, and that he said time and time, as he said
 5 to me time and time again, the only way out of this was death
 6 ---
 7 Q. You did not --
 8 A. And ---
 9 Q. Carry on?
 10 A. Sorry, he said this to me, to which I responded, that of
 11 course I would sign whatever we needed to sign. It could be a
 12 pre-nup. I would be happy to sign a post-nup. I even hired
 13 an attorney to do so, who wrote a draft and was sending it
 14 back and forth, or sent it to Johnny's team. I told Johnny
 15 this on that occasion, but then Johnny was also accusing me of
 16 having an affair with a co-star, and that is what led to the
 17 actual fight, the argument that you reference. It did not
 18 become physical on the plane. It got physical in the hotel
 19 room when he shoved me and everything else proceeded in the
 20 closet.
 21 Q. All right, let us get back to the question. You had a row and
 22 it was over the pre-nup? It started ---
 23 A. It was not over the pre-nup.
 24 MR. JUSTICE NICOL: Just a minute. (Pause) So you agree there was
 25 a row, but you say it was not over the pre-nup.

[Page 1530]

1 HEARD - LAWS
 2 A. Correct.
 3 MS. LAWS: You spent some time to say that really, in fact,
 4 Mr. Depp was not really about the pre-nup and Mr. Depp did not
 5 really want one.
 6 A. Mr -- Johnny.
 7 Q. Oddly.
 8 A. Pardon?
 9 Q. Oddly, he did not want one?
 10 A. Oddly, he did not express to me that is what he wanted.
 11 I think Johnny, at least from my experience, had a very hard
 12 time saying or making a claim or asserting himself if he felt
 13 that it would make you feel poorly or badly about him. He
 14 would try to avoid this. He did this a lot with his kids. I
 15 saw him do it with people in his life. He did not want to be
 16 the bad guy in some ways and was allergic to that so he would
 17 make it about other people. It caused a lot of confusion
 18 around that time in my life because ---
 19 Q. Sorry, have you got anything more to say about the pre-nup, to
 20 answer the question?
 21 A. Sure, I am trying to. It just involved a lot of personalities
 22 here. Johnny would say, "Well, that is what Christi wants,
 23 that is what Christi wants, you work it out with Christi", so
 24 I asked for a meeting with Christi. We sat down in his
 25 trailer on the set of a movie he was appearing in. I told her

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1 HEARD - LAWS
 2 I would hire a lawyer. I did the next day. She worked on the
 3 draft of it and sent it to Johnny's team through Christi and
 4 that is why we did not have the need to fight about it. Does
 5 that give you a bit more context?
 6 Q. You did not have any fight about it, you just said?
 7 A. That is why we did not need to have a fight about it because
 8 he was not claiming that it was something he wanted. He told
 9 me time and time again that he would tear it up and that the
 10 only way out of this was death, but then he would indicate to
 11 me, and Christi would indicate to me, that she thought it was
 12 prudent to do so and so I went about preparing one.
 13 Q. How then, bearing in mind you did not mind at all signing it
 14 ---
 15 A. Not at all.
 16 Q. --- did it not get signed?
 17 A. Because it was left on Johnny's team's desk. No one did
 18 anything and someone forgot about it.
 19 MR. JUSTICE NICOL: Just a minute. Yes.
 20 MS. LAWS: It was left on someone's desk and overlooked?
 21 A. I do not presume it was overlooked since a considerable amount
 22 of people in his life seem to be concerned about it, but I did
 23 hire the lawyer, we drafted it, we sent it, and I did
 24 everything I could to make sure that we would be able to get
 25 married at this time. The reason it was important, the

[Page 1532]

1 HEARD - LAWS
 2 timing, and the reason that I feel it should be clarified on
 3 the record is that Mr. Kipper, Dr. Kipper, was mistaken when
 4 he said that I tried to move the wedding date up. I never
 5 tried to move the wedding date up. That is not something
 6 I had the power to do.
 7 MR. JUSTICE NICOL: Just a minute, please. If you just go a
 8 little slower, I can make a note of what your evidence is.
 9 A. Sorry.
 10 Q. You say that Dr. Kipper was mistaken when -- is it Dr. Kipper
 11 or Dr. Connoll Cowan?
 12 A. It is Dr. Kipper that is telling Dr. Cowan that he believed
 13 I had tried to move the wedding date forward, presumably to
 14 accommodate avoiding a pre-nup, perhaps, is what the
 15 suggestion is. I can only presume that he might have come to
 16 any of those conclusions or made those statements based on the
 17 information he was receiving from Johnny's team, his
 18 protectors if you will, or handlers. Johnny did not do his
 19 own organising, he did not do his own negotiations, he did not
 20 do his own business, if you will, and that was very common.
 21 MS. LAWS: Can I ask you, please, to go to file 6, page 56.
 22 MR. JUSTICE NICOL: Can we put 4 away, please?
 23 MS. LAWS: Yes, please.
 24 MR. JUSTICE NICOL: Ms. Heard, you will find that the space in the
 25 witness box is quite limited so it is quite a good idea to put

[Page 1533]

1 HEARD - LAWS
 2 files away when they are no longer needed.
 3 A. I need stronger arms!
 4 Q. So file 6.
 5 A. Yes.
 6 MS. LAWS: File 6. At the front of the texts, there is a long
 7 schedule. If you look at the number in the centre at the
 8 bottom of each page rather than the long number at the right
 9 and find page 56, do you have that?
 10 A. It is still in the front tab?
 11 Q. Yes.
 12 A. 56. (Pause) Yes, ma'am.
 13 Q. We can see that there are some texts here between Mr. Depp and
 14 his sister on 1st February. This is before you get married.
 15 Are you familiar with this schedule? Have you seen it before?
 16 Do you know how it works?
 17 A. I believe -- I do not know, I would have to see more to know
 18 how it works.
 19 Q. All right, if you look on the right-hand side, you will see
 20 there is a date stamp with a time next to it. At the top on
 21 the right, it says 1/31/2015 and 7.11.23; do you see that?
 22 A. Yes.
 23 Q. And that tells us it is 31st January, 2015, at 11.23. Moving
 24 down then, the text on 1st February, that is just before you
 25 get married, is it not?

[Page 1534]

1 HEARD - LAWS
 2 A. Yes.
 3 Q. That is a text from Mr. Depp to his sister. That is right, is
 4 it not?
 5 MR. JUSTICE NICOL: Just a minute. (Pause) You agree, I think,
 6 that that was a text from Mr. Depp to his sister?
 7 A. If you are referring to the second text down on the schedule?
 8 Q. The second one down. I think that is what Ms. Laws was asking
 9 you about.
 10 A. Yes.
 11 MS. LAWS: Yes, the second one down at 10.38: "She, the sis and
 12 iO are here going through all the shit that needs to be done.
 13 Whitney says the DJ is flipping out because he hasn't signed a
 14 contract and knows nothing." The DJ is who?
 15 A. I imagine the DJ for the wedding, but I am not sure.
 16 Q. "I'm going to call the DJ and calm his anxiety by presenting
 17 him with a far worse fear." He then, an hour and a half
 18 later, sends another text: "Cool, but it must be explained to
 19 her by her attorney and MOST IMPORTANTLY that she should not
 20 think that this is an abnormal practice." Do you see that?
 21 A. Yes, I do.
 22 Q. Then below, his sister is texting him and she told the
 23 attorney that you both agreed to sign a post-nup, which is
 24 totally different to a pre-nup, "because you then negotiate
 25 all the terms after the fact and your world is not protected

[Page 1535]

1 HEARD - LAWS
 2 any longer because the negotiations are likely to be much more
 3 fierce ...(reads to the words)... and at that point, we are
 4 back to everything you earn is community property." Then it
 5 goes on, "This is the area that gets complicated...(reads to
 6 the words)... It continues the awkward conversation for a much
 7 longer time." Have you seen those texts before?
 8 A. No, only in the course of ----
 9 Q. Of the trial?
 10 A. Yes, ma'am.
 11 Q. He did want a pre-nup, did he not?
 12 A. I have no idea. He told me he did not and he ----
 13 MR. JUSTICE NICOL: Just slow down.
 14 THE WITNESS: Sure. (Pause)
 15 MR. JUSTICE NICOL: You have no idea.
 16 A. No, what Johnny told me is that he would rip it up and that
 17 the only way out of this was death. He told me this time and
 18 time again and I offered time and time again to sign whatever
 19 it was that he or his team needed or wanted. I made it very
 20 clear from early days, and throughout the entirety of our
 21 relationship, that I was not interested in Johnny's money,
 22 I never have been, I never was, and Johnny, the reason he is
 23 having this conversation with Christi is because he was not
 24 having it with me. After all, this was the man I was going to
 25 marry and he is telling his sister what she should say to me,

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1 HEARD - LAWS
 2 and frankly I wished she had because what Christi indicated to
 3 me is that everything was being done to make that wedding
 4 happen, that she was on it, that she was working on it, that
 5 she was on top of it, and I was, in large part, dependent on
 6 that because to offend her by saying, "You know what, I do not
 7 trust you, I do not think this is happening, I do not know if
 8 we have an official, I have not heard one plan about the
 9 ceremony we are meant to have before going to the Bahamas"
 10 where we had more of a ceremonial wedding. I said, "You know,
 11 I feel strange because I do not want to put Christi in an
 12 awkward position, but I feel like she is blocking the wedding
 13 by just not getting these things done", but what Christi was
 14 telling me is, "Do not worry about it, I have got it, I have
 15 got it, I have got it" and she just was not planning anything.
 16 So my best friend at the time was making a call. She went
 17 online and found no name ----
 18 MR. JUSTICE NICOL: Ms. Heard, of course you must give the answer
 19 that you think is necessary, but some of what you want to say
 20 may be the subject of further questions from Ms. Laws.
 21 THE WITNESS: Yes, your Lordship.
 22 MR. JUSTICE NICOL: By all means give the answer that is complete,
 23 but do not feel that you have got to anticipate further
 24 questions that might be coming.
 25 THE WITNESS: Of course. All right.

[Page 1537]

1 HEARD - LAWS
 2 MS. LAWS: I think the next question, on any view, is a yes or no
 3 answer.
 4 A. Okay.
 5 Q. You did not sign the pre-nup or any pre-nup, did you?
 6 A. No.
 7 Q. And nor did he, obviously?
 8 A. I do not think so, no.
 9 Q. And you did not sign any post-nup; yes or no?
 10 A. I do not know if I signed a draft. I might have signed a
 11 draft.
 12 Q. There was not one in place, was there?
 13 A. No, it was left at Johnny's desk.
 14 Q. In fact, by the time you separated in May 2016, no post-nup
 15 agreement had been signed by either of you?
 16 A. No.
 17 Q. Coming on to, then, your presentation and characterisation of
 18 your own drug use, legal and illegal, I am going to suggest to
 19 you that you presented yourself in quite a dishonest way. Do
 20 you agree or not?
 21 A. No.
 22 MR. JUSTICE NICOL: Just a minute..
 23 THE WITNESS: Ms. Laws, may I put this away or do you want me to
 24 have this out?
 25 MS. LAWS: Yes, please, put it away.

[Page 1538]

1 HEARD - LAWS
 2 MR. JUSTICE NICOL: Now, Ms. Laws, with other witnesses, we have
 3 been careful to distinguish between drugs which are lawful
 4 ----
 5 MS. LAWS: My Lord, yes.
 6 MR. JUSTICE NICOL: ---- and drugs which are unlawful. Which are
 7 the type that you are asking this witness about now?
 8 MS. LAWS: I combined the two by saying lawful and unlawful, but
 9 I am going to start off, please, with illegal drugs; all
 10 right? (To the witness) Do you recall my learned friend,
 11 Ms. Wass QC, when she was asking questions of Mr. Depp,
 12 suggesting to him that you actually disapproved of cocaine and
 13 that you had not taken any after had you turned 18. Do you
 14 remember that question; yes or no.
 15 A. Yes.
 16 Q. And do you also remember the suggestion that your drinking and
 17 taking of controlled drugs was not in any way toxic. Do you
 18 believe that that was correct?
 19 A. Yes.
 20 Q. To assert it in that way?
 21 A. Yes.
 22 MR. JUSTICE NICOL: Just a minute. (Pause) What was the question
 23 again, please: do you believe that it was correct to say your
 24 ----
 25 MS. LAWS: That her drinking and taking of controlled drugs was

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1 HEARD - LAWS
 2 not toxic.
 3 MR. JUSTICE NICOL: I think we are using the phrase "controlled
 4 drugs" as a synonym for "illegal drugs".
 5 MS. LAWS: I will use the term "illegal" from now on.
 6 MR. JUSTICE NICOL: (To the witness) Do you understand? You have
 7 said that your drinking and the taking of controlled drugs was
 8 not toxic. Do you agree?
 9 MS. LAWS: Do you stand by that?
 10 A. I do.
 11 Q. Do you stand by also what you said in your statement, and
 12 perhaps I need not go to it because I am sure you will agree,
 13 what you said in your third statement about your use of
 14 illegal drugs, that in fact you only took MDMA or mushrooms a
 15 handful of times?
 16 A. That is true.
 17 Q. That you would not take cocaine at all when you were with
 18 Mr. Depp; that is true as well, is it?
 19 A. Absolutely.
 20 Q. And that you would not drink to excess; that is true as well,
 21 is it not?
 22 A. Absolutely.
 23 Q. I suggest they are all lies, are they not? Each and every one
 24 of those assertions by you is a lie, is it not? Let us go
 25 through it. I will go through it. You do not agree. That

[Page 2378]

1 CLOSING - WASS
 2 MS. WASS: Exactly.
 3 MR. JUSTICE NICOL: And the reliance, as I have said, on
 4 Mr. Depp's alleged violence is because it is said to justify
 5 or prove the truth of the libel. If it were the case -- and
 6 let me emphasise the "if" -- if it were the case that all that
 7 Mr. Depp was doing to the extent that he was violent towards
 8 Ms. Heard was defending himself, then that would not assist
 9 the defendants in proving the truth of the alleged libel that
 10 Mr. Depp is a wife beater.
 11 MS. WASS: I agree. It would have to be unlawful violence,
 12 namely, not in self-defence.
 13 MR. JUSTICE NICOL: Just a minute. (Pause) Yes.
 14 MS. WASS: But the way the case has been put by the claimant, on
 15 behalf of Mr. Depp, assumes that if it can be established that
 16 Ms. Heard had struck him on one occasion -- nothing to do with
 17 the pleaded incidents, for example -- this absolved Mr. Depp
 18 from any responsibility for the many occasions when he
 19 assaulted her. It is as though Mr. Depp is seeking to justify
 20 his physical assaults on Ms. Heard on the basis that she may
 21 have deserved it from something she had done on another
 22 occasion. This court is not concerned whether Ms. Heard may
 23 have fought back or even lost her temper.
 24 MR. JUSTICE NICOL: Yes.
 25 MS. WASS: The issue is whether Mr. Depp used unlawful violence

[Page 2379]

1 CLOSING - WASS
 2 against Ms. Heard. One only has to look at the picture of
 3 Ms. Heard and Mr. Depp together -- and this is one of the few
 4 documents I will ask my Lord to look at, it is file 9,
 5 tab 86G.
 6 MR. JUSTICE NICOL: Just a minute. (Pause) 86G.
 7 MS. WASS: It should be a photograph that looks like that,
 8 my Lord.
 9 MR. JUSTICE NICOL: Yes.
 10 MS. WASS: Giving a very clear indication of the respective
 11 physical capabilities of Mr. Depp against the physical
 12 capabilities of Ms. Heard. One only has to look at that
 13 picture to see that Ms. Heard lacked the physical capability
 14 to be the successful party in any fight. (Pause) Reference
 15 was made to that observation by Ms. Heard herself during one
 16 recording when she told Mr. Depp, and I feel sure that my Lord
 17 will hear about this tomorrow, she told Mr. Depp that no
 18 injury would believe that she, a woman weighing 115 pounds,
 19 would be able to beat Mr. Depp himself, would be able to beat
 20 him up. Now, the meaning of this sentence has been distorted
 21 by the claimant. Ms. Heard was not saying she could lie to a
 22 jury. She was saying that no right-minded person would
 23 believe that she, given their respective sizes, was beating
 24 him up and that he was the defenceless victim. That was an
 25 absurd suggestion and would not be believed. This is yet

[Page 2380]

1 CLOSING - WASS
 2 another example of Mr. Depp attempting to reverse the role of
 3 victim and offender. This is a ploy that he has utilised
 4 throughout this case and throughout his witness statement.
 5 When he, Mr. Depp, is accused of violence, he claims that she
 6 is the violent party. When he is accused of drinking to
 7 excess, he claims she is the drinker. When he is accused of
 8 being a drug addict, he accuses her of being the heavy drug
 9 user.
 10 MR. JUSTICE NICOL: Just a minute. (Pause) Yes. Can I put
 11 9 away?
 12 MS. WASS: Yes, thank you.
 13 MR. JUSTICE NICOL: Yes.
 14 MS. WASS: In addition to these accusations of violence, drinking
 15 to excess and being a heavy drug user, none of which has been
 16 substantiated in evidence, Mr. Depp has sought to deploy the
 17 more old-fashioned methods used to discredit a woman, that she
 18 is a gold-digger, a shrew and an adulterer.
 19 MR. JUSTICE NICOL: Just a minute. (Pause)
 20 MS. WASS: My Lord has previously said during these hearings that
 21 infidelity takes the matter no further. It is denied by
 22 Ms. Heard and I will say no more about it. However, I will
 23 briefly address the allegation that Ms. Heard is a
 24 gold-digger, as it might be suggested in due course that money
 25 was the motivation for the so-called hoax.

[Page 2381]

1 CLOSING - WASS
 2 The argument that might be advanced on behalf of
 3 Mr. Depp is that the purpose of the hoax was for Ms. Heard to
 4 enrich herself with Mr. Depp's money obtained in a divorce
 5 settlement; and I can rebut that suggestion very quickly. The
 6 divorce agreement was executed on 15th August 2016. The
 7 reference, if my Lord would like it for the note, is file 9,
 8 tab 139. I do not invite my Lord to look at it now. A joint
 9 statement was made by the parties, and it read as follows:
 10 "Our relationship was intensely passionate and at times
 11 volatile, but always bound by love. Neither party has made
 12 false allegations for financial gain. There was never any
 13 intent at physical or emotionality harm. Amber wishes the
 14 best for Johnny in the future. Amber will be donating
 15 financial proceeds of the divorce to charity. There will be
 16 no further public statements about this matter."
 17 Again, I leave my Lord just with the reference, rather
 18 than asking you to look it up now. File 5.1, tab 206A,
 19 page F1334 shows a list of donors to the children's hospital
 20 of Los Angeles, making donations between \$1 million and just
 21 shy of \$5 million, so in that bracket, and it includes the
 22 name of Amber Heard. The relevance is that when your Lordship
 23 comes to consider the hoax defence, the question must be
 24 asked, well, what is the purpose of this hoax? We suggest
 25 that the court can exclude any suggestion that it was money.

This SUBPOENA/SUBPOENA DUCES TECUM TO PERSON UNDER FOREIGN SUBPOENA is being served by a private process server who must provide proof of service in accordance with Va. Code § 8.01-325.

TO the person authorized to serve this process: Upon execution, the return of this process shall be made to the Clerk of Court.

NAME: <u>Children's Hospital Los Angeles</u>	
ADDRESS: <u>c/o Cogency Global Inc., 1325 J Street, Suite 1550, Sacramento, CA 95814</u>	
<input type="checkbox"/> PERSONAL SERVICE	Tel. No. _____
Being unable to make personal service, a copy was delivered in the following manner:	
<input type="checkbox"/> Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above: _____ _____	
<input type="checkbox"/> Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)	
<input type="checkbox"/> not found	_____, Sheriff
_____ DATE	by _____, Deputy Sheriff

**SUBPOENA/SUBPOENA DUCES TECUM
TO PERSON UNDER FOREIGN SUBPOENA**

File No. CL-2019-0002911

Commonwealth of Virginia VA CODE §§ 8.01-412.8—8.01-412.15; Rule 4:9

FAIRFAX COUNTY

Circuit Court

4110 CHAIN BRIDGE ROAD, FAIRFAX, VIRGINIA 22030

ADDRESS OF COURT

JOHN C. DEPP, II

v./In re:

AMBER LAURA HEARD

TO THE PERSON AUTHORIZED BY LAW TO SERVE THIS PROCESS:

You are commanded to summon

Children's Hospital Los Angeles

NAME

c/o Cogency Global Inc., 1325 J Street, Suite 1550

STREET ADDRESS

Sacramento

CITY

CA

STATE

95814

ZIP

TO THE PERSON SUMMONED: You are commanded to

attend and give testimony at a deposition

produce the books, documents, records, electronically stored information, and tangible things designated and described below

See Attachment A

FILED
CIVIL INTAKE
MAY 29 10 21 AM '20
CLERK OF SUPERIOR COURT
JAMES T. BREYER
CLERK OF SUPERIOR COURT
MAY 29 2020

First Legal Records

at 1511 Beverly Blvd., Los Angeles, CA 90026

LOCATION

at June 29, 2020 at 10:00 a.m.

DATE AND TIME

and to permit inspection and copying by the requesting party or someone acting in his or her behalf of the designated items in your possession, custody or control

permit inspection of the premises

at the following location

LOCATION

on

DATE AND TIME

This subpoena is issued upon the request of the party named below

John C. Depp, II

NAME OF REQUESTING PARTY

c/o Benjamin G. Chew, 601 Thirteenth Street, N.W., Suite 600

STREET ADDRESS

Washington

CITY

DC

STATE

20005

ZIP

(202) 536-1700

TELEPHONE NUMBER

The requesting party has submitted to this Clerk's Office the foreign subpoena, copy attached, the terms of which are incorporated herein, and the written statement required by Virginia Code § 8.01-412.10.

The names, addresses and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of parties not represented by counsel are provided below on attached list.

6/1/2020
DATE ISSUED

JOHN T. FREY, CLERK

by *Jariba Woods*
CLERK
DEPUTY CLERK

Benjamin G. Chew *BGCW*
NAME OF ATTORNEY FOR REQUESTING PARTY

29113 VA
BAR NUMBER LICENSING STATE

601 Thirteenth Street, N.W., Suite 600
OFFICE ADDRESS

(202) 536-1700
TELEPHONE NUMBER OF ATTORNEY

Washington, DC 20005
OFFICE ADDRESS

(202) 536-1701
FACSIMILE NUMBER OF ATTORNEY

NAME

BAR NUMBER LICENSING STATE

STREET ADDRESS

TELEPHONE NUMBER

STREET ADDRESS

FACSIMILE NUMBER

NAME

BAR NUMBER LICENSING STATE

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NAME

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TELEPHONE NUMBER

STREET ADDRESS

FACSIMILE NUMBER

RETURN OF SERVICE (see page three of this form)

A COPY TESTE:
JOHN T. FREY, CLERK

BY: *Jariba Woods*
Deputy Clerk

Date: 6/1/2020
Original retained in the office of
the Clerk of the Circuit Court of
Fairfax County, Virginia

The names, addresses and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of parties not represented by counsel are:

Benjamin G. Chew (VSB No. 29113)
Andrew C. Crawford (VSB No. 89093)
BROWN RUDNICK LLP
601 Thirteenth Street, N.W., Suite 600
Washington, D.C. 20005
Telephone: (202) 536-1700
Facsimile: (202) 536-1701

Camille M. Vasquez (*pro hac vice*)
BROWN RUDNICK LLP
2211 Michelson Drive
Seventh Floor
Irvine, CA 92612
Telephone: (949) 752-7100
Facsimile: (949) 252-1514

Adam R. Waldman (*pro hac vice*)
THE ENDEAVOR LAW FIRM, P.C.
1775 Pennsylvania Avenue, N.W., Suite 350
Washington, D.C. 20006
Telephone: (202) 715-0966
Facsimile: (202) 715-0964

Counsel for Plaintiff John C. Depp, II

SERVICE LIST

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New York, NY 10118
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rkaplan@kaplanhecker.com
jfink@kaplanhecker.com
jqinn@kaplanhecker.com

J. Benjamin Rottenborn (VSB No. 84796)
Joshua R. Treece (VSB No. 79149)
WOODS ROGERS PLC
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P.O. Box 14125
Roanoke, VA 24011
Telephone: (540) 983-7540
brottenborn@woodsrogers.com
jtreece@woodsrogers.com

Davida Brook (*pro hac vice*)
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1900 Avenue of the Stars, Suite 1400
Los Angeles, CA 90067
Telephone: (310) 789-3100
Facsimile: (310) 789-3150
dbrook@susmangodfrey.com

Counsel for Defendant Amber Laura Heard

1 **ATTACHMENT A**

2 **DEFINITIONS**

3 1. "YOU" and/or "YOUR" shall mean and refer to Children's Hospital Los Angeles
4 (CHLA), and its agents, employees, officers, directors, and/or any other PERSON acting on its
5 behalf.

6 2. "COMMUNICATION" and/or "COMMUNICATIONS" shall mean and refer to
7 any written and verbal exchanges between any person or persons or entities, including but not
8 limited to verbal conversations, telephone calls, letters, e-mails, memoranda, reports, telegraphs,
9 faxes, exhibits, drawings, text messages, and any other documents which confirm or relate to the
10 written or verbal exchange, including applicable ELECTRONICALLY STORED
11 INFORMATION.

12 3. "ELECTRONICALLY STORED INFORMATION" means data that is stored in an
13 electronic medium and shall include, by way of example only, computer programs, electronic mail
14 (including message contents, header information and logs of electronic mail usage), output
15 resulting from the use of any software program, including electronic, digital, or any other recorded
16 material whatsoever, including but not limited to, any notes, memoranda, videotapes, affidavits,
17 statements, papers, files, forms, data, tapes, printouts, letters, reports, communications, contracts,
18 agreements, telegrams, records, financial records, applications, correspondence, diaries, calendars,
19 recordings and transcriptions of recordings, voice mail messages recorded electronically and in
20 writing, email messages and printouts, photographs, diagrams, or any other writings, however
21 produced or reproduced, word processing documents, spreadsheets, databases, telephone logs,
22 contact manager information, Internet usage files, PDF files, .JPG files, .TIF files, .TXT files,
23 batch files, ASCII files, and any and all miscellaneous files and data and shall include all active
24 data, deleted data, file fragments, metadata, native file formats and forensic images thereof.

25 4. "DIVORCE ACTION" shall mean and refer to the action entitled *In re the*
26 *Marriage of Amber Laura Depp and John Christopher Depp II*, Los Angeles Superior Court Case
27 No. BD641052.

28 ///

1 11. DOCUMENTS should be produced as single page .tiff format files imaged at 300
2 dpi, with the exception of stand-alone Databases (e.g., Access), spreadsheets (e.g., Excel), slide
3 presentations (e.g., PowerPoint), video files, and audio files, which should be produced in native
4 format. Each .tiff file should have a unique name matching the Bates number labeled on the
5 corresponding page. Color DOCUMENTS should be produced in color.

6 12. DOCUMENTS should be produced with (a) a delimited data file (.dat), and (b) an
7 image load file (.opt and/or .lfp). Each .tiff in a production must be referenced in the
8 corresponding image load file. The total number of documents referenced in a production's data
9 load file should match the total number of designated document breaks in the image load file for
10 the production.

11 13. DOCUMENTS should be produced with extracted metadata for each DOCUMENT
12 in the form of a .dat file. The metadata should include the following fields, to the extent such
13 fields are available in the original DOCUMENT as it originally existed in its native format:

Field	Description
Bates_Begin	The bates label of the first page of the document
Bates_End	The bates label of the last page of the document
Attach_Begin	The bates label of the first page of a family of documents (e.g., email and attachment)
Attach_End	The bates label of the last page of a family of documents
Sent_Date	For email, the sent date of the message
Sent_Time	For email, the sent time of the message converted to GMT
Email_Author	The sender of an email message (email FROM)
Recipient	The recipients of an email message (email TO)
CC	The recipients of a copy of an email message (email CC)

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BCC	The recipients of a blind copy of an email message (email BCC)
Custodian	The custodian in whose file the document was found, including all duplicate custodians
Datercvd	Date received
Datesent	Date sent
Subject	E-mail subject
Author	The person who created the document
Modifier	The person who last modified the document
Created	The creation date of the document
Last_Modified	The last modified date of the document
Title	The title of the document
File_Name	The name of the file
File_Extension	The file extension of the document
MD5Hash	The MD5 Hash Value of the document
Message_ID	The Message ID of the email and/or attachment
Mailstore	The name of the Mailstore in which the email and/or attachment is contained
File_Size	The size of the file
File_Path	Original file path of the document as it existed in the normal course of business or the folder location if the document/email is contained in a Mailstore

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14. All DOCUMENTS attached to and/or embedded in an e-mail and/or other DOCUMENT must be produced contemporaneously and sequentially after the parent e-mail/document.

15. In producing DOCUMENTS, you shall furnish all DOCUMENTS in your possession, custody, or control. Without limitation of the term "control," a DOCUMENT is deemed to be in your control if you have the right to secure the DOCUMENT or a copy thereof from another person or public or private entity having actual possession thereof, or if you have the practical ability to obtain the DOCUMENT from a third-party, irrespective of any legal entitlement to the DOCUMENT. If any original DOCUMENT requested is not in your possession, custody, or control, then you are required to produce the best available copy, and to state, to the best of your knowledge, the name and address of the person in possession and/or control of the original. The fact that a DOCUMENT is in possession of another person or entity does not relieve you of the obligation to produce your copy of the DOCUMENT, even if the two DOCUMENTS are identical. In addition, any copy of a DOCUMENT shall be produced if it differs in any respect from the original (e.g., by reason of handwritten notes or comments having been added to copy which do not appear on the original or otherwise).

16. If responsive DOCUMENTS no longer exist because they have been destroyed, cannot be located, or are otherwise no longer in your possession or subject to your control, identify each DOCUMENT and describe the circumstances under which it was lost or destroyed.

17. All DOCUMENTS should be organized and labeled to correspond by number with the numbered categories set forth in these Requests. If a DOCUMENT is responsive to more than one Request, reference that DOCUMENT in your written response to each Request to which it is responsive or in a load file identifying the same.

18. A Request for a DOCUMENT shall be deemed to include a request for any and all file folders within which the DOCUMENT was contained, transmittal sheets, cover letters, exhibits, enclosures, or attachments to the DOCUMENT in addition to the DOCUMENT itself.

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REQUEST NO. 3:

All COMMUNICATIONS between YOU and MS. HEARD regarding the DIVORCE ACTION.

REQUEST NO. 4:

All COMMUNICATIONS between YOU and MS. HEARD regarding the relationship between MR. DEPP and MS. HEARD.

REQUEST NO. 5:

All DOCUMENTS, including all COMMUNICATIONS, that refer, reflect, or relate to any press releases, public statements, or other publicity related to any donations made by MS. HEARD to YOU or for YOUR benefit, from January 1, 2016 through and including the present.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): BROWN RUDNICK LLP CAMILLE M. VASQUEZ, #273377 2211 Michelson Drive, Seventh Floor Irvine, CA 92612 TELEPHONE NO.: (949) 752-7100 FAX NO.: (949) 252-1514 E-MAIL ADDRESS: cvasquez@brownrudnick.com ATTORNEY FOR (Name): John C. Depp, II	FOR COURT USE ONLY
Court for county in which discovery is to be conducted: SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: 111 N. Hill Street CITY, STATE, AND ZIP CODE: Los Angeles 90012 BRANCH NAME: Stanley Mosk	
Court in which action is pending: Name of Court: Circuit Court of Fairfax County STREET ADDRESS: 4110 Chain Bridge Road MAILING ADDRESS: 4110 Chain Bridge Road, Suite 320 CITY, STATE, AND ZIP CODE: Fairfax, Virginia 22030 COUNTRY: United States	
PLAINTIFF/PETITIONER: John C. Depp, II DEFENDANT/RESPONDENT: Amber Laura Heard	CALIFORNIA CASE NUMBER (if any assigned by court):
SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS IN ACTION PENDING OUTSIDE CALIFORNIA	CASE NUMBER (of action pending outside California): CL-2019-0002911

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known):
 Children's Hospital Los Angeles c/o Cogency Global Inc., 1325 J Street, Suite 1550, Sacramento, CA 95814

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To (name of deposition officer): First Legal Records On (date): June 29, 2020 Location (address): 1511 Beverly Blvd., Los Angeles, CA 90026	At (time): 10:00 a.m.
Do not release the requested records to the deposition officer prior to the date and time stated above.	

- a. by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.
- b. by delivering a true, legible, and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).
- c. by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.
2. *The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records must be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.*
3. *The records to be produced are described as follows (if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified): See Attachment 3*
- Continued on Attachment 3 (use form MC-025).
4. Attorneys of record in this action or parties without attorneys are (name, address, telephone number, and name of party represented): See Attachment 4

Continued on Attachment 4 (use form MC-025).

PLAINTIFF/PETITIONER: John C. Depp, II	CASE NUMBER (of action pending outside California): CL-2019-0002911
DEFENDANT/RESPONDENT: Amber Laura Heard	

5. If you have been served with this subpoena as a custodian of consumer or employee records under Code of Civil Procedure section 1985.6 and a motion to quash or an objection has been served on you, a court order or agreement of the parties, witnesses, and consumer or employee affected must be obtained before you are required to produce consumer or employee records.

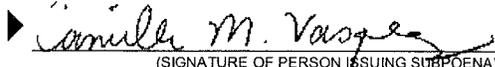
6. Other terms or provisions from out-of-state subpoena, if any (specify):
See attached Fairfax County Circuit Court Subpoena

Continued on Attachment 6 (use form MC-025).

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF \$500 AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: May 29, 2020

CAMILLE M. VASQUEZ
(TYPE OR PRINT NAME)


(SIGNATURE OF PERSON ISSUING SUBPOENA)

Attorney for John C. Depp, II
(TITLE)

PROOF OF SERVICE OF SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

1. I served this Subpoena for Production of Business Records In Action Pending Outside California by personally delivering a copy to the person served as follows:

- a. Person served (name):
- b. Address where served:

- c. Date of delivery:
- d. Time of delivery:

e. Witness fees and mileage both ways (check one):

(1) were paid. Amount: \$ _____

(2) were not paid.

(3) were tendered to the witness's public entity employer as required by Government Code section 68097.2. The amount tendered was (specify): \$ _____

f. Fee for service:..... \$ _____

2. I received this subpoena for service on (date):

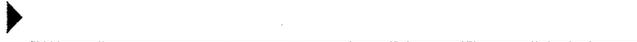
3. I also served a completed Proof of Service of Notice to Consumer or Employee and Objection (form SUBP-025) by personally delivering a copy to the person served as described in 1 above.

4. Person serving:

- a. Not a registered California process server
- b. California sheriff or marshal
- c. Registered California process server
- d. Employee or independent contractor of a registered California process server
- e. Exempt from registration under Business and Professions Code section 22350(b)
- f. Registered professional photocopier
- g. Exempt from registration under Business and Professions Code section 22451
- h. Name, address, telephone number, and, if applicable, county of registration and number:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:


(SIGNATURE)

(For California sheriff or marshal use only)

I certify that the foregoing is true and correct.

Date:


(SIGNATURE)

1 ATTACHMENT 3

2 DEFINITIONS

3 1. "YOU" and/or "YOUR" shall mean and refer to Children's Hospital Los Angeles
4 (CHLA), and its agents, employees, officers, directors, and/or any other PERSON acting on its
5 behalf.

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9 faxes, exhibits, drawings, text messages, and any other documents which confirm or relate to the
10 written or verbal exchange, including applicable ELECTRONICALLY STORED
11 INFORMATION.

12 3. "ELECTRONICALLY STORED INFORMATION" means data that is stored in an
13 electronic medium and shall include, by way of example only, computer programs, electronic mail
14 (including message contents, header information and logs of electronic mail usage), output
15 resulting from the use of any software program, including electronic, digital, or any other recorded
16 material whatsoever, including but not limited to, any notes, memoranda, videotapes, affidavits,
17 statements, papers, files, forms, data, tapes, printouts, letters, reports, communications, contracts,
18 agreements, telegrams, records, financial records, applications, correspondence, diaries, calendars,
19 recordings and transcriptions of recordings, voice mail messages recorded electronically and in
20 writing, email messages and printouts, photographs, diagrams, or any other writings, however
21 produced or reproduced, word processing documents, spreadsheets, databases, telephone logs,
22 contact manager information, Internet usage files, PDF files, .JPG files, .TIF files, .TXT files,
23 batch files, ASCII files, and any and all miscellaneous files and data and shall include all active
24 data, deleted data, file fragments, metadata, native file formats and forensic images thereof.

25 4. "DIVORCE ACTION" shall mean and refer to the action entitled *In re the*
26 *Marriage of Amber Laura Depp and John Christopher Depp II*, Los Angeles Superior Court Case
27 No. BD641052.

28 ///

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2 dpi, with the exception of stand-alone Databases (e.g., Access), spreadsheets (e.g., Excel), slide
3 presentations (e.g., PowerPoint), video files, and audio files, which should be produced in native
4 format. Each .tiff file should have a unique name matching the Bates number labeled on the
5 corresponding page. Color DOCUMENTS should be produced in color.

6 12. DOCUMENTS should be produced with (a) a delimited data file (.dat), and (b) an
7 image load file (.opt and/or .lfp). Each .tiff in a production must be referenced in the
8 corresponding image load file. The total number of documents referenced in a production's data
9 load file should match the total number of designated document breaks in the image load file for
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13 fields are available in the original DOCUMENT as it originally existed in its native format:

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Bates_End	The bates label of the last page of the document
Attach_Begin	The bates label of the first page of a family of documents (e.g., email and attachment)
Attach_End	The bates label of the last page of a family of documents
Sent_Date	For email, the sent date of the message
Sent_Time	For email, the sent time of the message converted to GMT
Email_Author	The sender of an email message (email FROM)
Recipient	The recipients of an email message (email TO)
CC	The recipients of a copy of an email message (email CC)

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BCC	The recipients of a blind copy of an email message (email BCC)
Custodian	The custodian in whose file the document was found, including all duplicate custodians
Datercvd	Date received
Datesent	Date sent
Subject	E-mail subject
Author	The person who created the document
Modifier	The person who last modified the document
Created	The creation date of the document
Last_Modified	The last modified date of the document
Title	The title of the document
File_Name	The name of the file
File_Extension	The file extension of the document
MD5Hash	The MD5 Hash Value of the document
Message_ID	The Message ID of the email and/or attachment
Mailstore	The name of the Mailstore in which the email and/or attachment is contained
File_Size	The size of the file
File_Path	Original file path of the document as it existed in the normal course of business or the folder location if the document/email is contained in a Mailstore

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14. All DOCUMENTS attached to and/or embedded in an e-mail and/or other DOCUMENT must be produced contemporaneously and sequentially after the parent e-mail/document.

15. In producing DOCUMENTS, you shall furnish all DOCUMENTS in your possession, custody, or control. Without limitation of the term "control," a DOCUMENT is deemed to be in your control if you have the right to secure the DOCUMENT or a copy thereof from another person or public or private entity having actual possession thereof, or if you have the practical ability to obtain the DOCUMENT from a third-party, irrespective of any legal entitlement to the DOCUMENT. If any original DOCUMENT requested is not in your possession, custody, or control, then you are required to produce the best available copy, and to state, to the best of your knowledge, the name and address of the person in possession and/or control of the original. The fact that a DOCUMENT is in possession of another person or entity does not relieve you of the obligation to produce your copy of the DOCUMENT, even if the two DOCUMENTS are identical. In addition, any copy of a DOCUMENT shall be produced if it differs in any respect from the original (e.g., by reason of handwritten notes or comments having been added to copy which do not appear on the original or otherwise).

16. If responsive DOCUMENTS no longer exist because they have been destroyed, cannot be located, or are otherwise no longer in your possession or subject to your control, identify each DOCUMENT and describe the circumstances under which it was lost or destroyed.

17. All DOCUMENTS should be organized and labeled to correspond by number with the numbered categories set forth in these Requests. If a DOCUMENT is responsive to more than one Request, reference that DOCUMENT in your written response to each Request to which it is responsive or in a load file identifying the same.

18. A Request for a DOCUMENT shall be deemed to include a request for any and all file folders within which the DOCUMENT was contained, transmittal sheets, cover letters, exhibits, enclosures, or attachments to the DOCUMENT in addition to the DOCUMENT itself.

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REQUEST NO. 3:

All COMMUNICATIONS between YOU and MS. HEARD regarding the DIVORCE ACTION.

REQUEST NO. 4:

All COMMUNICATIONS between YOU and MS. HEARD regarding the relationship between MR. DEPP and MS. HEARD.

REQUEST NO. 5:

All DOCUMENTS, including all COMMUNICATIONS, that refer, reflect, or relate to any press releases, public statements, or other publicity related to any donations made by MS. HEARD to YOU or for YOUR benefit, from January 1, 2016 through and including the present.

SHORT TITLE: John C. Depp, II v. Amber Laura Heard	CASE NUMBER: CL-2019-0002911
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ATTACHMENT (Number): 4*(This Attachment may be used with any Judicial Council form.)*

Benjamin G. Chew (VSB No. 29113)
 Andrew C. Crawford (VSB No. 89093)
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Counsel for Defendant Amber Laura Heard

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 1 of 1*(Add pages as required)*

FILED
 CIVIL INTAKE
 2020 MAY 29 PM 2:47
 JOHN T. FREY
 CLERK, CIRCUIT COURT
 FAIRFAX, VA

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY, VIRGINIA

JOHN C. DEPP, II

Plaintiff,

v.

AMBER LAURA HEARD

Defendant.

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Civil Action No.: CL-2019-0002911

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the enclosed Subpoena/Subpoena Duces Tecum to Person Under Foreign Subpoena and Subpoena for Production of Business Records In Action Pending Outside California, to be sent via email (per written agreement between the Parties), on this 29th day of May 2020, to counsel of record.



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Counsel for Defendant Amber Laura Heard

brownrudnick

BENJAMIN G. CHEW
direct dial: 202.536.1785
bchew@brownrudnick.com

May 29, 2020

FILED
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2020 MAY 29 PM 2:47
JOHN T. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

VIA HAND DELIVERY

Mr. John T. Frey, Clerk
Fairfax County Circuit Court
4110 Chain Bridge Road, Suite 320
Fairfax, Virginia 22030

RE: *John C. Depp, II v. Amber Laura Heard*, No. CL-2019-0002911

Dear Mr. Frey,

Please find enclosed for filing in the above-referenced matter, original attorney-issued subpoena for documents to third party witness Children's Hospital Los Angeles. Also enclosed are three copies of the subpoena and a check for the Court's related fee. The subpoenas will be served in California by private process server. We request one file-stamped copy for immediate return. We also request one certified copy of the subpoena to be issued and served under the laws of the state of California. Upon preparation of the certified copy, please return by mail using the enclosed stamped return envelope.

This letter certifies that California has reciprocal privileges regarding discovery with Virginia and that I will cause copies of the subpoena to be served on counsel of record. Thank you for your assistance.

Regards,

BROWN RUDNICK LLP



Benjamin G. Chew

Enclosures

[] This SUBPOENA/SUBPOENA DUCES TECUM TO PERSON UNDER FOREIGN SUBPOENA is being served by a private process server who must provide proof of service in accordance with Va. Code § 8.01-325.

TO the person authorized to serve this process: Upon execution, the return of this process shall be made to the Clerk of Court.

NAME: American Civil Liberties Union, Inc.	
ADDRESS: c/o Abdi Soltani, 39 Drumm Street, Sacramento, CA 94111	
<input type="checkbox"/> PERSONAL SERVICE	Tel. No.
Being unable to make personal service, a copy was delivered in the following manner:	
<input type="checkbox"/> Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above:	
.....	
<input type="checkbox"/> Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)	
<input type="checkbox"/> not found, Sheriff
DATE	by , Deputy Sheriff

JOHN T. FREY, CLERK
FAIRFAX COUNTY CIRCUIT COURT
4110 CHAIN BRIDGE ROAD
FAIRFAX, VIRGINIA 22030

**SUBPOENA/SUBPOENA DUCES TECUM
TO PERSON UNDER FOREIGN SUBPOENA**

File No. CL-2019-0002911

Commonwealth of Virginia VA CODE §§ 8.01-412.8—8.01-412.15; Rule 4:9

FAIRFAX COUNTY

Circuit Court

4110 CHAIN BRIDGE ROAD, FAIRFAX, VIRGINIA 22030

ADDRESS OF COURT

JOHN C. DEPP, II

v./In re:

AMBER LAURA HEARD

TO THE PERSON AUTHORIZED BY LAW TO SERVE THIS PROCESS:

You are commanded to summon

American Civil Liberties Union, Inc.

NAME

c/o Abdi Soltani, 39 Drumm Street

STREET ADDRESS

Sacramento

CITY

CA

STATE

94111

ZIP

TO THE PERSON SUMMONED: You are commanded to

attend and give testimony at a deposition

produce the books, documents, records, electronically stored information, and tangible things designated and described below

See Attachment A

First Legal Records

at 1511 Beverly Blvd., Los Angeles, CA 90026

LOCATION

at June 29, 2020 at 10:00 a.m.

DATE AND TIME

and to permit inspection and copying by the requesting party or someone acting in his or her behalf of the designated items in your possession, custody or control

permit inspection of the premises

at the following location

LOCATION

on

DATE AND TIME

This subpoena is issued upon the request of the party named below

John C. Depp, II

NAME OF REQUESTING PARTY

c/o Benjamin G. Chew, 601 Thirteenth Street, N.W., Suite 600

STREET ADDRESS

Washington

CITY

DC

STATE

20005

ZIP

(202) 536-1700

TELEPHONE NUMBER

The requesting party has submitted to this Clerk's Office the foreign subpoena, copy attached, the terms of which are incorporated herein, and the written statement required by Virginia Code § 8.01-412.10.

The names, addresses and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of parties not represented by counsel are provided below on attached list.

June 11th, 2020
DATE ISSUED

JOHN T. FREY, CLERK

by Christine M. Dillon
CLERK
DEPUTY CLERK

Benjamin G. Chew
NAME OF ATTORNEY FOR REQUESTING PARTY

29113
BAR NUMBER

VA
LICENSING STATE

601 Thirteenth Street, N.W., Suite 600
OFFICE ADDRESS

(202) 536-1700
TELEPHONE NUMBER OF ATTORNEY

Washington, DC 20005
OFFICE ADDRESS

(202) 536-1701
FACSIMILE NUMBER OF ATTORNEY

NAME

BAR NUMBER

LICENSING STATE

STREET ADDRESS

TELEPHONE NUMBER

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FACSIMILE NUMBER

RETURN OF SERVICE (see page three of this form)

**A COPY TESTE:
JOHN T. FREY, CLERK**

BY: Christine M. Dillon
Deputy Clerk

Date: June 11th, 2020

Original retained in the office of
the Clerk of the Circuit Court of
Fairfax County, Virginia

The names, addresses and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of parties not represented by counsel are:

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Andrew C. Crawford (VSB No. 89093)
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Facsimile: (202) 715-0964

Counsel for Plaintiff John C. Depp, II

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John C. Quinn (*pro hac vice*)
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Telephone: (310) 789-3100
Facsimile: (310) 789-3150
dbrook@susmangodfrey.com

Counsel for Defendant Amber Laura Heard

1 ATTACHMENT A

2 DEFINITIONS

3 1. "YOU" and/or "YOUR" shall mean and refer to American Civil Liberties Union,
4 Inc. and its agents, officers, directors, employees, and/or any other PERSON acting on its behalf,
5 including but not limited to YOUR affiliated entities or state or local branches.

6 2. "COMMUNICATION" and/or "COMMUNICATIONS" shall mean and refer to
7 any written and verbal exchanges between any person or persons or entities, including but not
8 limited to verbal conversations, telephone calls, letters, e-mails, memoranda, reports, telegraphs,
9 faxes, exhibits, drawings, text messages, and any other documents which confirm or relate to the
10 written or verbal exchange, including applicable ELECTRONICALLY STORED
11 INFORMATION.

12 3. "ELECTRONICALLY STORED INFORMATION" means data that is stored in an
13 electronic medium and shall include, by way of example only, computer programs, electronic mail
14 (including message contents, header information and logs of electronic mail usage), output
15 resulting from the use of any software program, including electronic, digital, or any other recorded
16 material whatsoever, including but not limited to, any notes, memoranda, videotapes, affidavits,
17 statements, papers, files, forms, data, tapes, printouts, letters, reports, communications, contracts,
18 agreements, telegrams, records, financial records, applications, correspondence, diaries, calendars,
19 recordings and transcriptions of recordings, voice mail messages recorded electronically and in
20 writing, email messages and printouts, photographs, diagrams, or any other writings, however
21 produced or reproduced, word processing documents, spreadsheets, databases, telephone logs,
22 contact manager information, Internet usage files, PDF files, .JPG files, .TIF files, .TXT files,
23 batch files, ASCII files, and any and all miscellaneous files and data and shall include all active
24 data, deleted data, file fragments, metadata, native file formats and forensic images thereof.

25 4. "DIVORCE ACTION" shall mean and refer to the action entitled *In re the*
26 *Marriage of Amber Laura Depp and John Christopher Depp II*, Los Angeles Superior Court Case
27 No. BD641052.

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1 11. DOCUMENTS should be produced as single page .tiff format files imaged at 300
2 dpi, with the exception of stand-alone Databases (e.g., Access), spreadsheets (e.g., Excel), slide
3 presentations (e.g., PowerPoint), video files, and audio files, which should be produced in native
4 format. Each .tiff file should have a unique name matching the Bates number labeled on the
5 corresponding page. Color DOCUMENTS should be produced in color.

6 12. DOCUMENTS should be produced with (a) a delimited data file (.dat), and (b) an
7 image load file (.opt and/or .lfp). Each .tiff in a production must be referenced in the
8 corresponding image load file. The total number of documents referenced in a production's data
9 load file should match the total number of designated document breaks in the image load file for
10 the production.

11 13. DOCUMENTS should be produced with extracted metadata for each DOCUMENT
12 in the form of a .dat file. The metadata should include the following fields, to the extent such
13 fields are available in the original DOCUMENT as it originally existed in its native format:

Field	Description
Bates_Begin	The bates label of the first page of the document
Bates_End	The bates label of the last page of the document
Attach_Begin	The bates label of the first page of a family of documents (e.g., email and attachment)
Attach_End	The bates label of the last page of a family of documents
Sent_Date	For email, the sent date of the message
Sent_Time	For email, the sent time of the message converted to GMT
Email_Author	The sender of an email message (email FROM)
Recipient	The recipients of an email message (email TO)
CC	The recipients of a copy of an email message (email CC)

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BCC	The recipients of a blind copy of an email message (email BCC)
Custodian	The custodian in whose file the document was found, including all duplicate custodians
Datercvd	Date received
Datesent	Date sent
Subject	E-mail subject
Author	The person who created the document
Modifier	The person who last modified the document
Created	The creation date of the document
Last_Modified	The last modified date of the document
Title	The title of the document
File_Name	The name of the file
File_Extension	The file extension of the document
MD5Hash	The MD5 Hash Value of the document
Message_ID	The Message ID of the email and/or attachment
Mailstore	The name of the Mailstore in which the email and/or attachment is contained
File_Size	The size of the file
File_Path	Original file path of the document as it existed in the normal course of business or the folder location if the document/email is contained in a Mailstore

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REQUEST NO. 3:

All COMMUNICATIONS between YOU and MS. HEARD regarding the DIVORCE ACTION.

REQUEST NO. 4:

All COMMUNICATIONS between YOU and MS. HEARD regarding the relationship between MR. DEPP and MS. HEARD.

REQUEST NO. 5:

All DOCUMENTS, including all COMMUNICATIONS, that refer, reflect, or relate to any press releases, public statements, or other publicity related to any donations made by MS. HEARD to YOU or for YOUR benefit, from January 1, 2016 through and including the present.

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): BROWN RUDNICK LLP CAMILLE M. VASQUEZ, #273377 2211 Michelson Drive, Seventh Floor Irvine, CA 92612 TELEPHONE NO.: (949) 752-7100 FAX NO.: (949) 252-1514 E-MAIL ADDRESS: cvasquez@brownrudnick.com ATTORNEY FOR (Name): John C. Depp, II</p>	<p>FOR COURT USE ONLY</p>
<p>Court for county in which discovery is to be conducted: SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: 111 N. Hill Street CITY, STATE, AND ZIP CODE: Los Angeles 90012 BRANCH NAME: Stanley Mosk</p>	
<p>Court in which action is pending: Name of Court: Circuit Court of Fairfax County STREET ADDRESS: 4110 Chain Bridge Road MAILING ADDRESS: 4110 Chain Bridge Road, Suite 320 CITY, STATE, AND ZIP CODE: Fairfax, Virginia 22030 COUNTRY: United States</p>	
<p>PLAINTIFF/PETITIONER: John C. Depp, II DEFENDANT/RESPONDENT: Amber Laura Heard</p>	<p>CALIFORNIA CASE NUMBER (if any assigned by court):</p>
<p>SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS IN ACTION PENDING OUTSIDE CALIFORNIA</p>	<p>CASE NUMBER (of action pending outside California): CL-2019-0002911</p>

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known):
 American Civil Liberties Union, Inc. c/o Abdi Soltani, 39 Drumm Street, Sacramento, CA 94111

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

<p>To (name of deposition officer): First Legal Records On (date): June 29, 2020 Location (address): 1511 Beverly Blvd., Los Angeles, CA 90026</p>	<p>At (time): 10:00 a.m.</p>
<p>Do not release the requested records to the deposition officer prior to the date and time stated above.</p>	

- a. by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.
 - b. by delivering a true, legible, and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).
 - c. by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.
2. The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records must be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.
3. The records to be produced are described as follows (if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified): See Attachment 3
- Continued on Attachment 3 (use form MC-025).
4. Attorneys of record in this action or parties without attorneys are (name, address, telephone number, and name of party represented): See Attachment 4
- Continued on Attachment 4 (use form MC-025).

PLAINTIFF/PETITIONER: John C. Depp, II	CASE NUMBER (of action pending outside California): CL-2019-0002911
DEFENDANT/RESPONDENT: Amber Laura Heard	

5. If you have been served with this subpoena as a custodian of consumer or employee records under Code of Civil Procedure section 1985.6 and a motion to quash or an objection has been served on you, a court order or agreement of the parties, witnesses, and consumer or employee affected must be obtained before you are required to produce consumer or employee records.

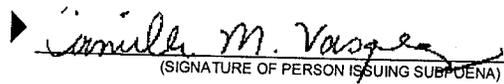
6. Other terms or provisions from out-of-state subpoena, if any (specify):
See attached Fairfax County Circuit Court Subpoena

Continued on Attachment 6 (use form MC-025).

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF \$500 AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: May 29, 2020

CAMILLE M. VASQUEZ
(TYPE OR PRINT NAME)


(SIGNATURE OF PERSON ISSUING SUBPOENA)

Attorney for John C. Depp, II
(TITLE)

PROOF OF SERVICE OF SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

1. I served this Subpoena for Production of Business Records In Action Pending Outside California by personally delivering a copy to the person served as follows:
a. Person served (name):
b. Address where served:

c. Date of delivery: d. Time of delivery:

e. Witness fees and mileage both ways (check one):
(1) were paid. Amount: \$ _____
(2) were not paid.
(3) were tendered to the witness's public entity employer as required by Government Code section 68097.2. The amount tendered was (specify): \$ _____

f. Fee for service:..... \$ _____

2. I received this subpoena for service on (date):
3. I also served a completed Proof of Service of Notice to Consumer or Employee and Objection (form SUBP-025) by personally delivering a copy to the person served as described in 1 above.

4. Person serving:
- a. Not a registered California process server
 - b. California sheriff or marshal
 - c. Registered California process server
 - d. Employee or independent contractor of a registered California process server
 - e. Exempt from registration under Business and Professions Code section 22350(b)
 - f. Registered professional photocopier
 - g. Exempt from registration under Business and Professions Code section 22451
 - h. Name, address, telephone number, and, if applicable, county of registration and number:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

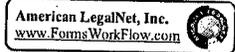
(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date: _____

(SIGNATURE)

Date: _____

(SIGNATURE)



1 ATTACHMENT 3

2 DEFINITIONS

3 1. "YOU" and/or "YOUR" shall mean and refer to American Civil Liberties Union,
4 Inc. and its agents, officers, directors, employees, and/or any other PERSON acting on its behalf,
5 including but not limited to YOUR affiliated entities or state or local branches.

6 2. "COMMUNICATION" and/or "COMMUNICATIONS" shall mean and refer to
7 any written and verbal exchanges between any person or persons or entities, including but not
8 limited to verbal conversations, telephone calls, letters, e-mails, memoranda, reports, telegraphs,
9 faxes, exhibits, drawings, text messages, and any other documents which confirm or relate to the
10 written or verbal exchange, including applicable ELECTRONICALLY STORED
11 INFORMATION.

12 3. "ELECTRONICALLY STORED INFORMATION" means data that is stored in an
13 electronic medium and shall include, by way of example only, computer programs, electronic mail
14 (including message contents, header information and logs of electronic mail usage), output
15 resulting from the use of any software program, including electronic, digital, or any other recorded
16 material whatsoever, including but not limited to, any notes, memoranda, videotapes, affidavits,
17 statements, papers, files, forms, data, tapes, printouts, letters, reports, communications, contracts,
18 agreements, telegrams, records, financial records, applications, correspondence, diaries, calendars,
19 recordings and transcriptions of recordings, voice mail messages recorded electronically and in
20 writing, email messages and printouts, photographs, diagrams, or any other writings, however
21 produced or reproduced, word processing documents, spreadsheets, databases, telephone logs,
22 contact manager information, Internet usage files, PDF files, .JPG files, .TIF files, .TXT files,
23 batch files, ASCII files, and any and all miscellaneous files and data and shall include all active
24 data, deleted data, file fragments, metadata, native file formats and forensic images thereof.

25 4. "DIVORCE ACTION" shall mean and refer to the action entitled *In re the*
26 *Marriage of Amber Laura Depp and John Christopher Depp II*, Los Angeles Superior Court Case
27 No. BD641052.

28 ///

1 11. DOCUMENTS should be produced as single page .tiff format files imaged at 300
2 dpi, with the exception of stand-alone Databases (e.g., Access), spreadsheets (e.g., Excel), slide
3 presentations (e.g., PowerPoint), video files, and audio files, which should be produced in native
4 format. Each .tiff file should have a unique name matching the Bates number labeled on the
5 corresponding page. Color DOCUMENTS should be produced in color.

6 12. DOCUMENTS should be produced with (a) a delimited data file (.dat), and (b) an
7 image load file (.opt and/or .lfp). Each .tiff in a production must be referenced in the
8 corresponding image load file. The total number of documents referenced in a production's data
9 load file should match the total number of designated document breaks in the image load file for
10 the production.

11 13. DOCUMENTS should be produced with extracted metadata for each DOCUMENT
12 in the form of a .dat file. The metadata should include the following fields, to the extent such
13 fields are available in the original DOCUMENT as it originally existed in its native format:

Field	Description
Bates_Begin	The bates label of the first page of the document
Bates_End	The bates label of the last page of the document
Attach_Begin	The bates label of the first page of a family of documents (e.g., email and attachment)
Attach_End	The bates label of the last page of a family of documents
Sent_Date	For email, the sent date of the message
Sent_Time	For email, the sent time of the message converted to GMT
Email_Author	The sender of an email message (email FROM)
Recipient	The recipients of an email message (email TO)
CC	The recipients of a copy of an email message (email CC)

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BCC	The recipients of a blind copy of an email message (email BCC)
Custodian	The custodian in whose file the document was found, including all duplicate custodians
Datercvd	Date received
Datesent	Date sent
Subject	E-mail subject
Author	The person who created the document
Modifier	The person who last modified the document
Created	The creation date of the document
Last_Modified	The last modified date of the document
Title	The title of the document
File_Name	The name of the file
File_Extension	The file extension of the document
MD5Hash	The MD5 Hash Value of the document
Message_ID	The Message ID of the email and/or attachment
Mailstore	The name of the Mailstore in which the email and/or attachment is contained
File_Size	The size of the file
File_Path	Original file path of the document as it existed in the normal course of business or the folder location if the document/email is contained in a Mailstore

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Number_Pages	The number of pages in the document
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14. All DOCUMENTS attached to and/or embedded in an e-mail and/or other DOCUMENT must be produced contemporaneously and sequentially after the parent e-mail/document.

15. In producing DOCUMENTS, you shall furnish all DOCUMENTS in your possession, custody, or control. Without limitation of the term "control," a DOCUMENT is deemed to be in your control if you have the right to secure the DOCUMENT or a copy thereof from another person or public or private entity having actual possession thereof, or if you have the practical ability to obtain the DOCUMENT from a third-party, irrespective of any legal entitlement to the DOCUMENT. If any original DOCUMENT requested is not in your possession, custody, or control, then you are required to produce the best available copy, and to state, to the best of your knowledge, the name and address of the person in possession and/or control of the original. The fact that a DOCUMENT is in possession of another person or entity does not relieve you of the obligation to produce your copy of the DOCUMENT, even if the two DOCUMENTS are identical. In addition, any copy of a DOCUMENT shall be produced if it differs in any respect from the original (e.g., by reason of handwritten notes or comments having been added to copy which do not appear on the original or otherwise).

16. If responsive DOCUMENTS no longer exist because they have been destroyed, cannot be located, or are otherwise no longer in your possession or subject to your control, identify each DOCUMENT and describe the circumstances under which it was lost or destroyed.

17. All DOCUMENTS should be organized and labeled to correspond by number with the numbered categories set forth in these Requests. If a DOCUMENT is responsive to more than one Request, reference that DOCUMENT in your written response to each Request to which it is responsive or in a load file identifying the same.

18. A Request for a DOCUMENT shall be deemed to include a request for any and all file folders within which the DOCUMENT was contained, transmittal sheets, cover letters, exhibits, enclosures, or attachments to the DOCUMENT in addition to the DOCUMENT itself.

1 19. If you claim that any DOCUMENT is, in whole or in part, beyond the scope of
2 permissible discovery (including but not limited to any claim of privilege or confidentiality),
3 specify in detail each and every ground on which such claim rests and identify generally what the
4 document is. If you assert any claim of privilege, then at the time of production you are to furnish
5 a privilege log that specifically identifies each DOCUMENT (or portion) withheld by (a) date, (b)
6 author, (c) recipient, (d) persons copied, (e) general description of the subject matter of the
7 DOCUMENT, and (f) a statement of the specific privilege claimed and the basis upon which such
8 privilege is claimed as to each separate DOCUMENT (or portion) withheld. The privilege log
9 should contain enough specificity, but without disclosing privileged information, to allow
10 Plaintiffs and the Court to adequately assess the privilege claimed.

11 20. To the extent you consider any portion of the following Requests to be
12 objectionable, (a) identify the portion of the Request claimed to be objectionable, (b) state the
13 nature and basis of the objection, and (c) produce DOCUMENTS responsive to any portion of
14 such Request that is not claimed to be objectionable.

15 21. If you believe that any Request is unclear, unintelligible, or because of its wording
16 otherwise prevents you from responding fully to that Request, identify the ambiguity or source of
17 confusion and explain the definition and understanding that you relied upon in responding. It shall
18 be insufficient to object to a particular Request on the grounds that it is vague, ambiguous, or
19 otherwise unclear, and withhold DOCUMENTS on that basis without seeking clarification.

DOCUMENT REQUESTS

REQUEST NO. 1:

22 All DOCUMENTS that refer, reflect, or relate to any donations made to YOU or for
23 YOUR benefit by MS. HEARD, from January 1, 2016 through and including the present.

REQUEST NO. 2:

25 All COMMUNICATIONS between YOU and MS. HEARD regarding any donations made
26 to YOU or for YOUR benefit by MS. HEARD, from January 1, 2016 through and including the
27 present.

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REQUEST NO. 3:

All COMMUNICATIONS between YOU and MS. HEARD regarding the DIVORCE ACTION.

REQUEST NO. 4:

All COMMUNICATIONS between YOU and MS. HEARD regarding the relationship between MR. DEPP and MS. HEARD.

REQUEST NO. 5:

All DOCUMENTS, including all COMMUNICATIONS, that refer, reflect, or relate to any press releases, public statements, or other publicity related to any donations made by MS. HEARD to YOU or for YOUR benefit, from January 1, 2016 through and including the present.

SHORT TITLE: John C. Depp, II v. Amber Laura Heard	CASE NUMBER: CL-2019-0002911
-------------------------------------------------------	---------------------------------

ATTACHMENT (Number): 4

(This Attachment may be used with any Judicial Council form.)

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Counsel for Defendant Amber Laura Heard

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 1 of 1

(Add pages as required)

FILED
CIVIL INTAKE
2020 JUN -1 AM 8:51
JOHN T. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY, VIRGINIA

JOHN C. DEPP, II

Plaintiff,

v.

Civil Action No.: CL-2019-0002911

AMBER LAURA HEARD

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the enclosed Subpoena/Subpoena Duces Tecum to Person Under Foreign Subpoena and Subpoena for Production of Business Records In Action Pending Outside California, to be sent via email (per written agreement between the Parties), on this 29th day of May 2020, to counsel of record.



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brownrudnick

BENJAMIN G. CHEW
direct dial: 202.536.1785
bchew@brownrudnick.com

May 29, 2020

FILED
CIVIL INTAKE
2020 JUN -1 AM 8:50
JOHN T. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

VIA HAND DELIVERY

Mr. John T. Frey, Clerk
Fairfax County Circuit Court
4110 Chain Bridge Road, Suite 320
Fairfax, Virginia 22030

RE: *John C. Depp, II v. Amber Laura Heard*, No. CL-2019-0002911

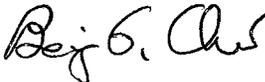
Dear Mr. Frey,

Please find enclosed for filing in the above-referenced matter, original attorney-issued subpoena for documents to third party witness American Civil Liberties Union, Inc. Also enclosed are three copies of the subpoena and a check for the Court's related fee. The subpoenas will be served in California by private process server. We request one file-stamped copy for immediate return. We also request one certified copy of the subpoena to be issued and served under the laws of the state of California. Upon preparation of the certified copy, please return by mail using the enclosed stamped return envelope.

This letter certifies that California has reciprocal privileges regarding discovery with Virginia and that I will cause copies of the subpoena to be served on counsel of record. Thank you for your assistance.

Regards,

BROWN RUDNICK LLP



Benjamin G. Chew VSB#29113

Enclosures

brownrudnick

BENJAMIN G. CHEW
direct dial: 202.536-1785
fax: 617.289.0717
bchew@brownrudnick.com

December 22, 2020

Chambers of the Honorable Bruce D. White
CHIEF JUDGE
Circuit Court of Fairfax County
4110 Chain Bridge Road
Fairfax, VA 22030

RE: Depp v. Heard, Case No. CL-2019-2911;
Plaintiff's Proposed Order on His Motion to Compel

Dear Chief Judge White:

Attached for the Court's consideration is Plaintiff's proposed Order as to the Court's ruling on Mr. Depp's motion to compel, argued before Your Honor on Friday, December 18. In the hopes of jointly submitting a proposed Order on Monday, December 21, as promised, Tr. at p. 30 (**Exhibit A**), Plaintiff sent Ms. Heard's counsel his draft on Sunday evening, December 20. Mr. Rottenborn proposed some changes yesterday, most of which Plaintiff agreed to incorporate. When pressed to finalize the process today, Mr. Rottenborn declined, stating that he needed to check further with his co-counsel who was in arbitration, and that there was no hurry. *See Exhibit B.* (Ms. Bredehoft has continued to communicate with us on issues in the case not relating to this proposed Order.)

In light of our representation to the Court about timely submitting a proposed Order, Plaintiff hereby unilaterally submits for the Court's consideration a proposed Order which we believe faithfully captures the Court's ruling. *See Exhibit A*, Tr. at pp. 8-11, 25-31.

Warm regards,

BROWN RUDNICK LLP



Benjamin G. Chew
VSB # 29113

cc: J. Benjamin Rottenborn, Esq.
Elaine Bredehoft, Esq.
Counsel of Record

EXHIBIT A



Planet Depos[®]
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Transcript of Hearing

Date: December 18, 2020

Case: Depp, II -v- Heard

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

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V I R G I N I A:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

- - - - -x

JOHNNY C. DEPP, II, :

Plaintiff, :

v. : Case No. CL-2019-0002911

AMBER LAURA HEARD, :

Defendant. :

- - - - -x

HEARING

BEFORE THE HONORABLE BRUCE D. WHITE

Conducted Virtually

Friday, December 18, 2020

11:29 a.m. ET

Job No.: 342428

Pages: 1 - 32

Reported By: Victoria Lynn Wilson, RMR, CRR

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HEARING BEFORE THE HONORABLE BRUCE D. WHITE,
conducted virtually.

Pursuant to docketing, before Victoria Lynn
Wilson, Registered Merit Reporter, Certified
Realtime Reporter, E-Notary Public in and for the
Commonwealth of Virginia.

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A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF:

BENJAMIN G. CHEW, ESQUIRE

ANDREW CRAWFORD, ESQUIRE

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P R O C E E D I N G S

THE COURT: Good morning to everybody.

(The court reporter was sworn.)

THE COURT: Thank you.

MR. CHEW: Thanks very much, your Honor.

Good morning, your Honor. May it please the Court. Ben Chew and Andrew Crawford for Plaintiff Johnny Depp.

As the Court is aware, we're here on Mr. Depp's motion to compel. First, the Court should grant the motion to compel as to request for production number 7 of the second RFPs which call for Ms. Heard's arrest records. This request is reasonably calculated to lead to the discovery of admissible evidence because they are crucial to key allegations in Mr. Depp's complaint, for example, paragraph 6, quote, "Ms. Heard knew the truth was that she violently abused Mr. Depp, just as she violently abused her prior domestic partner, which led to her arrest and booking for domestic violence, as well as a night in jail and a mug shot, unquote." See also paragraph 15 at

1 paragraphs 24 through 31.

2 Moreover, as your Honor is aware,
3 Ms. Heard has filed a counterclaim for defamation,
4 and when she successfully moved this Court for
5 Mr. Depp's arrest records, she wrote in her brief
6 on September 27th, 2020, quote, "In a defamation
7 case, prior acts that bear on a plaintiff's
8 character and modus operandi are relevant,"
9 unquote.

10 Whether these arrest records are
11 admissible is, obviously, a different issue, but
12 they certainly are discoverable, and we would ask
13 that those records be produced on or before the
14 January 4th, 2021.

15 Second, your Honor, the Court should
16 compel Ms. Heard to produce also by January 4th
17 all documents responsive to request 23 of
18 Mr. Depp's second RFPs and requests 50 and 51 of
19 his third RFPs. These requests call for all of
20 Ms. Heard's communications with The Sun tabloid.

21 Contrary to Ms. Heard's assertions, there
22 is no privilege between her and The Sun because

1 there is no and was no attorney-client
2 relationship.

3 Per the Eastern District of Virginia's
4 decision in *In Re Zetia*, the Common Interest
5 Doctrine, quote, "applies when two or more parties
6 consult or retain an attorney concerning a legal
7 matter in which they share a common interest,"
8 unquote. And even then, that doctrine protects
9 only those communications, quote, "which relate to
10 the giving or receiving of legal advice," unquote.

11 Here, there was no attorney-client
12 relationship between Ms. Heard and The Sun's
13 counsel, and no legal advice was provided to
14 Ms. Heard by The Sun's counsel. It was
15 Ms. Bredehoft who -- who attended the entire
16 London trial and who advised Ms. Heard during
17 those proceedings, not The Sun's counsel.

18 Further, your Honor, Ms. Heard had no
19 direct financial stake or liability in the London
20 case. The Fourth Circuit ruled in the *U.S. versus*
21 *Aramony*, 88 F.3rd 1391, "that mere concern about
22 negative publicity," which is what Ms. Heard may

1 have faced in London, "is not sufficient to
2 constitute a legal matter that might otherwise
3 qualify under the Common Interest Doctrine."
4 Therefore, your Honor, we would ask that those
5 documents be compelled and produced by
6 January 4th.

7 Third, your Honor, the Court should compel
8 responses to document requests 42, 43, and 52 of
9 Mr. Depp's third RFPs which call for defendant's
10 communications with third-parties, including
11 Ms. Heard's current girlfriend, Bianca Butti,
12 regarding the Depp-Heard relationship. Such
13 communications are reasonably calculated to lead
14 to the discovery of admissible evidence. We're
15 not asking for all the communications, just the
16 communications relating to the Heard-Depp
17 relationship.

18 Contrary to Ms. Heard's assertions, her
19 communications with Ms. Butti are not protected
20 from discovery by the marital privilege because
21 Ms. Heard and Ms. Butti are not and never have
22 been married. Section 8.01-398 of the Code of

1 Virginia states, quote, "A person has a privilege
2 to refuse to disclose," ellipsis, "any
3 confidential communications between his spouse and
4 him during their marriage," unquote.

5 (Indecipherable) disputed that there was
6 no marriage between Ms. Butti and Ms. Heard and,
7 therefore, Ms. Heard's communications with
8 Ms. Butti and other third-parties regarding the
9 Heard-Depp relationship are not privileged --
10 privileged or otherwise protected.

11 Fourth, your Honor, the Court should grant
12 Mr. Depp's motion to compel as to RFPs 44 through
13 47 of his third request for production which call
14 for documents relating to Ms. Heard's sworn
15 contention that, quote, "Money played no role in
16 her alleged allegations of abuse against
17 Mr. Depp," unquote.

18 Included among these materials that we
19 seek are any and all documents relating -- related
20 to Ms. Heard's oft repeated, utterly false claim
21 that she donated all \$7 million of the divorce
22 settlement with Mr. Depp to the Children's

1 Hospital of Los Angeles and the ACLU, and all
2 documents relating to the mysterious anonymous
3 donations of \$500,000 in 2017 and \$250,000 in
4 2018, quote, "in honor of Amber Heard," unquote,
5 and all communications between Ms. Heard and that
6 anonymous donor.

7 Your Honor has read Exhibits 4 through 7
8 are the myriad press reports where Ms. --
9 Ms. Heard boasted about giving all of the
10 \$7 million to those two charities. And in the
11 video we submitted yesterday, Ms. Heard stated to
12 a broad television audience in Europe, quote,
13 "\$7 million in total was donated to -- I split it
14 between the ACLU and the CHLA," ellipsis, "I
15 wanted nothing."

16 So Ms. Bredehoft is mistaken when she said
17 the other day at calendar control that Ms. Heard
18 had merely made a pledge that she intended to
19 honor in the future. That's a lie. She said she
20 had donated that money, and that's material. And
21 she said it under oath, your Honor. She committed
22 perjury in London when she said in her third

1 witness statement, dated February 26th, 2020,
2 submitted to the High Court of Justice in London
3 and on which Sir Justice Nicol relied in his
4 opinion, quote, "I remained financially
5 independent from him," meaning Mr. Depp, "for the
6 whole time we were together, and the entire amount
7 of my divorce settlement was donated to charity,"
8 unquote. That was her sworn testimony before the
9 Court.

10 Your Honor, after committing perjury,
11 Ms. Heard has, in the last several months, taken
12 Herculean steps to hide her perjury. She filed a
13 motion to quash our subpoena to the CHLA in Los
14 Angeles, which Judge Bowick denied, sanctioning
15 Ms. Heard and her counsel. And then she took a
16 writ of appeal to the Court of Appeals in
17 California, which the Court denied last Friday.
18 She's clearly trying to run out the clock and run
19 out -- run out the clock in London and run out the
20 clock here.

21 Because Mr. Depp's appeal is due on
22 Monday, December 21, three days from now, we

1 respectfully request that as to this request only,
2 Ms. Heard be ordered to produce all responsive
3 documents to RFPs 43 through 47, including what
4 I've described today, by no later than noon
5 Eastern Standard Time this Monday, December 21,
6 and/or to certify by sworn declaration by noon
7 Monday that she failed to honor her charitable
8 pledges to the CHLA or the ACLU.

9 She should not be rewarded for committing
10 perjury and engaging in -- in dilatory tactics
11 which spent -- Mr. Depp has spent thousands of
12 dollars chasing down the CHLA and the ACLU. And,
13 your Honor, she can put a stop to that or the
14 Court can put a stop to that by ordering her to do
15 the right thing by noon on Monday.

16 Fifth and finally, your Honor, plaintiff
17 requests that the Court order Ms. Heard to
18 supplement her responses to plaintiff's second set
19 of interrogatories, numbers 1, 7, 8, and 9, on or
20 before January 4th, 2021. There is no exigency
21 there, but as your Honor has seen, she merely
22 needs to identify the witnesses and contact

1 information, tell us under oath the romantic
2 partners for the past ten years, any separation
3 agreement she's had with those romantic partners,
4 male or female, and document information relating
5 to allegations of physical violence, abuse, and
6 destruction of property by her, as in the instance
7 where she was arrested for assaulting Tasya Van
8 Ree.

9 And, your Honor, I would respectfully
10 reserve a minute or two for rebuttal. Thank you,
11 your Honor.

12 THE COURT: All right. Thank you.

13 Mr. Rottenborn, go ahead.

14 MR. ROTTENBORN: Good morning, Judge
15 White. Ben Rottenborn here on behalf of Defendant
16 Amber Heard.

17 I'll take the issues in the same order
18 that Mr. Chew did.

19 With respect to the arrest record sought
20 in the second RFP number 7, your Honor, we
21 acknowledge that the scope of discovery in
22 Virginia is, of course, broader than the scope of

1 admissibility, but there is no scenario in which
2 arrest records are possibly admissible, only
3 convictions, and even then, only the fact of
4 convictions, not the underlying circumstances, in
5 most cases.

6 And in this case, the claim is whether or
7 not -- Mr. Depp's claim is whether or not Mr. Depp
8 abused Ms. Heard. So Ms. Heard's arrest records
9 have no relevance whatsoever to that,
10 notwithstanding the fact that Mr. Depp chose to
11 lard up his complaint with allegations of that
12 type.

13 The counterclaim that we've asserted is
14 about Mr. Depp's and his agent's statement that
15 Ms. Heard was a hoax artist or a perjurer or a
16 liar for telling the truth that she was abused and
17 then about those efforts to harm her through an
18 online smear campaign. So neither of the claim
19 nor the counterclaim have anything to do with
20 Ms. Heard's conduct or past arrests, and this is
21 just a -- Mr. Depp is attempting to turn this into
22 a side show.

1 And I want to be very clear because this
2 is kind of a theme through most of these today, is
3 that Mr. Depp and Ms. Heard are not similarly
4 situated here. And what they have tried to do is
5 turn some of our requests to them back on
6 Ms. Heard, some of the requests that your Honor
7 has denied motions on, and we understand that and
8 respect that, but they are not similarly situated
9 here. What's on trial here is Mr. Depp's conduct
10 toward Ms. Heard. So none of those things involve
11 whether Ms. Heard was ever arrested, not even
12 remotely.

13 The second category of information is --
14 that they seek are in second RFP 23, third RFP 50
15 and 51, are extremely overbroad requests relating
16 to every communication and document relating to
17 anything that Ms. Heard's side may have had with
18 The Sun or NGN, the Sun's parent company in
19 London.

20 And, first of all, your Honor, these
21 couldn't be broader. Not only do they encompass
22 lots of totally irrelevant things like travel

1 plans, communications regarding Ms. Heard's COVID
2 quarantine protocols when she was in London for
3 two weeks before the trial, logistics for her
4 testimony. All of those things are swept up in
5 these requests. But the communications do fall
6 squarely within the common interest privilege, any
7 of the substantive communications that they're
8 talking about, your Honor.

9 What they neglect -- this isn't about
10 Ms. Heard trying to protect herself from negative
11 publicity in London. Your Honor, Ms. Heard --
12 Mr. Depp chose to sue both The Sun, and its parent
13 company NGN, and Ms. Heard for the exact same
14 underlying facts, which is whether or not he
15 abused her.

16 Both of these cases have been pending at
17 the exact same time. Ms. Heard has been
18 represented by counsel. And both Ms. Heard and
19 The Sun and their counsel have a common interest
20 in assisting in the defense of these two cases
21 because there is an identity of the factual issues
22 here.

1 And as your Honor has seen, there's been
2 an imbalance of what's been produced in both cases
3 by Mr. Depp. And, so, communications between
4 Ms. Heard and The Sun, whether through counsel or
5 directly at the direction of counsel, which would
6 be underlying work product and/or underlying
7 attorney-client privilege, which, obviously, you
8 need one of those two things or another privilege
9 in order to then assert the common interests
10 privilege, but any of the substantive
11 communications are covered by those two things.

12 And, you know, again, Mr. Depp is focussed
13 on the fact that Ms. Heard was just a witness in
14 the U.K. case, but he cites no law, and we've been
15 able to find none, that says when there's two
16 cases that are based -- brought by the same person
17 based on the same underlying factual predicate,
18 that the common interest privilege somehow doesn't
19 apply.

20 With respect to the third category, your
21 Honor, these are communications -- the third RFP
22 42, 43, and 52, these are communications not only

1 with Ms. Heard -- between Ms. Heard and her
2 current girlfriend, Bianca Butti, but
3 communications -- the third RFP 43 says, "all
4 communications between you and any other person
5 that refer or relate to your relationship with
6 Mr. Depp," and then there's some "including,
7 without limitation" language.

8 Third RFP 52 says, "all communications
9 that refer, reflect, or relate to your
10 relationship with Mr. Depp."

11 As -- as they've argued numerous times in
12 response to requests of ours, some of which your
13 Honor has found to be overbroad, the relationship
14 covers a multi-year span. There's no time
15 limitation on here. There's no subject matter
16 limitation. It's, basically, saying, "Anything
17 that possibly relates to your relationship we need
18 over a multi-year time period," and that's just
19 precisely the type of overbroad request that the
20 Court has denied as recently as the November 20th
21 hearing on our motion to compel. They would
22 capture documents that have absolutely nothing to

1 do with this case, which is about whether or not
2 Mr. Depp abused Ms. Heard.

3 The next category of documents, your
4 Honor, relates to this pledge to donate money from
5 the divorce settlement to -- to two organizations.
6 You know, your Honor, this is -- your Honor's
7 already remarked that we're not relitigating the
8 divorce here.

9 What they're trying to do is to take out-
10 of-court statements that Ms. Heard has allegedly
11 made in these press articles that they attach as
12 exhibits and to test the veracity of those
13 statements in a case that revolves around whether
14 or not Mr. Depp abused Ms. Heard. And Mr. Depp
15 says he wants to test the truth of those
16 statements -- they're very bare in their
17 motivations here, your Honor -- but that is not
18 relevant.

19 Setting aside the fact that it's
20 commonplace to give multi-year gifts through
21 pledges, it's not even remotely relevant to try to
22 test the veracity of those statements that

1 Ms. Heard had -- had made in public that have
2 nothing to do with this case.

3 The Court's repeatedly remarked it does
4 not want this trial to be a side show, but that's
5 exactly what Mr. Depp wants to do here. He wants
6 to try to test the issue of whether these out-of-
7 court statements that do not form the basis of the
8 defamation claim are true or false, and that's
9 just far beyond the scope of this -- of this case.

10 This is a prime example of wanting to try
11 to bring in and retry this divorce on unrelated
12 issues. It's these allegations of what
13 Mr. Heard -- Mr. Depp says in his brief he wants
14 to contend. He wants to rebut these. They're
15 found nowhere in his complaint.

16 He's just simply trying to take discovery
17 on irrelevant and unrelated matters because he's
18 come up with this new theory that he wants to
19 impeach Ms. Heard's credibility by showing that
20 unrelated out-of-court statements were not true.

21 But in the exhibit that I submitted
22 yesterday, your Honor, which is CHLA document

1 number 2, Mr. Depp -- his own accountant sent
2 letters acknowledging that these gifts were to be
3 fulfilled over a multi-year period in installments
4 to honor the full amount Ms. Heard's pledged gift.
5 So they've know for years, by their own admission,
6 that this gift would be paid in installments,
7 which is the way that large donations are
8 typically made.

9 As I understand it, a significant portion
10 of those pledges have been fulfilled, and to the
11 extent they haven't been fully fulfilled, there's
12 a multi-year process through which Ms. Heard can
13 fulfill them, and she certainly intends to do
14 that, but when you're sued for defamation based on
15 an article that appears in the Washington Post,
16 Ms. Heard spent a significant amount of money on
17 this defense, and -- and what they're trying to do
18 is criticize Ms. Heard for giving a significant
19 amount to charity and pledging a significant
20 amount to charity, but taking a pledge that's
21 going to take some time to pay off, which she
22 certainly intends to do.

1 But this lawsuit, which Mr. Depp has
2 brought, should not be, you know, to the extent
3 that that has -- that that has impacted the speed
4 with which a pledge can be fulfilled, should not
5 be -- when Mr. Depp is the architect of that
6 inability to complete a pledge earlier and it's on
7 a totally unrelated issue, it should not be
8 compelled and certainly at all here, and which is
9 they're trying to make this about this side show
10 about what -- what was done with these pledges,
11 which is so far afield from this case, your Honor.

12 The last category of documents is these
13 interrogatories 7, 8, and 9, which is information
14 about witness -- or romantic partners and
15 agreements with romantic partners. Again, none of
16 these are relevant. The parties are differently
17 situated.

18 The fact that Ms. Heard has filed a
19 counterclaim for defamation against Mr. Depp has
20 nothing to do with Ms. Heard's conduct towards
21 Mr. Depp. It has to do with Mr. Depp calling her
22 a liar or saying that she was abused by him. So

1 not only has -- have Ms. Heard's discovery
2 response -- discovery requests been limited in
3 this regard, I mean they're seeking documents
4 going back 15 years here, your Honor, but the
5 parties are totally differently situated.

6 It's Mr. Depp's conduct that's at issue in
7 this case. It's not Ms. Heard's. And on that
8 basis, we ask that the Court deny all of these
9 requests.

10 And the last category, I believe
11 interrogatory 1 they sought for witness
12 information, and which my understanding is that
13 we've already supplemented that, so I'm not sure
14 if Mr. Chew mentioned that, but I don't believe
15 that that's -- I believe that issue is mooted.

16 So for all those reasons, your Honor, we'd
17 ask that the Court deny Mr. Depp's motion to
18 compel in its entirety. Thank you.

19 THE COURT: All right. Mister --

20 MR. CHEW: Thank you, your Honor. Very
21 briefly, your Honor, taking the points in order
22 again, Ms. Heard's violence is very much at issue

1 in the complaint, cited paragraphs 6, 15, 24
2 through 31.

3 Mr. Rottenborn -- Mr. Rottenborn overlooks
4 the fact that count two of Ms. Heard's
5 counterclaims are eight alleged statements --
6 allegedly defamatory statements, and he wrote --
7 or his counsel -- co-counsel wrote in a brief as
8 recently as September, quote, "In a defamation
9 case, prior acts that bear on a plaintiff's
10 character and modus operandi are relevant."

11 So what's -- clearly, your Honor, we're
12 entitled to that the same way they were entitled
13 to Mr. Depp's records.

14 With respect to the common interest
15 doctrine, clearly the legal criteria do not apply.
16 There's been no proffer that any legal advice was
17 proffered by The Sun's counsel to Ms. Heard, which
18 is a prerequisite under the In Re Zetia case. And
19 we do have authority, the U.S. versus Aramony
20 case, that said where there -- where, as here,
21 there was no potential liability for Ms. Heard in
22 London, that case has no legal impact on this case

1 at all.

2 As Mr. Rottenborn is aware, there was no
3 jeopardy at all for Ms. Heard in that case. It
4 was her own preference to do that. There's no
5 common interest doctrine applicable there.

6 And, finally, your Honor, I mean she
7 thought that the charitable donations was relevant
8 enough that she put it in her testimony in London.
9 Nobody put that in her testimony. She chose to
10 put in the testimony, quote, "I remained -- the
11 entire amount of my divorce settlement was donated
12 to charity."

13 That was a material lie that she chose was
14 material. The whole point -- the whole allegation
15 of abuse was an extortion attempt, a successful
16 one. And when she was asked about it, "Why would
17 you take money from an abuser," she had to make up
18 another lie to appeal to the Me Too movement, "Oh,
19 I didn't take money from the abuser."

20 Of course, that's how she got the money in
21 the first place, is making the false allegation of
22 abuse, so she had to make up another lie, which is

1 a problem with lying, and she had to say that, "I
2 gave it away to other victims like me,
3 \$7 million." That's a lie. And the Court in Los
4 Angeles, Judge Bowick, was incensed by that. I
5 think this case -- Court should be incensed by
6 that.

7 She can still make her argument that
8 she -- that somehow, "I donated to charity," you
9 know, didn't mean what it said. She's able to
10 make that argument, but she should be compelled to
11 produce those documents by noon Monday or just to
12 certify that she didn't do it, she didn't honor
13 her pledges. And, your Honor, that's only fair,
14 your Honor.

15 Thank you, your Honor.

16 THE COURT: All right. Thank you both.

17 With regards to the first category, second
18 request for production number 7 as to the arrest
19 records, that motion to compel is granted. I
20 understand that it may or may not be admissible.
21 Whether it leads to something or not is such that
22 it's appropriate that it be discovered.

1 Second category, that is second RFP number
2 23 and the third RFPs 50 and 51, the motion to
3 compel there is denied. I find that is overbroad.

4 And as to number three, the third RFP, I
5 think it's number 42, 43, and 52, that is also
6 overruled as being overbroad -- I'm sorry -- and
7 not compelled. Denied.

8 As to number four, which is RFP 44, 45,
9 46, and 47, I agree we're not going to relitigate
10 the divorce, but the issue of the \$7 million
11 donation or pledge or whatever it actually is, I
12 think that is now subject to discovery, so the
13 motion is granted as to that. It's denied as to
14 how she spent her money and those type of things,
15 but as to that specific donation, that's
16 compelled.

17 With regards to the fifth category, second
18 interrogatory number 1, 7, 8, and 9,
19 supplementation is required by the Rules of Court.
20 The Court doesn't generally set a date for that
21 supplementation because the Rules of Court compel
22 the parties to do it. So that's denied as to

1 setting a specific time.

2 With regards to the time for these things
3 to be compelled, Mr. Rottenborn, do you want to
4 address the time? I know that -- I don't think
5 you addressed that earlier.

6 MR. ROTTENBORN: Yes, your Honor. And
7 just so I understand, as I'm answering that,
8 interrogatories 1, 7, 8, and 9, you're -- you're
9 saying we have to supplement, but for all of them?
10 Is that -- or --

11 THE COURT: The Rules of Court require you
12 to supplement them, but you don't need a motion
13 for that to be the case. Everybody is required to
14 do that anyway, so I don't need to set a time on
15 that. But on the other hand, I --

16 MR. ROTTENBORN: So -- sorry.

17 THE COURT: -- respect -- I respect you're
18 not going to sit on information and, so, I'm sure
19 you'll follow the Rules of Professionalism as to
20 that.

21 MR. ROTTENBORN: Of course, your Honor. I
22 just wanted to make sure that 7, 8 and 9 -- I

1 think that our objections were that it was -- it
2 was --

3 THE COURT: Well, I guess the only one I
4 had a problem with is the separation agreements.
5 Allegations of abuse is fine. Those romantic
6 partners, that's -- identities are fine.
7 Separation agreements, it's hard for me to
8 understand how that comes in there. So I
9 appreciate your raising that. It doesn't apply to
10 the separation agreements.

11 MR. ROTTENBORN: Okay. Thank you, your
12 Honor. As to the time frame for -- for really the
13 first category that -- the arrest records and
14 the -- the second category, the charitable
15 donations, we certainly think that we should
16 get -- you know, I believe, in the past, you know,
17 Mr. Depp has taken 30 days or more to supplement
18 responses. I don't know -- I can't imagine that
19 there's a lot of documents, particularly with the
20 way that your Honor limited the -- the charitable
21 donations issue, but, you know, just given the
22 fact that we're coming up right on the holidays, I

1 don't know my client's schedule, we'll have to
2 confer with co-counsel, I would ask -- today is
3 December 18th -- you know, I would ask for at
4 least 30 days to produce documents that are being
5 compelled today in both categories.

6 THE COURT: Mr. Rottenborn, your client
7 has already apparently testified in England that
8 there was one arrest. That shouldn't take five
9 minutes' to figure that one out, I would guess.

10 As to the charitable matters and the 7
11 million, you all have been litigating that for a
12 long time. It's hard for me to understand how
13 that could take very long.

14 MR. ROTTENBORN: And it may -- it may well
15 not, your Honor. I just wanted to make sure that
16 I didn't prejudice my client by agreeing to
17 something that was far too short. We'll certainly
18 respect whatever time frame the Court orders.

19 I do think that asking at noon on a Friday
20 for us to submit something by Monday so that they
21 can use it in a case in England, I think that's
22 inappropriate. We'd ask for certainly more time,

1 at least until January 4th on that, like the first
2 one.

3 THE COURT: Okay. I agree with you. I
4 think that's artificial to try to accommodate
5 another court with a case pending here.
6 January 4th.

7 MR. ROTTENBORN: Thank you, your Honor.

8 THE COURT: All right. Can you all get an
9 order to me reflecting the Court's ruling, if you
10 don't mind.

11 MR. CHEW: Yes, your Honor. May I ask, as
12 we've done in the past, Ms. Wilson is an
13 outstanding reporter -- reporter, and I'm going to
14 ask her to please kindly expedite that. And may
15 we submit a proposed order to you Monday after
16 we've had the benefit of Ms. Wilson's transcript?

17 THE COURT: Sure. No problem.

18 MR. CHEW: Thank you, your Honor.

19 THE COURT: Thank you all. Hope everybody
20 stays safe.

21 MR. CHEW: Thank you.

22 MR. ROTTENBORN: Thank you, your Honor.

1 You, too.

2 (Off the record at 11:58 a.m. ET.)

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1 CERTIFICATE OF SHORTHAND REPORTER-E-NOTARY PUBLIC
2 I, Victoria Lynn Wilson, the officer
3 before whom the foregoing proceedings were taken,
4 do hereby certify that the foregoing transcript is
5 a true and correct record of the proceedings; that
6 said proceedings were taken by me stenographically
7 and thereafter reduced to typewriting under my
8 direction; and that I am neither counsel for,
9 related to, nor employed by any of the parties to
10 this case and have no interest, financial or
11 otherwise, in its outcome.

12 IN WITNESS WHEREOF, I have hereunto set my
13 hand and affixed my notarial seal this 18th day of
14 December 2020.

15 My commission expires May 31, 2023.

16

17 

18

19 _____
20 VICTORIA LYNN WILSON
21 E-NOTARY PUBLIC IN AND FOR
22 THE COMMONWEALTH OF VIRGINIA

EXHIBIT B

Chew, Benjamin G.

From: Chew, Benjamin G.
Sent: Tuesday, December 22, 2020 11:39 AM
To: Rottenborn, Ben
Cc: Vasquez, Camille M.; Treece, Joshua; Elaine Bredehoft
Subject: RE: URGENT Order (proposed) Mot to Compel 12-18-20__Depp Edits.DOCX

Ben,

It may be a mistake to speculate about what the Court cares about one way or the other. I promised the Court that the parties would present a proposed Order yesterday, a draft of which we sent you on Sunday.

You argued the motion, not Ms. Bredehoft, who did not even attend the argument. Moreover, Ms. Bredehoft has had time to respond several times on other issues in this case over the past few days, so you and she simply decided that this is not a priority. Finally, you just indicated that, despite our incorporating virtually all of your edits, Ms. Heard, who has a bad track record on the issue of charitable contributions, and the confidential treatment of same, does not agree with our proposed Order.

Accordingly, we will submit and tell the Court that you would not agree.

Best regards,

Ben

brownrudnick

Benjamin G. Chew

Partner

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Fellow,
American College
of Trial Lawyers

Please consider the environment before printing this e-mail

From: Rottenborn, Ben <brottenborn@woodsrogers.com>
Sent: Tuesday, December 22, 2020 11:09 AM
To: Chew, Benjamin G. <BChew@brownrudnick.com>
Cc: Vasquez, Camille M. <CVasquez@brownrudnick.com>; Treece, Joshua <jtreece@woodsrogers.com>; Elaine Bredehoft <ebredehoft@charlsonbredehoft.com>
Subject: RE: URGENT Order (proposed) Mot to Compel 12-18-20__Depp Edits.DOCX

CAUTION: External E-mail. Use caution accessing links or attachments.

Ben,

I don't understand the great urgency. Judge White is not going to care whether we submit it by 2:00 or 5:00 or midday tomorrow. Elaine is in her last day of arbitration, and she and I need to discuss. We will be back in touch as soon as we're able to after that. I object to you saying that we did not have time to respond. That's false. We did respond yesterday and asked for the courtesy of responding today to your second round of edits. And those edits did not reflect the Court's ruling. As Judge White has admonished the parties numerous times, he only rules on the motion that is in front of him. To the extent you are trying to make this order broader than the discovery requests on which you moved to compel, that is inappropriate.

I'll talk to Elaine as soon as she's out of her arbitration today, and we will get back to you.

Thanks,
Ben

From: Chew, Benjamin G. <BCheW@brownrudnick.com>
Sent: Tuesday, December 22, 2020 11:03 AM
To: Rottenborn, Ben <brottenborn@woodsrogers.com>
Cc: Vasquez, Camille M. <CVasquez@brownrudnick.com>; Treece, Joshua <jtreece@woodsrogers.com>; Elaine Bredehoft <ebredehoft@charlsonbredehoft.com>
Subject: URGENT Order (proposed) Mot to Compel 12-18-20__Depp Edits.DOCX

****EXTERNAL EMAIL****

Ben,

Thanks for your message. Understand your situation, but we promised the Court we would submit yesterday.

Accordingly, I would ask that you please respond by 2:00 p.m. or we will unilaterally submit our proposed Order- which accurately reflects the ruling- advising that you all did not have time to respond.

Best regards,

Ben

Sent from my iPhone

On Dec 21, 2020, at 7:39 PM, Rottenborn, Ben <brottenborn@woodsrogers.com> wrote:

CAUTION: External E-mail. Use caution accessing links or attachments.

Ben,

At the risk of (another) year with coal in my stocking, let me discuss with our side and I'll get back to you tomorrow with our thoughts. It has been a crazy day here for me on another matter.

Thanks,
Ben

Ben Rottenborn
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P Please consider the environment before printing this email

From: Chew, Benjamin G. <BCheW@brownrudnick.com>
Sent: Monday, December 21, 2020 6:40 PM
To: Vasquez, Camille M. <CVasquez@brownrudnick.com>; Rottenborn, Ben <brottenborn@woodsrogers.com>
Cc: Treece, Joshua <jtreece@woodsrogers.com>; Elaine Bredehoft <ebredehoft@charlsonbredehoft.com>
Subject: Re: Order (proposed) Mot to Compel 12-18-20__Depp Edits.DOCX

EXTERNAL EMAIL

Ben,

Hope to hear from you soon, as I have a direct line into Santa and he is saying something about “coal in the stocking.”

Just sayin’,

Ben

Sent from my iPhone

On Dec 21, 2020, at 3:55 PM, Chew, Benjamin G.
<BCheW@brownrudnick.com<<mailto:BCheW@brownrudnick.com>>> wrote:

Ben,

Hope your deposition went well. (On my home front, Coco continues to growl at Chewbacca, but there are more moments of amity, as I think he is growing on her.)

Please let me know if I am authorized to sign your name to this “by permission,” as I would like to send this to Ms. Davis in Chambers.

You will see that we accepted virtually all of your proposed edits, but documents relating to the anonymous donations in Ms. Heard's honor are clearly germane and were explicitly part of the argument on both sides.

Best regards,

Ben

<image001.jpg>

Benjamin G. Chew
Partner

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T: 202-536-1785
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bchew@brownrudnick.com<mailto:bchew@brownrudnick.com<mailto:bchew@brownrudnick.com%3cmailto:bchew@brownrudnick.com>>>

www.brownrudnick.com<<http://www.brownrudnick.com>>><<http://www.brownrudnick.com/><<http://www.brownrudnick.com/>>>>

<image002.jpg>

Please consider the environment before printing this e-mail

From: Vasquez, Camille M. <CVasquez@brownrudnick.com<mailto:CVasquez@brownrudnick.com>>>
Sent: Monday, December 21, 2020 3:48 PM
To: brottenborn@woodsrogers.com<mailto:brottenborn@woodsrogers.com>
Cc: Treece, Joshua <jtreece@woodsrogers.com<mailto:jtreece@woodsrogers.com>>>; Elaine Bredehoft <ebredehoft@charlsonbredehoft.com<mailto:ebredehoft@charlsonbredehoft.com>>>; Chew, Benjamin G. <BCheW@brownrudnick.com<mailto:BCheW@brownrudnick.com>>>
Subject: Order (proposed) Mot to Compel 12-18-20__Depp Edits.DOCX

Ben,

Attached is the proposed order. Ben is prepared to discuss this version at your convenience on his office line: 202-536-1785.

<image001.jpg>

Camille M. Vasquez
Associate

Brown Rudnick LLP
2211 Michelson Drive
Seventh Floor
Irvine, CA 92612

T: 949-440-0240

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cvasquez@brownrudnick.com<mailto:c@brownrudnick.com<mailto:cvasquez@brownrudnick.com%3cmailto:c@brownrudnick.com>>>

www.brownrudnick.com<http://www.brownrudnick.com>><http://www.brownrudnick.com/<http://www.brownrudnick.com/>>

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To the extent Brown Rudnick is a "data controller" of the "personal data" (as each term is defined in the European General Data Protection Regulation) you have provided to us in this and other communications between us, please see our privacy statement and summary [here](#) which sets out details of the data controller, the personal data we have collected, the purposes for which we use it (including any legitimate interests on which we rely), the persons to whom we may transfer the data and how we intend to transfer it outside the European Economic Area.

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

JOHN C. DEPP, II,

Plaintiff,

v.

AMBER LAURA HEARD,

Defendant.

Civil Action No.: CL-2019-0002911

ORDER

THIS MATTER CAME TO BE HEARD upon Plaintiff John C. Depp, II's, ("Plaintiff" or "Mr. Depp") Motion to Compel Defendant Amber Laura Heard ("Defendant"), pursuant to Rule 4:12 of the Rules of the Virginia Supreme Court, to produce all non-privileged documents in response to Plaintiff's Second and Third Sets of Requests for Production of Documents; and supplement Defendant's responses to Plaintiffs Second Interrogatories; and upon consideration of the briefs, exhibits and argument of counsel, it is hereby

ORDERED that Plaintiff's Motion is **GRANTED** in part and **DENIED** in part; and it is further

ORDERED that Defendant Amber Laura Heard shall produce all documents in her possession, custody, and control in response to Plaintiff's Second Set of Request No. 7 on or before January 4, 2021; and it is further

ORDERED that Plaintiff's Motion to Compel No. 23 of the Plaintiff's Second Set of Requests and Nos. 50 and 51 of the Third Set of Requests is denied, for the reasons set forth at the hearing; and it is further

ORDERED that Plaintiff's Motion to Compel Nos. 42, 43 and 52 of the Plaintiff's Third Set of Requests is denied, for the reasons set forth at the hearing; and it is further

ORDERED that Defendant shall produce all documents in her possession, custody, and control in response to Plaintiff's Third Set of Requests for Production of Documents Nos. 44, 45 and 47 and all documents relating to the anonymous donations of \$500,000 made in 2017 and \$250,000 made in 2018 to Children's Hospital Los Angeles "in honor of Amber Heard," on or before January 4, 2021; and it is further

ORDERED that Defendant shall supplement Defendant's responses to Plaintiff's Second Interrogatories Nos. 1, 7 and 9.

SO ORDERED.

Dated: December ___, 2020

Hon. Bruce D. White
Chief Judge, Fairfax County Circuit Court

Compliance with Rule 1:13 requiring the endorsement of counsel of record is modified by the Court, in its discretion, to permit the submission of the following electronic signatures of counsel in lieu of an original endorsement or dispensing with endorsement.

WE ASK FOR THIS:



Benjamin G. Chew (VSB 29113)
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cvasquez@brownrudnick.com

Counsel for Plaintiff John C. Depp, II

SEEN AND EXCEPTED TO FOR THE REASONS SET FORTH IN THE MEMORANDUM
AND AT THE HEARING:

J. Benjamin Rottenborn (VSB No. 84796)
Joshua R. Treece (VSB No. 79149)
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ebredehoft@cbcblaw.com
anadelhaft@cbcblaw.com
dmurphy@cbcblaw.com

Counsel to Defendant Amber Laura Heard



Pledge Form

I am / we are pleased to pledge the following leadership support to the ACLU's Centennial Campaign.

NAME(S) Amber Heard c/o Pierce O'Donnell

ADDRESS Greenberg Glusker Fields Claman & Machtinger LLP
1900 Avenue of the Stars, 21st Floor

CITY/STATE/ZIP Los Angeles, CA 90067 **PHONE** 310-553-3610

EMAIL _____ HOME OFFICE CELL

I / We pledge to make a gift to the Centennial Campaign in the amount of	<u>\$3,500,000.00</u>
This pledge is to be fulfilled over a period of	<u>10</u> years.
Payments will begin on the following date:	<u>8/19/2016</u>
Please direct this gift to:	
<u>\$3,500,000.00</u> <input checked="" type="checkbox"/> the ACLU Foundation (tax-deductible ¹)	
\$ _____ <input type="checkbox"/> the ACLU (non-tax-deductible)	
I / We pledge to make a gift in my / our will or other estate plan in the amount of	\$ _____
I / We intend to update estate documents by the following date:	_____
TOTAL COMMITMENT*	<u>\$3,500.00.00</u>

*The ACLU will recognize your Total Commitment in campaign publications unless you choose to remain anonymous or indicate another amount for which you would like to be recognized.

For Gift Recognition purposes, please list me / us as follows:

Amber Heard

I / We prefer to be listed as Anonymous

¹ All or a portion of this gift may be deductible for federal income tax purposes, subject to certain limitations.

In recognition of your generous support...

we would be honored to list you among our leading supporters in select
ACLU publications such as our Annual Report.

We will recognize your total ACLU giving in 2016 and list you as:

Amber Heard

If you would like to change this listing, please contact Samantha Jagessar
at 212-549-2516 or sjagessar@aclu.org.

Thank you for supporting the critical work of the ACLU.



ANTHONY D. ROMERO
EXECUTIVE DIRECTOR



September 9, 2016

Ms. Amber Heard
c/o Pierce O'Donnell
Greenberg Glusker Fields Claman & Machtinger LLP
1900 Avenue of the Stars, 21st Floor
Los Angeles, CA 90067

Dear Amber,

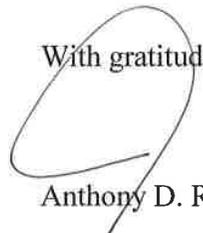
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
NATIONAL OFFICE
125 BROAD STREET, 18TH FL
NEW YORK, NY 10004-2400
T/212 549 2500
WWW.ACLU.ORG

Thank you for your wonderful gift of \$350,000 to the ACLU, the first installment of your very generous pledge of \$3.5 million. I am honored by your vote of confidence in our work, especially our efforts on behalf of domestic violence victims. And I'm incredibly grateful that you have spoken out publicly on this critical issue.

For nearly 100 years, the ACLU has been tireless in its effort to protect those who cannot protect themselves. With you by our side, we will continue to work with fierce determination to advance civil liberties, today and for years to come.

Thank you for all that you have done for us — not only for your generous financial support, but also for your leadership as a public figure. Amber, I so look forward to meeting and thanking you in person. I hope you have a wonderful fall.

With gratitude,



Anthony D. Romero

*Thank you
so very
much*

From: arp <arp@aclu.org>
Subject: Re: Saw Elon yesterday
Date: June 20, 2017 at 3:16:11 PM PDT
To: A H <arrowsarc@icloud.com>

Great. So the \$500k is yours, right? And I will count the Depp gift toward your pledge, right? Want to make sure I code them right in the database.

Had a great meeting with Elon. Love that guy. Love you too.

Sent from my iPhone

On Jun 20, 2017, at 2:05 PM, A H <arrowsarc@icloud.com> wrote:

Yes! sorry!
Was not meant to go through vanguard.

I'm so sorry that I missed you guys too!

I'm back in LA to see E and he said he had a great talk with you.

Sorry I missed it!

I back off to Australia in a couple of days.

Hope our paths cross soon!

I'm really looking forward to finally meeting you.

Sent from my iPhone

On Jun 20, 2017, at 10:59 AM, arp <arp@aclu.org> wrote:

Had a lovely time. Missed you.

He mentioned that you may have sent an additional \$500 k gift. I checked with the office today and we did get an anonymous \$500K check from Vanguard Charitable on 6/9. If this is your gift, I'm guessing you want me to apply that amount to the overall pledge.

If so, we have received the \$350k from you and this \$500k gift. Also, I think we discussed that we should count the \$100k payment we received from Depp toward your pledge amount. That would bring you up to \$950k.

Let me know if I got this right.

Hope you are well. Sending my best.

Anthony

Sent from my iPhone

Gordon Rees Scully Mansukhani, LLP
633 West Fifth Street, 52nd floor
Los Angeles, CA 90071

1 Craig J. Mariam (SBN: 225280)
cmariam@grsm.com
2 John P. Cogger (SBN: 172808)
jcogger@grsm.com
3 Kristin A. Blocher (SBN: 283730)
kblocher@grsm.com
4 GORDON REES SCULLY MANSUKHANI, LLP
633 West Fifth Street, 52nd floor
5 Los Angeles, CA 90071
Telephone: (213) 576-5000
6 Facsimile: (877) 306-0043

7 Attorneys for Petitioner Amber Laura Heard
8

9 **SUPERIOR COURT OF CALIFORNIA**

10 **COUNTY OF LOS ANGELES**

11 AMBER LAURA HEARD,) CASE NO. 19STCP04763
12)
13) Petitioner,) Judge Stephanie M. Bowick
14)) Dept. 19
15) v.)
16)) **PETITION TO QUASH**
17)) **PLAINTIFF'S CIVIL SUBPOENA TO**
18)) **CHILDREN'S HOSPITAL LOS**
19)) **ANGELES; SEPARATE**
20)) **STATEMENT OF DISPUTED**
21)) **MATTERS**
22))
23)) Filed by Petitioner/Defendant Who is a
24)) Party to the Out-of-State Case
25))
26)) Fairfax County Circuit Court, Virginia
27)) Case No.: CL-2019-0002911
28)) Hon. Bruce D. White Presiding
29))
30)) Hearing Date: February 3, 2021
31)) Time: 8:30 a.m.
32)) Judge Stephanie M. Bowick
33)) Dept.: 19
34))
35)) **RES ID: 599968275850**

1 **I. INTRODUCTION**

2 Defendant/Petitioner AMBER LAURA HEARD (“Ms. Heard”) hereby respectfully
3 requests that this Court quash Plaintiff JOHN C. DEPP II’s (“Plaintiff”) subpoena to Non-Party
4 Children’s Hospital Los Angeles (“Children’s Hospital”) in its entirety as the documents sought
5 are completely irrelevant to Plaintiff’s underlying lawsuit.

6 On July 27, 2020, Counsel for Ms. Heard met and conferred with Plaintiff’s Counsel in
7 good faith regarding the impropriety of the Subpoena. (Declaration of Craig J. Mariam in
8 Support of Petition to Quash (“Mariam Decl.”) at ¶ 4.) All counsel agreed that a resolution of the
9 issue was not attainable. (*Id.*)

10 **II. RELEVANT FACTS**

11 In the underlying lawsuit, *Depp v. Heard*, Case No. 2019-02911, filed in Fairfax County,
12 Virginia, Plaintiff alleges one cause of action for defamation. (Mariam Decl. at ¶ 2, Exhibit A.)
13 The complaint in that action specifies that “[t]his defamation action arises from an op-ed
14 published in the Washington Post by actress Amber Heard (‘Ms. Heard’)” in December 2018.
15 (Exhibit A, ¶¶ 1, 5.) Further, “[b]y this civil lawsuit, Mr. Depp seeks to restore his reputation
16 and establish Ms. Heard’s legal liability for continuing her campaign to push a false narrative
17 that he committed domestic violence against her.” (Exhibit A, ¶ 7.) Of note, the Complaint
18 concedes that “Mr. Depp was never mentioned by name” in the op-ed piece. (Exhibit A, ¶ 22.)

19 Plaintiff served Children’s Hospital with a Subpoena Duces Tecum to Person Under
20 Foreign Subpoena and Subpoena for Production of Business Records in Action Pending Outside
21 California (“the Subpoena”) on or about May 29, 2020. (Mariam Decl. at ¶ 3, Exhibit B.) The
22 Subpoena sought documents, records, electronically stored information, and communications
23 relating to donations made by Ms. Heard to Children’s Hospital and publicity related thereto, and
24 communications between Children’s Hospital and Ms. Heard regarding her relationship with,
25 and divorce from, Plaintiff (*Id.*) The specific requests are as follows:

26 ///

27 ///

28

1 **“REQUEST NO. 1:**

2 All DOCUMENTS that refer, reflect, or relate to any donations made to YOU or
3 for YOUR benefit by MS. HEARD, from January 1, 2016 through and including the
4 present.

5 **REQUEST NO. 2:**

6 All COMMUNICATIONS between YOU and MS. HEARD regarding any
7 donations made to YOU or for YOUR benefit by MS. HEARD, from January 1, 2016
8 through and including the present.

9 **REQUEST NO. 3:**

10 All COMMUNICATIONS between YOU and MS. HEARD regarding the
11 DIVORCE ACTION.

12 **REQUEST NO. 4:**

13 All COMMUNICATIONS between YOU and MS. HEARD regarding the
14 relationship between MR. DEPP and MS. HEARD.

15 **REQUEST NO. 5:**

16 All DOCUMENTS, including all COMMUNICATIONS, that refer, reflect, or relate to
17 any press releases, public statements, or other publicity related to any donations made
18 by MS. HEARD to YOU or for YOUR benefit, from January 1, 2016 through and
19 including the present.”

20 (Exhibit B.)

21 Nowhere in the Complaint or attachments thereto, which include various versions of the
22 specific op-ed, is there any allegation or defense made relative to any issue arising out of a
23 charitable donation in general, or, specifically to charitable donations to Children’s Hospital Los
24 Angeles. (See, Exhibit A.)

25 **III. LEGAL ARGUMENT**

26 If a subpoena requires the production of documents, the court, upon motion reasonably
27 made, including by a party, may make an order quashing the subpoena entirely, modifying it, or
28

1 directing compliance with it upon those terms or conditions as the court shall declare, including
2 protective orders. (Civil Code § 1987.1.) The court may make any other order as may be
3 appropriate to protect the person from unreasonable or oppressive demands, including
4 unreasonable violations of the right of privacy of the person. (*Id.*)

5 A petition to quash a subpoena for production of business records that relates to out-of-
6 state proceedings is governed by the Interstate and International Depositions and Discovery Act.
7 (Code Civ. Proc. § 2029.600) This section authorizes petitions to quash production of documents
8 called for in a subpoena, and otherwise applies California's discovery rules and principles to
9 subpoenas issued in actions pending outside of California. (*Id.*)

10 **A. The Documents Sought by Subpoena Are Completely Irrelevant to Plaintiff's**
11 **Lawsuit.**

12 Under California law, information sought through discovery must be “relevant to the
13 subject matter” of the pending action. (Code Civ. Proc. § 2017.010.) Code of Civil Procedure
14 §2017.010 states, in pertinent part:

15 Unless otherwise limited by order of the court in accordance with this title, any party
16 may obtain discovery regarding any matter, not privileged, that is relevant to the subject
17 matter involved in the pending action or to the determination of any motion made in that
18 action, if the matter either is itself admissible in evidence or appears reasonably
19 calculated to lead to the discovery of admissible evidence. Discovery may relate to the
20 claim or defense of the party seeking discovery or of any other party to the action.

21 Courts define “relevant evidence” as that which “tend[s] logically, naturally and by
22 reasonable inference to establish a material fact.” (See, *Brokopp v. Ford Motor Company* (1977)
23 71 Cal.App.3d 841, 853.) Information is “relevant to the subject matter” if its discovery would
24 tend to promote settlement or assist the party in preparing for trial. (*Norton v. Superior Court*
25 (Cal. App. 2d Dist. May 19, 1994), 24 Cal. App. 4th 1750.) Moreover, Courts require “an
26 affirmative showing of specific facts justifying discovery” to enforce a subpoena. (*Flora Crane*
27 *Service, Inc. v. Superior Court of San Francisco* (1965) 234 Cal.App.2d 767, 792 [upholding
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1 motion to quash subpoena].) It is not enough that the information sought may lead to relevant
2 and admissible evidence, the information sought must itself be relevant. (*Board of Trustees v.*
3 *Superior Court* (1981) 119 Cal.App.3d 516, 525.)

4 Plaintiff cannot make such an affirmative showing. The underlying lawsuit alleges
5 defamation in the context on one specific op-ed piece written by Ms. Heard relating to domestic
6 violence issues. (Mariam Decl. at ¶ 2, Exhibit A.) The Subpoena to Children’s Hospital does not
7 seek any information in any way related to physical abuse of Ms. Heard, does not relate to any
8 domestic abuse that is the subject of Plaintiff’s defamation lawsuit, and, does not seek
9 information that might lead to the discovery of admissible evidence in the pending defamation
10 action. (Mariam Decl. at ¶ 3, Exhibit B.)

11 Instead, the Subpoena requests information pertaining to unrelated charitable donations
12 made by Ms. Heard to Children’s Hospital, and communications about Ms. Heard’s relationship
13 with and/or divorce from Plaintiff. (*Id.*) The information sought from Children’s Hospital has
14 nothing to do with the allegations in the Complaint. Charitable contributions made by Ms. Heard
15 are not at issue in the lawsuit, nor can Plaintiff show that Ms. Heard’s charitable contributions
16 tend to “establish a material fact” in the defamation case that is specific to one op-ed piece
17 published in the Washington Post. There is no nexus between charitable donations to entities that
18 are not parties to this litigation and any claim that Plaintiff has alleged in this case. As such, the
19 records sought are entirely irrelevant to the claims at issue in this litigation and not a proper
20 matter of discovery.

21 Where discovery is unrelated to the subject matter of the litigation, courts have deemed
22 irrelevant inquiries improper. Courts have made such a determination in the context of inquiries
23 regarding a contract attorney’s hourly rates and profit margins in a legal malpractice claim
24 (*Shaffer v. Superior Court* (1995) 33 Cal. App. 4th 993, 1001), discovery was limited to a
25 specific relevant time frame regarding interpersonal relations in a claim regarding transmission
26 of communicable disease (*John B. v. Superior Court* (2006) 38 Cal.4th 1177, 1203), and,
27 discovery regarding a management entity’s clientele was disallowed in a lawsuit involving
28

1 alleged mismanagement of its client’s real estate portfolio (*Rockwell v. Bialer* (2013 LEXIS
2 14646, *3 (Cal. Super. San Mateo July 18, 2013))).

3 Courts routinely disallow discovery into issues unrelated to the subject matter of the
4 litigation. For example, in *Price v. Warner* (2006 LEXIS 54, *1 (Cal. Super. Alameda Sept. 14,
5 2006)), in which the complaint alleged exposure to asbestos resulting in mesothelioma, the Court
6 granted the plaintiff’s motion to quash defendant DaimlerChrysler Corporation’s subpoena for
7 production of a non-party’s DMV records. The court stated that the DMV records had “virtually
8 no relevance to any claim or defense” in that case. (*Id.*) That Court further offered that the
9 defendant could have obtained the information in a far less intrusive manner by asking questions
10 about the subject matter in her deposition, but failed to do so. (*Id.*)

11 And, in *Roman Catholic Archbishop of L.A. v. Hollister* (2017 LEXIS 9001, *1-24 (Cal.
12 Super. L.A. Sept. 25, 2017)) this Court granted motions to quash subpoenas issued to several
13 witnesses deeming the information sought irrelevant. In that action related to the transfer of a
14 particular property, this Court held that information pertaining to a separate property for which
15 the parties sought entitlements but for which neither party sought damages was irrelevant. (*Id.* at
16 *8.) Additionally, this Court noted that the documents should have been sought directly from the
17 parties rather than from nonparty witnesses. (*Id.*)

18 In ruling on discovery motions, courts normally balance the competing rights of a litigant
19 to discover relevant facts and the right of an individual to ‘maintain reasonable privacy.’ (*Valley*
20 *Bank of Nevada v. Superior Court* (1975) 15 Cal. 3d 652, 657; *Shaffer v. Superior Court* (1995)
21 33 Cal.App.4th 993, 999.) Even if the Court determined that information about Ms. Heard’s
22 charitable donations to Children’s Hospital were relevant to Plaintiff’s defamation claim, the
23 Court must then balance the Plaintiff’s right to discover these facts against Ms. Heard’s right to
24 privacy in personal, financial, and associational matters. The value of information about Ms.
25 Heard’s donations to help children obtain necessary health care to Plaintiff’s lawsuit about her
26 op-ed regarding domestic violence will be heavily outweighed by her fundamental right to
27 privacy.

28

1 In the instant matter, the subpoena seeks information beyond the issues raised in the
2 litigation, and which have “virtually no relevance to any claim or defense” in Plaintiff’s
3 defamation lawsuit. Plaintiff’s inquiries regarding charitable contributions and the parties’
4 divorce proceedings bear no relation to the Virginia action, as the newspaper article that forms
5 the basis for the complaint makes no mention of either. It is evident that Plaintiff seeks
6 discovery from third parties that are irrelevant to the Virginia proceedings, and are an attempt to
7 simply harass both Children’s Hospital and Ms. Heard.

8 **IV. CONCLUSION**

9 The information sought in Plaintiff’s subpoena is entirely unrelated to the Virginia
10 defamation action. For the reasons identified in this Petition, Plaintiff is not entitled to the
11 information sought, and the subpoena should be quashed. Ms. Heard respectfully asks that the
12 court quash the subpoena to Children’s Hospital Los Angeles.

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Dated: July 29, 2020

Respectfully submitted,

GORDON REES SCULLY
MANSUKHANI, LLP

By: 
Craig J. Mariam
John P. Cogger
Kristin A. Blocher
Attorneys for Petitioner Amber
Laura Heard

1 **SEPARATE STATEMENT OF DISPUTED MATTERS**

2 **Document Request No. 1:**

3 ALL DOCUMENTS that refer, reflect, or relate to any donations made by YOU or for
4 YOUR benefit by MS. HEARD, from January 1, 2016 through and including the present.

5 **Response to Request No. 1:**

6 The Request is improper as it seeks information not reasonably calculated to lead to the
7 discovery of admissible evidence in Plaintiff's action for Defamation, *Depp v. Heard*, Fairfax
8 County Circuit Court, Virginia, Case No. 2019-02911. (Code Civ. Proc §2017.010.)
9 Additionally, the request violates Ms. Heard's right to privacy ensured by the California
10 Constitution, Article 1. Further, the subpoena seeks information protected by the common
11 interest doctrine.

12 **Document Request No. 2:**

13 ALL COMMUNICATIONS between YOU and MS. HEARD regarding any donations
14 made to YOU or for YOUR benefit by MS. HEARD, from January 1, 2016 through and
15 including the present.

16 **Response to Request No. 2:**

17 The Request is improper as it seeks information not reasonably calculated to lead to the
18 discovery of admissible evidence in Plaintiff's action for Defamation, *Depp v. Heard*, Fairfax
19 County Circuit Court, Virginia, Case No. 2019-02911. (Code Civ. Proc §2017.010.)
20 Additionally, the request violates Ms. Heard's right to privacy ensured by the California
21 Constitution, Article 1. Further, the subpoena seeks information protected by the common
22 interest doctrine.

23 **Document Request No. 3:**

24 ALL COMMUNICATIONS between YOU and MS. HEARD regarding the DIVORCE
25 ACTION.

26 ///

27 ///

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1 **Response to Request No. 3:**

2 The Request is improper as it seeks information not reasonably calculated to lead to the
3 discovery of admissible evidence in Plaintiff’s action for Defamation, *Depp v. Heard*, Fairfax
4 County Circuit Court, Virginia, Case No. 2019-02911. (Code Civ. Proc §2017.010.)
5 Additionally, the request violates Ms. Heard’s right to privacy ensured by the California
6 Constitution, Article 1. Further, the subpoena seeks information protected by the common
7 interest doctrine.

8 **Document Request No. 4:**

9 ALL COMMUNICATIONS between YOU and MS. HEARD regarding the relationship
10 between MR. DEPP and MS. HEARD.

11 **Response to Request No. 4:**

12 The Request is improper as it seeks information not reasonably calculated to lead to the
13 discovery of admissible evidence in Plaintiff’s action for Defamation, *Depp v. Heard*, Fairfax
14 County Circuit Court, Virginia, Case No. 2019-02911. (Code Civ. Proc §2017.010.)
15 Additionally, the request violates Ms. Heard’s right to privacy ensured by the California
16 Constitution, Article 1. Further, the subpoena seeks information protected by the common
17 interest doctrine.

18 **Document Request No. 5:**

19 ALL DOCUMENTS, including all COMMUNICATIONS, that refer, reflect, or relate to
20 any press releases, public statements, or other publicity related to any donations made by MS.
21 HEARD to YOU or for YOUR benefit, from January 1, 2016 through and including the present.

22 **Response to Request No. 5:**

23 The Request is improper as it seeks information not reasonably calculated to lead to the
24 discovery of admissible evidence in Plaintiff’s action for Defamation, *Depp v. Heard*, Fairfax
25 County Circuit Court, Virginia, Case No. 2019-02911. (Code Civ. Proc §2017.010.)
26 Additionally, the request violates Ms. Heard’s right to privacy ensured by the California
27
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Gordon Rees Scully Mansukhani, LLP
633 West Fifth Street, 52nd floor
Los Angeles, CA 90071

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Constitution, Article 1. Further, the subpoena seeks information protected by the common interest doctrine.

Dated: July 29, 2020

Respectfully submitted,

GORDON REES SCULLY
MANSUKHANI, LLP

By: 
Craig J. Mariam
John P. Cogger
Kristin A. Blocher
Attorneys for Petitioner Amber
Laura Heard



Make a Reservation

AMBER LAURA HEARD vs THE MANDEL COMPANY, INC.

Case Number: 19STCP04763 Case Type: Civil Unlimited Category: Other Civil Petition

Date Filed: 2019-10-29 Location: Stanley Mosk Courthouse - Department 19

Reservation

Case Name:

AMBER LAURA HEARD vs THE MANDEL COMPANY, INC.

Case Number:

19STCP04763

Type:

Motion to Quash (Petition to Quash Plaintiff's Civil Subpoena to Children's Hospital Los Angeles; Separate Statement of Disputed Matter)

Status:

RESERVED

Filing Party:

Amber Laura Heard (Petitioner)

Location:

Stanley Mosk Courthouse - Department 19

Date/Time:

02/03/2021 8:30 AM

Number of Motions:

1

Reservation ID:

599968275850

Confirmation Code:

CR-XQHGEKKGDHJSSTWEC

Fees

Description	Fee	Qty	Amount
Motion to Quash (name extension)	60.00	1	60.00
Credit Card Percentage Fee (2.75%)	1.65	1	1.65
TOTAL			\$61.65

Payment

Amount:

\$61.65

Type:

Visa

Account Number:

XXXX5771

Authorization:

02223D

Print Receipt

[Reserve Another Hearing](#)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 19

19STCP04763

AMBER LAURA HEARD vs THE MANDEL COMPANY, INC.

October 29, 2020

10:00 AM

Judge: Honorable Stephanie M. Bowick

Judicial Assistant: R. Duarte

Courtroom Assistant: C. Lam

CSR: A. Desmond

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Petitioner(s): Kristin A. Blocher (Telephonic); John Paul Cogger (Telephonic)

For Defendant(s): Samuel Augustine Moniz (Telephonic); Leo John Presiado (Telephonic);

Camille Marilia Vasquez (Telephonic)

NATURE OF PROCEEDINGS: Informal Discovery Conference (IDC); Hearing on Motion to Quash Petition to Quash Plaintiff's Civil Subpoena to Children's Hospital Los Angeles; Separate Statement of Disputed Matter; Hearing on Motion to Quash Petition to Stay Deposition of Jennifer Howell to Quash Plaintiff's Subpoena Duces Tecum and Request for Sanctions

Pursuant to Government Code sections 68086, 70044, and California Rules of Court, rule 2.956, Alicia Desmond , CSR # 13037, certified shorthand reporter is appointed as an official Court reporter pro tempore in these proceedings, and is ordered to comply with the terms of the Court Reporter Agreement.

The Order is signed and filed this date.

The matters are called for hearing.

All parties stipulate to the remote use of a Court Reporter.

The parties present oral argument.

RULING

After full consideration of the papers filed and oral argument of counsel, Petitioner Amber Laura Heard's Petition to Stay Deposition of Non-Party Jennifer Howell and to Quash Subpoena Duces Tecum and Request for Sanctions is DENIED in its entirety. The deposition may be rescheduled and conducted, as well as documents produced.

The Court denies Petitioner's request at the hearing for further briefing on the issue of notice to

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

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ERM: None

Deputy Sheriff: None

Ms. Heard after the Court announced its tentative ruling and heard oral argument.

As requested, the Court awards monetary sanctions to Plaintiff John C. Depp, II in the amount of \$4,290.50 against Petitioner Amber Heard and her attorneys Craig J. Miriam, Kristen A. Blocher and John Cogger, jointly and severally, for reasonable expenses incurred by Plaintiff in having to oppose this motion, payable within thirty (30) days.

Counsel for John C. Depp, II to submit a proposed order consistent with this ruling and give notice.

BRIEF STATEMENT OF THE CASE

This is a civil petition that arises from the Depp v. Heard matter, Case No. 2019-0291, filed on 03/01/2019 in Fairfax County, Virginia (the "Virginia Lawsuit"), where the plaintiff in that case, John C. Depp II ("Plaintiff" or "John Depp"), filed suit against the petitioner in the instant matter before the Court, Amber Laura Heard ("Petitioner"), alleging a singular cause of action for defamation stemming from an "op-ed" published by Petitioner in the Washington Post in December 2018. (See Mariam Decl., Ex. A [the Complaint filed in the Virginia Lawsuit].) The Complaint filed by Plaintiff John Depp in the Virginia Lawsuit alleges that "the op-ed depended on the central premise that Ms. Heard was a domestic violence abuse victim and that Mr. Depp perpetrated domestic violence against her" and that [t]he op-ed's clear implication that Mr. Depp is a domestic abuser is categorically and demonstrably false" and "defamatory per se." (See, generally, Mariam Decl., Ex. A.)

On 08/12/2020, Petitioner filed the instant "Petition to Stay Deposition of Jennifer Howell, to Quash Plaintiff's Subpoena Duces Tecum and Request for Sanctions" (the "Petition").

On 10/16/2020, Plaintiff filed his Opposition ("Opposition").

On 10/22/2020, Petitioner filed her Reply ("Reply").

On 10/23/2020, Plaintiff filed an "Omnibus Objection and Request to Strike New Evidence and Argument on Reply, and Oversized Brief" requesting that the Court strike certain parts of Petitioner's "Objection to Request for Judicial Notice" and the "Declaration of John P. Cogger" filed in support of Petitioner's Reply to the instant Petition.

PLAINTIFF'S OBJECTIONS TO REPLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

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CSR: A. Desmond
ERM: None
Deputy Sheriff: None

In his "Omnibus Objection and Request to Strike New Evidence and Argument on Reply, and Oversized Brief," Plaintiff makes two objections:

1. Plaintiff argues the "Declarations of John P. Cogger in Support of the Howell Reply and CHLA Reply" constitute improper new evidence on reply, which the Court may properly refuse to consider, and that if the Court were to consider the Declarations, that Plaintiff should be permitted to file a supplemental briefing. Further, Plaintiff objects to the Declaration on the grounds of hearsay, lack of foundation, and lack of personal knowledge.

With regard to the first objection, the Court declines to permit Plaintiff to file a supplemental briefing. However, the Court does not consider any excessive arguments set forth in the declaration or the objection that cause the allowed briefing to be expanded under the applicable rules of civil procedure.

GROUNDS FOR MOTION

Pursuant to Code of Civil Procedure sections 1987.1 and 2029.600, Defendant/Petitioner requests that the Court quash the Subpoena on the grounds that Plaintiff failed to serve the subpoena on Petitioner's counsel and that the requested information is not relevant to the Virginia Lawsuit.

DISCUSSION

A. Petition to Quash

A court "may make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon those terms or conditions as the court shall declare, including protective orders. In addition, the court may make any other order as may be appropriate to protect the person from unreasonable or oppressive demands, including unreasonable violations of the right of privacy of the person." (Code Civ. Proc. § 1987.1.) The court, upon motion reasonably made by the party, may rule upon motions for quashing, modifying or compelling compliance with, subpoenas. (See e.g. Lee v. Swansboro Country Property Owners Ass'n (2007) 151 Cal.App.4th 575, 582-83.) There is no statutory meet and confer requirement for a motion to quash deposition subpoenas.

1. Service

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

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ERM: None

Deputy Sheriff: None

The Court rejects Petitioner's argument that Plaintiff failed to sufficiently serve the Subpoena or provide adequate notice, thus rendering the Subpoena invalid and prejudicial. The Court finds that Petitioner has not shown there was a failure to serve the Subpoena on Petitioner's counsel of record in the Virginia action. Plaintiff has shown that Petitioner's counsel's Virginia counsel was served with the Subpoena. (See Camille M. Vasquez Decl., ¶ 5, Ex. 1.) There has been no declaration submitted by any counsel on the Virginia action stating that they were not served. The Court finds that there are seven lawyers from two separate law firms (Woods Rogers, PLC and Charlson Bredehofft Cohen & Brown, PC) listed on the proof of service for Petitioner's counsel of record. A general statement from California counsel, Craig Miriam, lacks foundation to show that there was no service to those lawyers. In addition, Mr. Miriam is not counsel of record on the Virginia action. Further, counsel for Plaintiff ensured they complied with the notice requirements found in Code of Civil Procedure section 2025.270, and Plaintiff's California counsel was willing to work with Petitioner's counsel with regard to the dates of the deposition, as evidenced in Plaintiff's counsel's extensive meet and confer efforts. Thus, the Court rejects any notion of prejudice or that the Subpoena is otherwise invalid. Lastly, once the Petition to Quash was filed, Plaintiff's counsel properly did not pursue the deposition any further until this motion could be ruled upon.

2. Relevancy

The legal standards for admissibility of evidence at trial is quite different than the legal standards applicable for purposes of discovery. (See, e.g., *Gonzalez v. Superior Court* (1995) 33 Cal.App.4th 1539, 1546; *Bridgestone/Firestone, Inc. v. Superior Court (Rios)* (1992) 7 Cal.App.4th 1384, 1392; *Davies v. Superior Court* (1984) 36 Cal.3d 291, 301.) To be relevant for purposes of discovery, the information sought must be relevant to the "subject matter" of the pending action or to the determination of a motion in that action. (Code Civ. Proc., § 2017.010.) Such a standard is broader than relevancy for purposes of determining admissibility of evidence at trial. (See *Rios*, supra, 7 Cal.App.4th at 1392.)

For discovery purposes, information is relevant if it might reasonably lead to admissible evidence or might reasonably assist a party in evaluating the case, preparing for trial, or facilitating settlement. (*Gonzalez*, supra, 33 Cal.App.4th at 1546; see Code Civ. Proc., § 2017.010 ["...[a]ny party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence."].) The rules are applied liberally in favor permitting discovery. (*Gonzalez*, supra, 33 Cal.App.4th at 1546.)

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CSR: A. Desmond

ERM: None

Deputy Sheriff: None

The Court agrees with Plaintiff that the deposition of Ms. Howell may lead to the discovery admissible evidence and reasonably assist Plaintiff in evaluating the case, preparing for trial, or facilitating settlement. The Court finds that while Plaintiff's initial interrogatory responses did not identify Ms. Howell as a potential witness, as those responses occurred much earlier in the case, Plaintiff has since supplemented those responses to list Ms. Howell as a potential witness. Further, Petitioner has issued her own subpoena requesting information from Ms. Howell. Hence, Petitioner's objection on grounds of relevance is disingenuous.

In addition, Petitioner has failed to show that the honorable judge in Virginia ruled that the information sought by Plaintiff in the Subpoena has been deemed inadmissible at trial and should not be produced during discovery. A determination as to admissibility at trial has yet to be made.

Lastly, Non-Party Jennifer Howell has not objected to the Subpoena.

For the foregoing reasons, the Court DENIES the Petition.

B. Sanctions

The Court agrees with Plaintiff and finds that sanctions against Petitioner are warranted. The Court finds that Petitioner has not sufficiently shown substantial justification for bringing this Petition.

Under Code of Civil Procedure section 1987.2(a), "the court may in its discretion award the amount of reasonable expenses incurred in making or opposing the motion, including reasonable attorney's fees, if the court finds that the motion was made without substantial justification or that one or more of the requirements of the subpoena was oppressive."

Here, the Court does not find that the subpoena was "oppressive" or defective, as argued by Petitioner. The Court also finds, as explained above, that Plaintiff's arguments regarding lack of service on Virginia counsel are unpersuasive.

In its decision to award sanctions, the Court considers counsel for Plaintiff's extensive meet and confer efforts and willingness to work with Petitioner's counsel to find a mutually agreeable date for the deposition of Ms. Howell. Instead, counsel for Plaintiff proceeded to file the instant Petition, and did so after they served their own subpoena on Ms. Howell. The Court also considers the extensive discussions that occurred during the informal discovery conference. The Court finds that Petitioner has failed to show substantial justification for filing this Petition.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

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19STCP04763

October 29, 2020

AMBER LAURA HEARD vs THE MANDEL COMPANY, INC.

10:00 AM

Judge: Honorable Stephanie M. Bowick
Judicial Assistant: R. Duarte
Courtroom Assistant: C. Lam

CSR: A. Desmond
ERM: None
Deputy Sheriff: None

For the above reasons, the Court awards monetary sanctions in the amount of \$4,290.50 (\$3,847.50, plus \$442.50 for the additional ½-hour involved for the lengthy hearing on this matter) against Petitioner Amber Heard and her attorneys Craig J. Miriam, Kristen A. Blocher and John Cogger, jointly and severally, for reasonable expenses incurred by Plaintiff in having to oppose this motion, payable within thirty (30) days. The Court finds that the imposition of sanctions is warranted and just given the extensive briefing on the issues in this motion. The Court notes that there was no objection by Petitioner to the hourly rates or the amount of sanctions requested. The Court considers both the amount of sanctions requested and the hourly rates of counsel to be reasonable based upon the nature of the case, the going market rates in the Los Angeles legal community, and experience of counsel as reflected in the supporting declarations. (See Ketchum v. Moses (2001) 24 Cal.4th 1122, 1132.)

RULING

After full consideration of the papers filed and oral argument of counsel, Petitioner Amber Laura Heard’s Petition to Quash Plaintiff’s Civil Subpoena to Non-Party Children’s Hospital Los Angeles is DENIED. However, the subpoena is modified to exclude Request for Production of Documents Nos. 3 and 4. In addition, Children’s Hospital of Los Angeles is not required to produce financial or accounting records. Otherwise, the petition to quash is denied.

As requested, the Court awards monetary sanctions to Plaintiff John C. Depp, II in the amount of \$4,732.50 (\$3,847.50, plus \$885.00 for the additional hour involved for the lengthy hearing on this matter) against Petitioner Amber Heard and her attorneys Craig J. Miriam, Kristen A. Blocher and John Cogger, jointly and severally, for reasonable expenses incurred by Plaintiff in having to oppose this motion, payable within thirty (30) days.

Counsel for John C. Depp, II to submit a proposed order consistent with this ruling and give notice.

BRIEF STATEMENT OF THE CASE

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 19

19STCP04763

AMBER LAURA HEARD vs THE MANDEL COMPANY, INC.

October 29, 2020

10:00 AM

Judge: Honorable Stephanie M. Bowick
Judicial Assistant: R. Duarte
Courtroom Assistant: C. Lam

CSR: A. Desmond
ERM: None
Deputy Sheriff: None

This is a civil petition that arises from the Depp v. Heard matter, Case No. 2019-0291, filed on 03/01/2019 in Fairfax County, Virginia (the “Virginia Lawsuit”), where the plaintiff in that case, John C. Depp II (“Plaintiff” or “John Depp”), filed suit against the petitioner in the instant matter before the Court, Amber Laura Heard (“Petitioner”), alleging a singular cause of action for defamation stemming from an “op-ed” published by Petitioner in the Washington Post in December 2018. (See Mariam Decl., Ex. A [the Complaint filed in the Virginia Lawsuit].) The Complaint filed by Plaintiff John Depp in the Virginia Lawsuit alleges that “the op-ed depended on the central premise that Ms. Heard was a domestic violence abuse victim and that Mr. Depp perpetrated domestic violence against her” and that [t]he op-ed’s clear implication that Mr. Depp is a domestic abuser is categorically and demonstrably false” and “defamatory per se.” (See, generally, Mariam Decl., Ex. A.)

On or about 05/29/2020, Plaintiff John Depp served on Children’s Hospital of Los Angeles (“CHLA”) a Subpoena Duces Tecum to Person Under Foreign Subpoena (the “Subpoena”) that includes the following requests for books, documents, records, electronically stored information, and tangible things:

REQUEST NO. 1: All DOCUMENTS that refer, reflect, or relate to any donations made to [CHLA] or for [CHLA’s] benefit by [Petitioner], from January 1, 2016 through and including the present.

REQUEST NO. 2: All COMMUNICATIONS between [CHLA] and [Petitioner] regarding any donations made to [CHLA] or for [CHLA’s] benefit by [Petitioner], from January 1, 2016 through and including the present.

REQUEST NO. 3: All COMMUNICATIONS between [CHLA] and [Petitioner] regarding the DIVORCE ACTION [In re the Marriage of Amber Laura Depp and John Christopher Depp II, Los Angeles Superior Court Case No. BD641052].

REQUEST NO. 4: All COMMUNICATIONS between [CHLA] and [Petitioner] regarding the relationship between [Plaintiff] MR. DEPP and [Petitioner].

REQUEST NO. 5: All DOCUMENTS, including all COMMUNICATIONS, that refer, reflect, or relate to any press releases, public statements, or other publicity related to any donations made by [Petitioner] to [CHLA] or for [CHLA’s] benefit, from January 1, 2016 through and including the present.

(Mariam Decl., ¶ 3, Ex. B.)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

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CSR: A. Desmond

ERM: None

Deputy Sheriff: None

On 07/29/2020, Petitioner filed the instant Petition to Quash Plaintiff's Civil Subpoena to Children's Hospital Los Angeles (the "Petition") requesting that the Court quash the Subpoena on the grounds that "the documents sought are completely irrelevant to Plaintiff's underlying lawsuit." (Petition, p. 2.) Petitioner argues in part that "[n]owhere in the [Virginia Lawsuit's] Complaint or attachments thereto... is there any allegation or defense made relative to any issue arising out of a charitable donation in general, or, specifically to charitable donations to Children's Hospital Los Angeles." (Id. at p. 3.) According to Petitioner, there lacks any "nexus between charitable donations to entities that are not parties to this litigation and any claim that Plaintiff has alleged in this case" and thus "the records sought are entirely irrelevant to the claims at issue in this litigation and not a proper matter of discovery." (Id.)

Additionally, Petitioner argues that Plaintiff's right to discover the facts are "heavily outweighed" by Petitioner's "right to privacy in personal, financial, and associational matters."

In a "Separate Statement of Disputed Matters" attached to the Petition, Plaintiff objects to each request on the grounds that each request is "improper as it seeks information not reasonably calculated to lead to the discovery of admissible evidence... the request violates Ms. Heard's right to privacy ensured by the California Constitution, Article 1" and "the subpoena seeks information protected by the common interest doctrine."

On 10/16/2020, Plaintiff filed an opposition to the instant Petition to Quash ("Opposition"), arguing that the requested items are discoverable because Petitioner's objections on the basis of relevance, privacy, and privilege are without merit. As to Petitioner's objection based on relevance, Plaintiff argues in part that the information sought in the Subpoena is relevant because "contrary to her public statements, money played a central role in Ms. Heard's decision to manufacture claims to have been abused." (Opposition, p. 2 (emphasis in original omitted).) Plaintiff thus seeks, by use of the Subpoena, to "test Ms. Heard's widely-publicized claims to have donated the entirety of the [divorce] settlement proceeds to charities for vulnerable and abused populations." Plaintiff argues that the records sought by the Subpoena are relevant to a critical issue central to Plaintiff's theory of the case, namely whether Petitioner made the allegedly defamatory statements to further her own personal financial interests. A critical issue is whether Petitioner actually donated the divorce settlement proceeds to charity or whether she instead was motivated to make the allegedly defamatory statements for financial reasons and to misled the public, versus claims that she was not financially motivated because she was donating the money from the divorce settlement to charities, including CHLA.

As to Petitioner's objection based on privacy, Plaintiff argues that Petitioner can assert no valid

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ERM: None

Deputy Sheriff: None

privacy interest because Petitioner “deliberately publicized that she was donating the entirety of the settlement to charity, publicly announcing both the amount of the settlement, and the intended recipients of her donations.” Plaintiff argues there can be no legally cognizable privacy interest in the requested information because Petitioner intentionally publicized such information and Plaintiff merely seeks to use the Subpoena to test the veracity of those publicized claims.

Finally, Plaintiff requests sanctions of at least \$3,847.50 because Plaintiff argues that Petitioner’s “conduct in filing and refusing to withdraw the Petition lacks substantial justification.”

On 10/22/2020, Petitioner filed a Reply.

On 10/23/2020, Plaintiff filed an “Omnibus Objection and Request to Strike New Evidence and Argument on Reply, and Oversized Brief” requesting that the Court strike certain parts of Petitioner’s “Objection to Request for Judicial Notice” and the “Declaration of John P. Cogger” filed in support of Petitioner’s Reply.

REQUEST FOR JUDICIAL NOTICE

Plaintiff John Depp request that the Court take judicial notice of the following five articles published in various online version of newspapers:

1. An article from The Guardian, dated August 18, 2016, entitled “Amber Heard to donate \$7m Depp divorce settlement to charities” (RJN, ¶ 1, Ex. 9);
2. An article from The Independent, dated August 19, 2016, entitled “Amber Heard donates Johnny Depp settlement to charity: Read statement in full” (Id. at ¶ 2, Ex. 10);
3. An article from Forbes, dated August 21, 2016, entitled “Amber Heard Donates Johnny Depp’s \$7 Million Divorce Settlement to Charity; Could Face Huge Tax Bill” (Id. at ¶ 3, Ex. 11);
4. An article from the Daily Mail, dated November 28, 2016, entitled “Amber Heard 'has NOT donated \$7M divorce money to charity'... because she and Johnny Depp still haven't signed final settlement papers” (Id. at ¶ 4, Ex. 12); and
5. An article from Fox News, dated April 10, 2018, entitled “Amber Heard donates \$7M Johnny Depp divorce settlement to children’s hospital, charities” (Id. at ¶ 2, Ex. 10.)

Petitioner objects to Plaintiff’s requests for judicial notice.

The Court GRANTS the request for judicial notice under Evidence Code section 452, subdivision (h). Petitioner does not object to their authenticity, nor does she argue that the news

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ERM: None

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articles are in any way inaccurate or that the general statements reported that she made in the articles regarding Mr. Depp are untrue. Further, Petitioner fails to object to or deny that there was widespread publicity surrounding her claims of abuse by Mr. Depp, their divorce and her charitable contributions to help others in her similar situation from the divorce settlement proceeds. Thus, the Court takes judicial notice and considers the articles for that purpose only in determining the relevancy of the information requested in the instant Subpoena. The Court does not take judicial notice of the truth of the facts reported, or their accuracy.

With regard to Petitioner's argument that such "evidence" should be "excluded" pursuant to Evidence Code section 352, the argument is inapplicable to the issue because this Court is not considering the admissibility of the news articles at trial. Hence that objection is overruled.

PLAINTIFF'S OBJECTIONS TO REPLY

In his "Omnibus Objection and Request to Strike New Evidence and Argument on Reply, and Oversized Brief," Plaintiff makes two objections:

1. Plaintiff argues the "Declarations of John P. Cogger in Support of the Howell Reply and CHLA Reply" constitute improper new evidence on reply, which the Court may properly refuse to consider, and that if the Court were to consider the Declarations, that Plaintiff should be permitted to file a supplemental briefing. Further, Plaintiff objects to the Declaration on the grounds of hearsay, lack of foundation, and lack of personal knowledge.
2. Petitioner's "Objection to Mr. Depp's Request for Judicial Notice contains several pages of discursive argument and represents an improper attempt to circumvent the page limitations imposed on reply papers by the California Rules of Court, Rule 3.1113(d) and (g)." Plaintiff argues that the Objection "is a transparent pretext for argument in excess of the statutory page limit" because "[i]t cannot be legitimately disputed that the Court is permitted to take notice of the existence of the documents referenced in the Request and the fact that Ms. Heard's purported donations were widely publicized."

With regard to the first objection, the Court declines to permit Plaintiff to file a supplemental briefing. However, the Court does not consider any excessive arguments set forth in the declaration or the objection that cause the allowed briefing to be expanded under the applicable rules of civil procedure.

GROUND FOR MOTION

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

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ERM: None
Deputy Sheriff: None

Pursuant to Code of Civil Procedure sections 1987.1 and 2029.600, Petitioner requests that the Court quash the Subpoena on the grounds that the requested information is not relevant to the Virginia Lawsuit.

DISCUSSION

A. Petition to Quash

A court “may make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon those terms or conditions as the court shall declare, including protective orders. In addition, the court may make any other order as may be appropriate to protect the person from unreasonable or oppressive demands, including unreasonable violations of the right of privacy of the person.” (Code Civ. Proc. § 1987.1.) The court, upon motion reasonably made by the party, may rule upon motions for quashing, modifying or compelling compliance with, subpoenas. (See e.g. *Lee v. Swansboro Country Property Owners Ass'n* (2007) 151 Cal.App.4th 575, 582-83.)

The legal standards for admissibility of evidence at trial is quite different than the legal standards applicable for purposes of discovery. (See, e.g., *Gonzalez v. Superior Court* (1995) 33 Cal.App.4th 1539, 1546; *Bridgestone/Firestone, Inc. v. Superior Court (Rios)* (1992) 7 Cal.App.4th 1384, 1392; *Davies v. Superior Court* (1984) 36 Cal.3d 291, 301.) To be relevant for purposes of discovery, the information sought must be relevant to the “subject matter” of the pending action or to the determination of a motion in that action. (Code Civ. Proc., § 2017.010.) Such a standard is broader than relevancy for purposes of determining admissibility of evidence at trial. (See *Rios*, supra, 7 Cal.App.4th at 1392.)

For discovery purposes, information is relevant if it might reasonably lead to admissible evidence or might reasonably assist a party in evaluating the case, preparing for trial, or facilitating settlement. (*Gonzalez*, supra, 33 Cal.App.4th at 1546; see Code Civ. Proc., § 2017.010 [“...[a]ny party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence.”].) The rules are applied liberally in favor permitting discovery. (*Gonzalez*, supra, 33 Cal.App.4th at 1546.)

The Court agrees with Plaintiff that the requested information is relevant for the purposes of pretrial discovery. Petitioner’s public statements and press releases about donating the money

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she receives from the divorce settlement to charities were made in conjunction with Petitioner's allegations that Plaintiff abused her and she was a victim of his abuse. Petitioner does not deny that she made public statement regarding her alleged abuse by Plaintiff and as a result, her intent to donate the settlement money to charities that focus on vulnerable populations that are less able to defend themselves. Therefore, the Court finds that is relevant to the Virginia action and may lead to the discovery of admissible evidence or reasonably assist Plaintiff in evaluating the case, preparing for trial, or facilitating settlement.

Further, Petitioner has failed to show that the honorable judge in Virginia has unequivocally ruled that the information sought by Plaintiff in the Subpoena will inadmissible at trial and thus should not be produced during discovery.

Finally, the Court agrees with Plaintiff that Petitioner can assert no legally cognizable right to privacy in the information sought after publicly stating that she was donating her settlement proceeds to charity. The Court also does not find that the common interest doctrine applies here. Petitioner fails to provide any legal authority to support her arguments that the information is privileged or protected by the right to privacy under the circumstances. In addition, Non-Party Children's Hospital of Los Angeles has not objected to the Subpoena.

While not specifically argued by Petitioner, the Court modifies the subpoena to exclude financial and accounting records of Children's Hospital and excludes Request Nos. 3 and 4. The Court finds that the modification does not affect the heart of the information and documents sought by Plaintiff, as discussed at the hearing.

For all of the foregoing reasons, the Court DENIES the Petition to Quash in part and grants in part.

B. Sanctions

Plaintiff argues that sanctions against Petitioner are warranted. The Court agrees that Petitioner has not sufficiently shown substantial justification for bringing this motion. The Court highlights that it did not find Plaintiff arguments regarding her right to privacy reasonable and failed to find her arguments regarding relevancy persuasive, including discussion conducted during the Informal Discovery Conference.

Under Code of Civil Procedure section 1987.2(a), "the court may in its discretion award the amount of reasonable expenses incurred in making or opposing the motion, including reasonable attorney's fees, if the court finds that the motion was made without substantial justification or

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ERM: None

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that one or more of the requirements of the subpoena was oppressive.”

While the Court limited category of documents to be produced, the Court does not find that the subpoena was “oppressive” or a fishing expedition as argued by Petitioner.

The Court considers Petitioner’s arguments that Plaintiff had a duty to seek the information by way of a less intrusive means. However, Petitioner admits that she has personally objected to producing the responsive information or any information regarding her charitable donations to the hospital. Hence, the Subpoena was issued and in response, Petitioner filed the instant petition. The Court finds Petitioner’s arguments are nonsensical on this point.

The Court awards monetary sanctions in the amount of \$4,732.50 (\$3,847.50, plus \$885.00 for the additional hour involved for the lengthy hearing on this matter) against Petitioner Amber Heard and her attorneys Craig J. Miriam, Kristen A. Blocher and John Cogger, jointly and severally, for reasonable expenses incurred by Plaintiff in having to oppose this motion, payable within thirty (30) days. The Court finds that the imposition of sanctions is warranted and just given the extensive briefing on the issues in this motion. The Court notes that there was no objection by Petitioner to the hourly rates or the amount of sanctions requested. There was extensive briefing of this motion. The Court considers both the amount of sanctions requested and the hourly rates of counsel to be reasonable based upon the nature of the case, the going market rates in the Los Angeles legal community, and experience of counsel as reflected in the supporting declarations. (See *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132.)

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7 Attorneys for Defendant/Defendant
AMBER LAURA HEARD

8
9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF LOS ANGELES

11 JOHN C. DEPP, II,) CASE NO. 19STCP04763
12 Plaintiff,) (Underlying Case No. CL-2019-0002911
13 vs.) Circuit Court of Fairfax County, Virginia)
14 AMBER LAURA HEARD,) **OBJECTION TO PLAINTIFF’S**
15 Defendant.) **PROPOSED ORDER REGARDING**
16) **PETITION TO QUASH SUBPOENA**
17) **TO CHILDREN’S HOSPITAL LOS**
18) **ANGELES**

19 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

20 Pursuant to California Rule of Court 3.1312(a), Defendant AMBER LAURA HEARD
21 (“Defendant”) hereby objects to the [Proposed] Order Denying Petition to Quash Subpoena to
22 Children’s Hospital Los Angeles (“CHLA”) as follows:

23 **OBJECTION TO [PROPOSED] ORDER**

24 **I. INTRODUCTION**

25 The [Proposed] Order submitted by Plaintiff John C. Depp, II (“Plaintiff”) does not
26 accurately reflect the record in this matter.

27 ///

28 ///

1 Specifically, the [Proposed] Order indicates that the Court has read and considered the
2 Petition, and all opposition and reply papers. This is factually incorrect as the Court expressly
3 identified during the hearing on the Petition that it had not read Defendant’s moving papers.

4 Accordingly, Plaintiff’s [Proposed] Order is not supported by the record in this matter
5 and therefore should not be adopted as the Order.

6 **II. THE [PROPOSED] ORDER IS INACCURATE AS THE COURT DID**
7 **NOT READ DEFENDANT’S MOVING PAPERS.**

8 The [Proposed] Order states that the Court “*read and considered the CHLA Petition,*
9 *and all opposition and reply papers*” ([Proposed] Order Denying Petition to Quash Civil
10 Subpoena to Non-Party Children’s Hospital Los Angeles and Awarding Sanctions
11 (“[Proposed] Order”) at Page 2, Lines 8-9, emphasis added.).

12 Pursuant to California Rules of Court, Rule 3.1312(a), Defendant provides to counsel
13 for Plaintiff this objection to the [Proposed] Order. Pursuant to Rule 3.1312(b), Plaintiff is
14 required to transmit the [Proposed] Order to the Court with a summary of these objections.

15 During the Hearing on the Petition, which took place on October 29, 2020, the Court
16 indicated it did not read Defendant’s moving papers filed in July of 2020 and that it only
17 reviewed subsequently filed pleadings in the matter.

18 **The Court:** So let me ask you this, Mr. Cogger. The Motion filed back in July, was it
19 just refreshed when it was filed again in October? *Because I didn’t look – I didn’t look*
20 *at the documents filed back in July.* I looked at everybody’s documents filed in
20 October.

21 Were you intending that I consider the July filings also?

22 **Mr. Cogger:** Yes, your honor. The July filings are the actual petition, and then an
23 opposition was filed by Mr. Depp, and then we filed our reply brief in October.

24 (Uncertified Realtime Rough Transcript, Page 5, Line 26 to Page 6, Line 9, emphasis added.)

25 Thereafter, without reading the Petition papers, the Court issued a ruling on the motion.

26 **The Court:** So I’ll give you a couple of minutes, Mr. Cogger, and then I’m going to
27 hear argument on sanctions, but I’m going to deny this motion.

28 (Uncertified Realtime Rough Transcript, Page 30, Line 28 to Page 31, Line 2.)

1 Despite the Court’s express indication that the moving papers were not read and
2 considered, the [Proposed] Order states that the Order is based on the Court’s having read and
3 considered documents, including the Petition.

4 **III. CONCLUSION**

5 For the foregoing reasons, Defendant objects to Plaintiff’s [Proposed] Order.

6
7 Dated: November 23, 2020

Respectfully submitted,

GORDON REES SCULLY
MANSUKHANI, LLP

8
9
10 By: _____



Craig J. Mariam
John P. Cogger
Kristin A. Blocher
Attorneys for Defendant/Plaintiff
AMBER LAURA HEARD

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 19

19STCP04763

AMBER LAURA HEARD vs THE MANDEL COMPANY, INC.

December 18, 2020

2:10 PM

Judge: Honorable Stephanie M. Bowick

Judicial Assistant: R. Duarte

Courtroom Assistant: C. Lam

CSR: None

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Court Order Re: ORDER DENYING PETITION TO QUASH CIVIL SUBPOENA TO NON-PARTY CHILDREN'S HOSPITAL LOS ANGELES AND AWARDING SANCTIONS

The Court has considered the "Defendant Amber Laura Heard's Objections to Proposed Orders Regarding Petition to Quash Subpoena to Children's Hospital Los Angeles" and "Defendant Amber Laura Heard's Objections to Proposed Orders Regarding Petition to Quash Subpoena to Jennifer Howell" that are attached to the Notice filed by Plaintiff John C. Depp, II on November 24, 2020. The Court notes that the Objections were not separately filed with the court by Ms. Heard. Nevertheless, the objections are considered and overruled. The Court directs Defendant to the written rulings filed by the Court on October 29, 2020, denying each of the petitions. The Court specifically states in both rulings the following: "After full consideration of the papers filed and oral argument of counsel. . . ."

Order is signed this date.

A signed and file stamped copy of said order is available for viewing and printing on Lacourt.org.

Counsel for John C. Depp, II, to give notice.

Certificate of Mailing is attached.

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Stanley Mosk Courthouse 111 North Hill Street, Los Angeles, CA 90012		FILED Superior Court of California County of Los Angeles 12/18/2020
PLAINTIFF/PETITIONER: Amber Laura Heard		Sherri R. Carter, Executive Officer / Clerk of Court By: <u> R. Duarte </u> Deputy
DEFENDANT/RESPONDENT: The Mandel Company, Inc.		
CERTIFICATE OF MAILING		CASE NUMBER: 19STCP04763

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Minute Order (Court Order Re: ORDER DENYING PETITION TO QUASH CIVIL SUBPOEN...) of 12/18/2020 upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Samuel Augustine Moniz
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Sherri R. Carter, Executive Officer / Clerk of Court

Dated: 12/18/2020

By: R. Duarte
Deputy Clerk

RECEIVED

DEC 23 2020

BROWN RUDNICK

my apartment on Wilshire Boulevard, not on my floor but in my guest room. Second, when Whitney arrived, she was a mess. Whitney told me she tried to stop her sister Amber from hitting and attacking Johnny on the stairs. Whitney said when she tried to intervene to stop Amber from going after Johnny, Amber nearly pushed Whitney down the stairs. She told me she was worried Amber "was going to kill Johnny." She told me she had endured that kind of abuse her entire life, first from her father, and then from Amber, who she said was extremely violent. She lived with me because she did not feel she could go back to live at the Eastern Columbia Building. My father reminded me this morning that I told him that "Whitney had moved in with me because she was terrified of her sister."

5. While Whitney was living with me, she told me Johnny kept checking in to see how she was doing and that he called her "sis" and she called him "brother." Whitney said to me on multiple occasions that she did not know why he was staying in the relationship nor why he was putting up with Amber's abuse. Whitney shared with me the damage endured by both her and Amber as children and the injuries she had suffered from Amber both psychologically and physically. Whitney was devastated during this time, and my heart broke for her.

6. When Whitney came back from New York (I believe it was for Tribeca Film Festival, THE ADDERALL DIARIES premiere or both) she shared with me and everyone in the office that Amber freaked out, attacked Whitney and threw a wine glass full of red wine at her in the elevator.

7. While Amber and Johnny were in Australia, Whitney was in the office sitting in the black and white chairs near the kitchen and loudly proclaimed, "oh my God, she has done it now. She has cut off his fucking finger."

8. I knew Paige Heard, Amber and Whitney' mother. Paige shared with me while I was visiting Whitney that Elon Musk had gifted a Tesla or multiple Teslas (not sure if it was one or more), but Amber found out that they were "bugged." Paige told me that Amber said Elon was controlling, abusive and that she was in a legal battle with him over the rights to embryos that they had created together. He wanted to destroy them, and Amber tried to keep them to have a baby. Paige told me that Johnny was either an "angel" or a "saint" compared to Elon, and she wished that Amber and Johnny would reconcile. Paige also told me the reason Johnny and Amber broke up was because Amber was violent and emotional and loved Johnny so much that she could not control it. I was indeed taken aback because this conversation occurred after the divorce and when Hunter was only a few months old, and I was at Whitney's house. Whitney told me that Amber and Johnny were still in touch and that they were each other's true loves or something to that exact sentiment. Whitney was still going through the emotions of having had a baby and all of those ups and downs, and I could not believe that Amber and Johnny's relationship was being discussed while Whitney was the one who needed to be the focal point and needed our support.

9. When Amber got into legal trouble regarding smuggling the dogs into Australia, she asked me to write her a character reference about her charity work, and I did so. We had given her a humanitarian award. She volunteered with the charity and attended events for the charity. I am still grateful for that. I knew nothing about her personal life behind closed door until I became close with Whitney.

10. When Amber was in trouble with the Australian authorities, she asked me to write a character letter in support of her, which I did. I wrote on behalf of Amber for her volunteering with the charity.

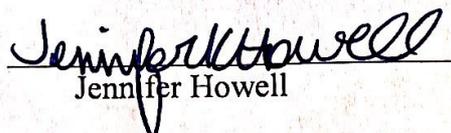
11. Later, when Amber and Johnny were divorcing, \$7 million of the proceeds was supposed to go to charity. I learned that none of it would be directed to The Art of Elysium, which Amber had been closely associated with for years. Instead, I understood it would all go to ACLU and LA Children's Hospital. I asked Amber's publicist why, when she and Amber had been so eager to use our name in the press during the divorce, and when the funds would mean so much to a small organization like ours, would Amber direct all the money to these other two huge charities that she had not been associated with? Amber's publicist told me that they were more prominent charities with a more significant press reach and got international press. Then, months later, a \$250,000 donation came into our organization from an anonymous donor "on behalf of Amber Heard." The funds did not come from Amber. I believed this donation came from Elon.

12. Years later, on July 24, 2020, I received two subpoenas from Johnny's attorney after Whitney testified about sleeping on my floor following the stairs incident. The following day, I spoke with Johnny's attorney Adam Waldman for the first time.

13. I told him the stories of my experiences with Whitney, Paige and Amber Heard, and he asked me to give this declaration. I shared the names of The Art of Elysium's staff who worked during the same time as Whitney who also heard these things and more and willingly gave access to my e-mails, texts to confirm dates and timeline of all stated.

Executed this 26th day of July, 2020, in Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America and Commonwealth of Virginia that the foregoing is true and correct.


Jennifer Howell