

TRANSCRIPT OF THE POOL TV FEED FROM DEPP v HEARD

FAIRFAX COUNTY COURT Monday 2 May 2022

PROFESSIONALLY TRANSCRIBED. **THIS IS NOT AN OFFICIAL COURT TRANSCRIPT AND SHOULD ONLY BE USED FOR GUIDANCE.**

Bailiff: The Circuit Court of Fairfax County is now in session. The Honorable Penney Azcarate presiding. Please be seated.

Judge Azcarate: Good morning.

Man: Morning, Your Honor.

Judge Azcarate: Do you have any preliminary matters before the jury?

Man: [inaudible 00:00:09]

Judge Azcarate: Okay, sure. Sure. All right. Good morning, ladies and gentlemen. All right, you can have a seat. All right, your next witness.

Ms. Meyers: Your Honor, we call Travis McGivern by video link.

Judge Azcarate: All right. Mr. McGivern, can you hear me?

Travis: I can.

Judge Azcarate: All right. Can you do me a favor and just count to five for me so I get you to pop up on my big screen here?

Travis: One, two, three, four, five.

Judge Azcarate: All right, now can you turn your camera on?

Travis: I thought it was on.

Judge Azcarate: There we go. Yes, sir, now I can see you. If you could raise your right hand, sir? Do you swear or affirm to tell truth under penalty of law?

Travis: Yes, I do.

Judge Azcarate: All right. Thank you. Thank you, ma'am.

Ms. Meyers: Good morning, Mr. McGivern.

Travis: Good morning.

Ms. Meyers: Could you please state your full name for the record?

Travis: Travis Edward McGivern.

Ms. Meyers: And where do you currently live?

Travis: Los Angeles, California

Ms. Meyers: Where are you testifying from today?

Travis: Los Angeles, California.

Ms. Meyers: What is your current occupation?

Travis: I am a security professional.

Ms. Meyers: And how long have you been a security professional?

Travis: Roughly 16 years. A little over 16 years.

Ms. Meyers: Do you know the plaintiff in this case, Johnny Depp?

Travis: Yes, I do.

Ms. Meyers: How do you know Mr. Depp?

Travis: I worked for Mr. Depp for a little over nine years.

Ms. Meyers: And what's your position for Mr. Depp?

Travis: Security professional, personal protection.

Ms. Meyers: When did you first start working for Mr. Depp?

Travis: March of 2013.

Ms. Meyers: And when did you first meet Mr. Depp?

Travis: Couldn't say for sure. Probably some time around then, March or April 2013.

Ms. Meyers: What did you do as a member of Mr. Depp's security team?

Travis: Residential security, estate security, if he's in LA, when he's in LA if he wants to go anywhere, I'll take him wherever he wants to go. I have protected his children before. Yeah, just basically ensure the safety and well-being of Mr. Depp and his family.

Ms. Meyers: And are you currently employed for Mr. Depp?

Travis: I am.

Ms. Meyers: What other means of employment do you have?

Travis: So, Mr. Depp's travel schedule is pretty regular, so when he's not in town, work slows down a little bit. So, I have actually in the last six months, just under six months, picked up a full-time job working for another client.

Ms. Meyers: When you first started working for Mr. Depp, how often would you see him in person?

Travis: Hard to say. When he's in town, I saw him on a daily and/or nightly basis. I work nights mostly. Obviously, when he's out of town, that changes but, yeah, when he's in town, pretty much daily.

Ms. Meyers: When did you first meet Ms. Heard?

Travis: Again, I couldn't give you an exact date but I would say sometime in 2013, maybe summer 2013.

Ms. Meyers: And when you were working for Mr. Depp, how often would you see Ms. Heard when they were in a relationship?

Travis: In the beginning, not very often. At one point, they move to downtown LA to the Eastern Colombia Building and became a little more frequent.

Ms. Meyers: When Mr. Depp and Ms. Heard were staying at the Eastern Colombia Building together, how often would you actually be in their apartment with them?

Travis: That would vary, depending on the situation. But a few times a week would be my best estimate. Again, it depended on what was going on and there'd be nights where I wouldn't see them at all, there'd be nights where I would. Best estimate would be a few times a week.

Ms. Meyers: During that time, did you have occasion to see Mr. Depp and Ms. Heard interacting with each other?

Travis: I did, yes.

Ms. Meyers: And how often would you estimate?

Travis: You know, anytime I was in there, they were typically interacting, so I'd say a few times a week, several times a week.

Ms. Meyers: How would you describe the interactions between Mr. Depp and Ms. Heard?

Travis: I mean, it would depend. Sometimes, they were super loving, super happy, and then the next night they could be arguing. And initially,

when we first...when I first started working down at the loft, things were cool more than moving forward, things got a little more volatile moving in the longer they were there.

Ms. Meyers: When did you start noticing more arguments between Mr. Depp and Ms. Heard?

Travis: So, I want to say like the end of 2014, they started staying down there pretty regularly. There were a few incidents where there were fights. But March 2015 when they came back from Australia was when I really started to notice the change.

Ms. Meyers: And how often would you witness arguments or fights during that time?

Travis: From March?

Ms. Meyers: From March and thereafter.

Travis: So, when they came back from Australia, the arguments were pretty regular. I wouldn't say nightly but every other night, several times a week, there would be arguments.

Ms. Meyers: And what did you observe in the arguments that you personally witnessed?

Travis: So, typically, I would come in, I'd be...I get a text from Mr. Depp, I would go to Penthouse 3, which is where they stayed, either stay by the door as requested or in the kitchen. And then...I mean, it was just verbal arguments, yelling. It was typically Mr. Depp wanting to get out of there, and so there was the trying to convince Ms. Heard to let us leave. And, yeah, I mean, lots of name-calling, lots of F-bombs, you know?

Ms. Meyers: And who was the name calling directed at?

Travis: So, that was typically Ms. Heard directing her feelings toward Mr. Depp.

Ms. Meyers: And what do you recall Ms. Heard saying in those instances?

Travis: Oh, dear. It would vary, and to be honest, I tried to not pay attention. I was just there to get Mr. Depp out of there. But, you know, there were times I've heard Ms. Heard called him a fucking deadbeat dad, if I can say that, I apologize to the court if... A fucking washed up, fucking cunt. You name it, she spewed it.

Ms. Meyers: How would you describe your own interactions with Ms. Heard in the time that you work for Mr. Depp?

Mr. Nadelhaft: Objection, relevance.

Judge Azcarate: All right, what's the relevance of his interactions?

Ms. Meyers: His interactions start when he was involved in the...when he was witnessing these altercations.

Judge Azcarate: If you want to ask that question, that's fine.

Ms. Meyers: Okay. How would you describe your interactions with Ms. Heard when you were present during an altercation between her and Mr. Depp?

Travis: For the most part, there wasn't really interaction. There were a few times where I was trying to get Mr. Depp away from the situation and Ms. Heard didn't like my involvement in the situation. And she on one occasion let me know how she felt about that.

Ms. Meyers: And what did she say to you in that instance?

Travis: A lot, it was a lengthy one-sided conversation, but she basically demeaned my career choice, called me a fucking yes man. And honestly, there were parts of that where she...you know, she was like, "How would you feel if someone was involved in your relationship?" Which I sympathize with. But, yeah, she definitely threw some shade on me and my chosen career.

Ms. Meyers: Now, you mentioned that the arguments between Mr. Depp and Ms. Heard increased when they returned from Australia in March 2015. When did you first see Ms. Heard when she returned from Australia?

Travis: So, I picked Ms. Heard up from the airport on March 9th. Yeah, that was the first time I saw her when she got back.

Ms. Meyers: And who else was with her?

Travis: A gentleman named Ben King, who I later found out...I didn't know who he was initially but later found out he was the house manager or property/estate manager of the place they were staying at in Australia.

Ms. Meyers: How would you describe Ms. Heard's demeanor when you picked her up at the airport?

Travis: She seemed normal, nothing out of the ordinary. She was pleasant. She was polite like she usually was.

Ms. Meyers: How much time did you spend with Ms. Heard that day?

Travis: Not a lot, but at least the car ride from LAX to downtown LA, to the lofts. Couldn't tell you how long that took but probably 45 minutes to an hour. I believe I escorted them or help them up to Penthouse 3 and was maybe in there for very, very briefly, a minute or two, and then I left. So, overall, let's estimate an hour.

Ms. Meyers: And how close to Ms. Heard were you that day?

Travis: I mean, in the car where I'm driving, she's in the seat right behind me to my right, so there's a few feet there. I think when I picked them up, I don't remember if I hugged her or not, but I know I'd probably grabbed some luggage, so I was within a few feet.

Ms. Meyers: And what time of day was it when Ms. Heard arrived at the airport?

Travis: Early afternoon. I want to say they landed at around 1:00 p.m.

Ms. Meyers: What, if any, injuries did you observe on Ms. Heard that day?

Travis: I didn't notice any injuries.

Ms. Meyers: When did you first see Mr. Depp when he returned from Australia in March 2015?

Travis: I don't know, to be honest. I know it was after Ms. Heard came but I couldn't give you an exact date.

Ms. Meyers: And what if any injuries did you observe on Mr. Depp when he returned from Australia?

Travis: So, Mr. Depp had his hand, his right hand heavily wrapped. I didn't actually see an injury but his hand was wrapped.

Ms. Meyers: Now, you mentioned that the arguments between Mr. Depp and Ms. Heard increased after they returned from Australia. What arguments do you recall specifically?

Travis: One in particular that stands out, March 23rd, a couple of weeks after they got back, there was an incident in Penthouse 5 that I recall.

Ms. Meyers: And when did you start your shift that day?

Travis: 11:00 p.m. was typically my start time.

Ms. Meyers: And where were you on your shift?

Travis: So, at the lofts, there was kind of a makeshift command post, CP, or guard shack or whatever it's called, that was in a storage room connected to Penthouse 5 via a patio. So, you'd leave penthouse 5, go to a patio, and then our CP was connected to that patio. That's typically where we hang out during our shifts.

Ms. Meyers: And what time were you first contacted by Mr. Depp that evening?

Travis: Again, I can't say precisely but between 4:00 and...probably around 4:00 a.m. to 4:30 maybe.

Ms. Meyers: And what did you do after Mr. Depp contacted you?

Travis: So, when he texted me and I was downstairs, I don't remember exactly what I was doing, either getting some air, stretching my legs, or grabbing some food. I remember getting the text...I wasn't in the CP when I got the text. He requested I'd meet him at Penthouse 5, and requested that I bring the nurse, his nurse that was working at that time with him.

Ms. Meyers: What was her name?

Travis: Debbie Lloyd.

Ms. Meyers: Okay. And so, what did you...did you go get Ms. Lloyd?

Travis: I did. So, Ms. Lloyd was staying at a hotel close by, probably about a half block away. And being that I was already down there, I felt...4:00 in the morning, I wasn't gonna... and Mr. Depp wouldn't have wanted me to have her walk by herself but I wasn't gonna go get the truck either since I was down there already. So, I walked over to the hotel...I believe I called the nurse just to make sure she woke up, and then I walked to the hotel and I met her there. We walked over together to the Eastern Columbia building. In the lobby, we ran into Ms. Heard, she was at the front desk talking to security or concierge, I'm not sure who. Ms. Lloyd stayed downstairs with Ms. Heard. I proceeded upstairs to meet Mr. Depp at Penthouse 5 as requested. I was hoping to get him out of there before Ms. Heard came back up because of past...

Ms. Meyers: Sorry, why was that?

Travis: Just because past experiences when they would argue, she would try to prevent us from leaving to the point...I mean, she's held the elevator before, she's basically tried to keep Mr. Depp from leaving, like grabbing his arm or stand in front of him. I just wanted to get out of there to avoid that.

Ms. Meyers: And what happened when you got upstairs to the penthouse?

Travis: So, Mr. Depp was sitting in front of the front door of Penthouse 5. He had some bags I believe, like he was ready to go. I greeted him and kind of got a feel for what was going on, tried to get him out of there. As we were getting ready to leave, Ms. Heard and Ms. Lloyd exited the elevator on the penthouse level, so they came back up. And Mr. Depp and Ms. Heard decided they wanted to continue whatever conversation they were having, so I let them into Penthouse 5. Myself, Ms. Lloyd, Mr. Depp, and Ms. Heard entered Penthouse 5. I tried to stay out of their conversations as long as they were peaceful. So, they were having a relatively peaceful conversation, so Ms. Lloyd and I stood outside the door of Penthouse 5, had the door propped open to make sure we can hear what was going on but kind of giving them their space initially.

Ms. Meyers: And you said, "Initially." What happened after that?

Travis: So, the conversation got a little louder, get a little more volatile. So, Ms. Lloyd and myself entered Penthouse 5 years just to be around to hopefully be able to...not necessarily mediate but just to be there. So, yeah, entered and stood a little closer to Mr. Depp.

Ms. Meyers: And what did you observe when you went back into the penthouse?

Travis: So, the argument continued. There were moments of kind of normal conversation, peaceful conversation, but then there were also moments of yelling and anger from both of them. And at some point, I witnessed Ms. Heard throw a Red Bull can. So, the loft is three levels. Mr. Depp was down at the lower level, which is the kitchen area. There's a middle level, which was turned into an office for Ms. Heard. And then the upper level was where the bedrooms were but they were turned into closets, basically, for Ms. Heard at that time. Ms. Heard and her sister at that time, Whitney, had come in, they were both on the middle level, the office level. And I saw Ms. Heard throw a Red Bull can from her position that struck Mr. Depp in the back.

Ms. Meyers: Anything else that you recall?

Travis: At that point, I moved closer to Mr. Depp. I didn't care that I was in the middle of their conversation at that point, I didn't want my client getting hit with anything else. So, I stood right by Mr. Depp. The verbal onslaught continued from both of them. Mr. Depp was giving as good as he got at that point. He was angry and agitated. At one point, Ms. Heard threw something else, either a purse or some sort of bag or something that she had up there. I was able to knock it away so it didn't hit him. At one point, she spit at him. Yeah, and then just a lot of verbal vitriol from both of them.

Ms. Meyers: What do you remember Ms. Heard saying to Mr. Depp on this occasion?

Travis: Geez, anything and everything. Specifically, there was the "You're fucking washed up," "You're a fucking cunt," which he called her as well, again, the deadbeat dad shit. Yeah, I don't even remember what the fight was about but it was pretty...the F word is my favorite word and it was being thrown around to the point where I was uncomfortable.

Ms. Meyers: And how did Mr. Depp respond to Ms. Heard's behavior?

Travis: Oh, he was mad. He was upset, especially after she tried to spit on him. At one point, Ms. Heard and her sister left Penthouse 5, I imagine they went to Penthouse 4 or possibly over to Penthouse 3. I don't know, they were all adjoining. Mr. Depp went upstairs and rearranged her closet for her, threw down probably every rack of clothing and shoes, threw one, at least one down the stairs. Yeah, he was upset.

Ms. Meyers: Where was Ms. Heard when Mr. Depp rearranged her closet, as you said?

Travis: I can't say for sure but she was not in Penthouse 5, she was either in 4 or 3.

Ms. Meyers: And you mentioned Ms. Heard's sister, Whitney. Do you recall when she arrived in the evening?

Travis: So, Whitney wasn't there when we first all walked into Penthouse 5. When Ms. Lloyd and I stepped out to give them some space, she must have...excuse me, she must have come in at some point because she was in there when we walked back in.

Ms. Meyers: Did you see Ms. Heard again that evening after Mr. Depp was in her closet?

Travis: I did, yes. She must have heard what was going on and not been too pleased. So, shortly after reentered Penthouse 5 as I was trying to get Mr. Depp out of there.

Ms. Meyers: And what happened at that point?

Travis: So, her and her sister both came back in. We were on the middle level, so her office level of Penthouse 5 at that point. She was agitated. Mr. Depp was agitated. I felt it was time to get Mr. Depp out of the situation, so I stepped in between Ms. Heard and Mr. Depp, telling Mr. Depp that we were leaving and that it wasn't up to him anymore. At that point, out of the corner of my eye, I saw a fist and an arm come across my right shoulder and I heard and saw a closed fist contact Mr. Depp in the left side of his face.

Ms. Meyers: And whose fist was that?

Travis: That was Ms. Heard's fist, Amber Heard's fist.

Ms. Meyers: And where was Whitney when this occurred?

Travis: I can't say for sure but I'm guessing...or my best guess is behind Amber.

Ms. Meyers: How did Mr. Depp respond when he was punched?

Travis: The initial look on his face kind of mirrored mine, kind of a look of shock like, "What just happened? Where'd that come from?" At that point, I wasn't going to let Mr. Depp get hit anymore, so I moved him down the last flight of stairs to the lower level and told him, "We're leaving," like it wasn't up to him anymore, just for his safety. Again, I had let him get hit by a Red Bull can, I let him get punched. My job is to ensure the safety and well-being of my clients and I felt like I hadn't done that, so it was my time to do my job and get him out of there.

Ms. Meyers: And so, where did you go?

Travis: So, Ms. Heard and her sister left Penthouse 5. Again, I don't know where they went. I'm assuming they went through Penthouse 4 or either in 4 or 3. Mr. Depp was not pleased with me, naturally. He went into the bathroom for a couple of minutes, Ms. Lloyd talked to him, and they came out and agreed that it was time to leave. So, as we were leaving the front door, Mr. Depp got right in my face, he was wearing sunglasses and...maybe not sunglasses, he was wearing glasses, pulled them down, pointed to the left side of his face, and told me, "That's your fault," and I agreed. And then we proceeded to the vehicle and we left the loft.

Ms. Meyers: What did you see on the left side of Mr. Depp's face?

Travis: There was already a nice little shiner, definitely swollen and red. It wasn't black and blue yet but it was definitely swollen and red.

Ms. Meyers: At any point during this entire incident, did Mr. Depp throw anything at Ms. Heard?

Travis: No.

Ms. Meyers: At any point, did Mr. Depp throw anything at anyone?

Travis: No.

Ms. Meyers: At any time during this incident, did Mr. Depp physically respond to Ms. Heard?

Travis: No.

Ms. Meyers: Do you recall Ms. Heard's birthday party in April of 2016?

Travis: I do.

Ms. Meyers: Mr. McGivern, during the incident we just discussed on March 23rd, what did Mr. Depp have on his right hand?

Travis: So, he had the same bandage that he had when he arrived from Australia, so it was heavily wrapped, yeah, a heavily wrapped bandage. I don't know what it was underneath but it was definitely wrapped.

Ms. Meyers: Do you recall whether as a hard cast or a soft cast?

Travis: I do not.

Ms. Meyers: Okay. Now, moving forward to Ms. Heard's birthday party in April 2016. Were you present at that dinner party?

Travis: I was not. I started my shift, again, around 11:00 p.m. The party was going on in Penthouse 5. I don't typically take part in get-togethers, so I think I probably hung out in the CP. Shortly after I got there, the party kind of winded down. I believe Mr. Depp got there...he was late, so I think he got there shortly after I started my shift. He went into Penthouse 5, again, the party wound down shortly thereafter, and then, as far as I know, Mr. Depp and Ms. Heard went back to Penthouse 3 shortly thereafter.

Ms. Meyers: Did you see Mr. Depp again that evening?

Travis: That morning I did, early that morning, yeah. Or the following morning. Again, I got a text, my best guess is around the same time, 4:00, there were so many incidences, they're hard to keep straight. But probably around 4:00 or 5:00 that morning, requesting my presence in Penthouse 3.

Ms. Meyers: And what did you do after you receive that text message?

Travis: Went to Penthouse 3.

Ms. Meyers: And what did you observe when you went to Penthouse 3?

Travis: Again, a verbal argument. I think it was made clear that some phones had been thrown off...thrown out the window or something down to Broadway. Mr. Depp was, again, ready to leave to get out of the situation. He had a couple of bags over his shoulders, wanted to grab a few valuables that we always used to grab when this happened, some framed letters from either Hunter S. Thompson or Marlon Brando. Yeah. And then I believe we left, I think I got him out of the situation again. We did look for the phone briefly, I think, on our way back to West Hollywood but my main concern was getting him away from the situation. So, I didn't find the phone, and then we proceeded back to his Sweetser property.

Ms. Meyers: What do you recall about Ms. Heard's demeanor that evening when you saw her?

Travis: Nothing out of the ordinary, nothing that...I mean, they were arguing like usual in those circumstances but nothing pops out.

Ms. Meyers: What, if any, injuries did you observe on Ms. Heard that evening?

Travis: I didn't notice any injuries.

Ms. Meyers: In your time working for Mr. Depp, have you ever seen Mr. Depp physically abuse Ms. Heard?

Travis: I have not.

Ms. Meyers: Now, you mentioned, "A couple of occasions." How many times have you witnessed Ms. Heard be physically abusive towards Mr. Depp?

Travis: Obviously, the March 23rd thing in Penthouse 5 a physically abusive, I don't know how to define that but I have seen her physically try to prevent him from leaving before, so grabbing his arms, standing in

front of him, pushing him. Again, I don't know if that's physically abusive, but I've definitely seen her touch him on multiple occasions.

Ms. Meyers: Have you ever observed Mr. Depp use any drugs?

Travis: I have.

Ms. Meyers: And what drugs have you seen Mr. Depp use?

Travis: Are you talking non-prescription drugs?

Ms. Meyers: Yes.

Travis: Marijuana and cocaine.

Ms. Meyers: How many times have you seen Mr. Depp use marijuana?

Travis: Too many to count. I mean, daily.

Ms. Meyers: And how many times have you seen Mr. Depp use cocaine?

Travis: A couple. Two.

Ms. Meyers: How would you describe Mr. Depp's demeanor when he's using marijuana?

Travis: Chill, for lack of a better word. Mellow. Yeah, I don't know how to better describe it, just super mellow.

Ms. Meyers: And how would you describe Mr. Depp's demeanor when you've seen him use cocaine?

Travis: The same. So, I've seen him use it, like, actual seen him use it a few times, I've known of him using it other times, and I feel like it levels him out. Yeah, I haven't noticed any difference when he used it.

Ms. Meyers: Have you observed Mr. Depp consume alcohol?

Travis: Absolutely.

Ms. Meyers: And how many times?

Travis: Like marijuana, too many to count. Pretty regularly.

Ms. Meyers: And on how many of those occasions did Mr. Depp appear to be drunk?

Travis: It would depend on what you mean by drunk, but not many. The only time I would say I've seen Mr. Depp drunk was when he would fall

asleep on the couch sitting up with his boots on. Other than that, Mr. Depp handles his liquor very well.

Ms. Meyers: How would you describe Mr. Depp's demeanor when you've seen him consume alcohol?

Travis: No different than any other time, again, super chill, super mellow. Yeah.

Ms. Meyers: Have you ever witnessed Ms. Heard consume alcohol?

Travis: I have.

Ms. Meyers: How many times would you estimate?

Travis: Again, too many to count, she drinks fairly regularly. I couldn't even give you a guesstimate.

Ms. Meyers: On how many of those occasions did you observe Ms. Heard behaving drunk?

Travis: Can't say I have...other than the incident on March 23rd where I didn't see her drinking but I assumed, based on her behavior, she was drunk. Other than that, I can't say I've ever seen her obviously drunk in my eyes.

Ms. Meyers: I have no further questions.

Judge Azcarate: All right, cross-examination, Mr. Rottenborn.

Mr. Rottenborn: Good morning, Mr. McGivern.

Travis: Good morning, sir.

Mr. Rottenborn: So, you said you've worked for Mr. Depp for about nine years, right?

Travis: Correct.

Mr. Rottenborn: And he hasn't been in town recently, so you have another job. Is that what you said?

Travis: Yes.

Mr. Rottenborn: But you still consider yourself an employee of his even today, correct?

Travis: I do.

Mr. Rottenborn: And when you do work for Mr. Depp, he pays your salary, right?

Travis: Not on salary. He pays my wage, yes.

Mr. Rottenborn: He pays the money that you make for working for him?

Travis: Correct.

Mr. Rottenborn: And you've referred to him a few times during your testimony this morning as your client, is that right?

Travis: Yes.

Mr. Rottenborn: So, when you're working security for Mr. Depp, it's Mr. Depp and Mr. Depp alone that is your client, correct?

Travis: That is not correct.

Mr. Rottenborn: Well, in the altercation that you testified about with Ms. Heard and Mr. Depp, you refer to only Mr. Depp as your client and it was your job to keep your clients safe. Do you remember that?

Ms. Meyers: Objection, compound.

Judge Azcarate: I'll allow it, go ahead.

Travis: I do.

Mr. Rottenborn: So, at least in that instance, he was your client, not Ms. Heard, correct?

Travis: Correct.

Mr. Rottenborn: Now, the evening of March 23rd, 2015, you actually walked into the middle of the argument with Debbie Lloyd, correct?

Travis: Yes.

Mr. Rottenborn: So, you testified earlier that you were downstairs and Ms. Heard was downstairs in the lobby and you'd gotten Ms. Lloyd. But that's actually not accurate, is it?

Travis: To the best of my recollection, that is accurate.

Mr. Rottenborn: In fact, when you and Ms. Lloyd entered Penthouse 5, Amber and Mr. Depp were already in there having a verbal argument, correct?

Travis: That is not correct.

Mr. Rottenborn: May I approach, Your Honor?

Judge Azcarate: All right. Yes, sir. Thank you.

Mr. Rottenborn: Mr. McGivern, do you see a document on the screen in front of you entitled, "Witness Statement of Travis McGivern?"

Travis: I do.

Mr. Rottenborn: Okay, and you...well, let me ask you this. Is that your address below?

Travis: The document is pretty small. Is there any way for me to...oh, there we go. Yes, it is.

Mr. Rottenborn: And that's where you currently live?

Travis: Hang on one sec, I'm sorry. That is a P.O. Box.

Mr. Rottenborn: Okay. Is that yours?

Travis: It is.

Mr. Rottenborn: Okay. Now, this is a witness statement that you prepared on behalf of Mr. Depp in the UK trial, correct?

Travis: Yeah, the statement went away. Oh, there it is.

Mr. Rottenborn: Do you see it?

Travis: Yes, it is.

Mr. Rottenborn: And who drafted this statement?

Travis: Myself along with an attorney, I don't remember exactly who.

Mr. Rottenborn: Was it Adam Waldman?

Travis: At that point, I don't believe it was, no.

Mr. Rottenborn: If you go to Paragraph 5, please, on the second page. And you understood when you wrote the statement that this was going to be submitted to the court in the UK trial that Mr. Depp brought, and that this was your testimony on behalf of Mr. Depp, correct?

Travis: Yes.

Mr. Rottenborn: And about two-thirds of the way through Paragraph 5, there's a sentence that says, "When Ms. Lloyd and I entered his

residence, Ms. Heard and Mr. Depp were having a verbal argument." Is that correct? Did I read that right?

Travis: That is...yes.

Mr. Rottenborn: So, that doesn't say anything about you meeting Ms. Heard in the lobby of the Eastern Columbia building, does it?

Travis: No, it does not.

Mr. Rottenborn: And when you entered the penthouse, you can't recall the specifics of what the argument was about, correct? Take that.

Travis: No. Like what they were fighting about? Absolutely, no, I don't.

Mr. Rottenborn: And you don't know anything about what caused the argument in the first place, correct?

Travis: I do not.

Mr. Rottenborn: But you do remember Mr. Depp being very angry, right?

Travis: I remember both of them being very angry, yes.

Mr. Rottenborn: And you say that he gave as good as he got when it came to what they were saying to each other, right?

Travis: Yes.

Mr. Rottenborn: You say they were both being verbally abusive to one another?

Travis: Yes.

Mr. Rottenborn: And you testified that at some point, Ms. Heard was on the mezzanine level, right? The level of her office or kind of the middle level of the penthouse?

Travis: That's correct.

Mr. Rottenborn: And Mr. Depp was on the lower level, correct, when you enter the penthouse?

Travis: So, when Ms. Lloyd and I reentered the penthouse, yes, that's where they were.

Mr. Rottenborn: And you weren't preventing Mr. Depp from leaving at any time, correct?

Travis: Preventing him from leaving? I was encouraging him to leave.

Mr. Rottenborn: Right, and he could have...when he was on that lower level of the penthouse, he could have left at that point, correct? You wouldn't have prevented that?

Travis: No, I would not have.

Mr. Rottenborn: But instead, at some point, he walked up to the mezzanine and as you say, he rearranged Ms. Heard's closet, right?

Travis: That wasn't on the mezzanine level, that was on the top level. But, yeah, he rearranged the closet.

Mr. Rottenborn: So, he traveled up two levels in the penthouse to throw down every rack of clothing that she had, right?

Travis: I don't know about every rack, but he definitely threw down some racks of clothes and shoes.

Mr. Rottenborn: Okay, I believe you said every rack, so that's just why I was asking you to confirm that. You said he threw a rack down the stairs, correct?

Travis: Yes.

Mr. Rottenborn: Okay. And then at that point, he went back downstairs?

Travis: To the mezzanine level, yes.

Mr. Rottenborn: Now, that wasn't the only time you learned of Mr. Depp causing damage in Penthouse 5, correct?

Travis: I couldn't say for sure. Nothing's coming to mind.

Mr. Rottenborn: You said he had something on his hand from his injury that he sustained in Australia, right?

Travis: Yes, his hand is wrapped.

Mr. Rottenborn: But you weren't in Australia with Mr. Depp and Ms. Heard, correct?

Travis: I was not.

Mr. Rottenborn: Okay. And what he had on his hand could have been a hard cast, correct?

Travis: Sure, I have no idea what was under the wrap.

Mr. Rottenborn: And isn't it true that while he was on the mezzanine level and Ms. Heard and her sister were there, that he was reaching for Amber's hair while he was trying to hit her with that cast, correct?

Travis: That is not correct.

Mr. Rottenborn: And you can't say for sure where Whitney was standing on the mezzanine level during this altercation, correct?

Travis: That is correct.

Mr. Rottenborn: And it's possible that she was standing in between Mr. Depp and Ms. Heard, then, correct?

Travis: No.

Mr. Rottenborn: Well, you say you can't say for sure where she was standing. So, she could have been standing in between Mr. Depp and Ms. Heard, right?

Travis: No, because I stepped in between Ms. Heard and Mr. Depp, so she definitely wasn't standing in between them.

Mr. Rottenborn: Well, in fact, you saw Mr. Depp push or shove Whitney Heard, correct?

Travis: Absolutely not.

Mr. Rottenborn: And it was only after Mr. Depp pushed Whitney that Amber stepped forward and punched him in the face, isn't that right?

Travis: That is not correct.

Mr. Rottenborn: Now, moving on to April 2016. You weren't there for the party, you said, correct?

Travis: I started my shift while the party was going on.

Mr. Rottenborn: But you weren't in with the party goers you said, right?

Travis: That's correct, I was not.

Mr. Rottenborn: And you said at some point, Mr. Depp and Ms. Heard went back to Penthouse 3 but you have no idea what went on between them in Penthouse 3 while you weren't there, correct?

Travis: I do not.

Mr. Rottenborn: And you said that you gave security services to Mr. Depp primarily in Los Angeles, is that right?

Travis: Yes. A little bit of travel, but mostly in LA.

Mr. Rottenborn: Okay, where do you travel to?

Travis: Vegas up north, we did a road trip, kind of...they called it their honeymoon. So, Napa, San Francisco, San Jose. Those are all with Ms. Heard. I've taken Mr. Depp to China before.

Mr. Rottenborn: Okay.

Travis: Yeah. And then a bunch of local stuff, Palm Springs, Santa Barbara, stuff like that.

Mr. Rottenborn: Okay. You weren't on a plane flight from Boston to Los Angeles with Mr. Depp and Amber in May 2014, correct?

Travis: I was not.

Mr. Rottenborn: And you weren't at the Hicksville Trailer Palace in May or June of 2013, correct, with them?

Travis: I was not.

Mr. Rottenborn: You were never in the Bahamas with them, including in August 2014, correct?

Travis: I was not.

Mr. Rottenborn: You were not in the Bahamas with them in December of 2015, correct?

Travis: I was not.

Mr. Rottenborn: You were not in Tokyo with them in January of 2015, correct?

Travis: I was not.

Mr. Rottenborn: You were not in the Eastern Columbia building with them on the evening of December 15th, 2015, correct?

Travis: I don't know.

Mr. Rottenborn: To the best of your recollection.

Travis: Yeah, there were the lofts I typically worked every night, but nothing about December 15th is popping into my head.

Mr. Rottenborn: Okay. And you definitely were not in the Eastern Columbia building with them on the night of May 21st, 2016, were you?

Travis: I was not.

Mr. Rottenborn: Okay. Nothing further. Thank you, Mr. McGivern.

Judge Azcarate: All right, redirect.

Ms. Meyers: No, Your Honor.

Judge Azcarate: All right, is this witness subject to recall?

Ms. Meyers: Yes, Your Honor.

Judge Azcarate: All right, Mr. McGivern, you're subject to recall, so just to let you know, you're still subject to the rule on witnesses, so you cannot talk to anybody about your testimony or watch any of the proceedings of this case, okay, sir?

Travis: Understood, ma'am.

Judge Azcarate: All right. Thank you. Have a good day.

Travis: You do the same. Thank you.

Judge Azcarate: Thank you. Your next witness.

Mr. Chew: Mr. Depp calls Jack Whigham who should be waiting in the electronic lobby.

Judge Azcarate: Okay. All right, Mr. Whigham, can you hear me, sir?

Jack: Yes, ma'am.

Judge Azcarate: Could you do me a favor and just count to one to five for me?

Jack: Sure. One, two, three, four, five.

Judge Azcarate: All right, thank you, sir. Can you raise your right hand? Do you swear and affirm to tell the truth under penalty of law?

Jack: Yes.

Judge Azcarate: All right. Okay, thank you, sir.

Mr. Chew: Good morning, Mr. Whigham. Would you please state your full name for the record?

Jack: Sure, it's Jack Whigham.

Mr. Chew: Where do you live, Mr. Whigham?

Jack: I live in Los Angeles.

Mr. Chew: Where, if at all, did you earn your undergraduate degree?

Jack: I earned a degree in finance from the University of Florida.

Mr. Chew: In what year, if any, did you graduate from the University of Florida?

Jack: 1998.

Mr. Chew: Do you have any graduate degrees, Mr. Whigham?

Jack: I do, I have a law degree also from the University of Florida and graduated in 2002.

Mr. Chew: Mr. Whigham, what do you currently do for a living?

Jack: I'm currently a manager representative for artists.

Mr. Chew: Would you please describe, Mr. Whigham, for the jury what a manager representative does?

Jack: So, we, you know, represent writers, directors, actors, actresses, mostly in their pursuit of artistic endeavors. So, I primarily focused on film and television but, you know, all artistic endeavors.

Mr. Chew: How does the manager representative get paid?

Jack: Typically via commission. So, industry theaters, kind of 10% of whatever the deal is.

Mr. Chew: And Mr. Whigham, what did you do professionally after you earned your JD at the University of Florida?

Jack: I was an attorney at a firm called Wald, Gassel, and Mangies for approximately three years. And then I segued from there to a talent agency called CAA, Creative Artists Agency.

Mr. Chew: In what year did you start work at CAA?

Jack: I started there in April 2004.

Mr. Chew: And Mr. Whigham, in what capacity did you start working at CAA?

Jack: I started at the bottom in the mailroom, checking mail, and then became an assistant for one of the managing partners. And then in 2007, I believe, I become an agent. And then right around 2014, I think, I began co-running the Film and Talent Department there.

Mr. Chew: And when your job responsibilities shifted to becoming an agent at CAA, would you please describe briefly for the jury what that entailed?

Jack: Sure. We were, you know, also looking out for artistic endeavors on behalf of the clients, so writers, directors, actors, actresses, but we were also negotiating deals and, you know, really pursuing film/television producing deals on behalf of the clients.

Mr. Chew: Mr. Whigham, did there come a time when you left CAA?

Jack: I did. I left in August of 2020.

Mr. Chew: What, if anything, did you do professionally after you left CAA in August of 2020?

Jack: So, I co-founded a management production company called Range Media Partners in August of 2020 and have been working there ever since.

Mr. Chew: What type of company is Range Media Partners?

Jack: It's a management representation production company.

Mr. Chew: Do you know Johnny Depp?

Jack: I do.

Mr. Chew: Mr. Whigham, when did you first meet Mr. Depp?

Jack: I actually met him very briefly on the set of "Black Mass," which was probably, I don't know, 2014 or '15. And then I met him very briefly at one of his music shows. But more substantively, I sat with him, I believe, in the fall of 2016.

Mr. Chew: Did there come a time, Mr. Whigham, when you became Mr. Depp's agent?

Jack: Yes.

Mr. Chew: When was that?

Jack: Right around October, I believe. Fall of 2016.

Travis: Was that when you were still with CAA?

Jack: Yes.

Mr. Chew: When you first started with Mr. Depp as his agent, who, if anyone, assisted you?

Jack: I had two partners that I worked with Johnny. One was Bryan Lourd and the other was Christian Carino.

Mr. Chew: Since starting to work with Mr. Depp as his agent in October 2016, have you had opportunities to observe him interacting with yourself and others?

Jack: Yes.

Mr. Chew: How would you describe for the jury Mr. Depp's demeanor on those occasions?

Ms. Bredehoff: Objection, relevance.

Judge Azcarate: All right, what's the relevance?

Ms. Bredehoff: The relevance is how he conducts himself professionally, which relates to his reputation, which is at issue.

Judge Azcarate: All right, I'll overrule the objection. Go ahead.

Mr. Chew: You may answer the question, Mr. Whigham.

Jack: Sure. Johnny was always very nice, sweet, in fact, you know, artistic, polite, and, you know, very thoughtful, you know, kind of uniquely thoughtful about, "How are you doing? How's your family?" You know, he was just a thoughtful person, he always has been.

Mr. Chew: Did he seem genuine?

Ms. Bredehoff: Objection, leading.

Judge Azcarate: I'll sustain the objection.

Mr. Chew: To what extent, if any, did he seem genuine?

Ms. Bredehoff: I'm gonna object, how would he know?

Judge Azcarate: I'm not sure what objection that is.

Ms. Bredehoff: Speculation.

Judge Azcarate: A speculation.

Ms. Bredehoff: Foundation.

Mr. Chew: I believe he can testify as to that.

Judge Azcarate: I'll allow it. Go ahead.

Mr. Chew: Her honor says you may answer that question.

Jack: Okay. I found Johnny to be authentic. You know, it was a genuine kindness.

Mr. Chew: And Mr. Whigham, prior to your first becoming Mr. Depp's agent in 2016, October 2016, who was his agent prior to that?

Jack: I believe it was Tracey Jacobs at a company called UTA.

Mr. Chew: And before you took over from Tracey Jacobs as Mr. Depp's agent, what, if any, research or due diligence did you do with respect to him?

Ms. Bredehoff: Objection, relevance.

Mr. Chew: Again, Your Honor, it goes to reputation, which is the core of the issue.

Judge Azcarate: I'll sustain the objection. Next question.

Mr. Chew: Thank you, Your Honor. Were you aware of Mr. Depp's professional reputation at the time you became his agent in October 2016?

Ms. Bredehoff: I would say objection, leading and I think it's going to call for hearsay.

Judge Azcarate: I'll overrule at this point, go ahead.

Jack: I believe I was.

Mr. Chew: What was your understanding, if any, of Mr. Depp's professional reputation at the time you began representing him as his agent in the fall of 2016?

Jack: Johnny's reputation in my opinion was very...he was very well regarded and respected by peers in the artistic community.

Ms. Bredehoff: Your Honor, I'm gonna object, first of all, he says in his opinion, which he's not an expert witness. And second, he's now going into hearsay.

Judge Azcarate: I'll overrule the objection. Go ahead.

Mr. Chew: Mr. Whigham, you may continue.

Jack: Well regarded, respected, extremely talented, artistic.

Mr. Chew: Are you familiar, Mr. Whigham, with the distinction between an independent film and a studio film?

Jack: I believe I am.

Mr. Chew: What, if any, difference is there between an independent film on one hand and a studio film on the other?

Jack: So, in layman's terms, I'd say that, you know, a studio film is a bigger-budgeted film, it has a distributor, a studio in place. So, when you think of Disney, Marvel, Universal, these kinds of...these are big companies, they're bigger-budgeted and bigger fees. And then independents, like, we call them indies, typically are smaller-budgeted, more artistically-minded, smaller fees, and often don't have distribution when they're made.

Mr. Chew: Starting in October 2016, what types of opportunities have you pursued on Mr. Depp's behalf?

Jack: A wide variety. You know, primarily, I would say focused on film, television, and producing.

Mr. Chew: What, if any, roles did Mr. Depp have in progress as of that time, fall of 2016 going into calendar year 2017?

Jack: All right, so we inherited some deals. There were two films, as I remember, that we're gonna go back to back. One was "City of Lies," the Notorious BIG film, and the other was "Murder on the Orient Express." So, those were filmed almost at the same time, and they had pre-existing deals that we service. And then he had "Fantastic Beasts: Crimes of Grindelwald" as well. And then we were in the process...we ended up finishing the sixth film negotiation on "Pirates of the Caribbean."

Mr. Chew: Mr. Whigham, you mentioned "City of Lies." When was that film actually shot?

Jack: To the best of my memory, it was shot right, you know, at the very end to mostly the beginning of 2017.

Mr. Chew: What was Mr. Depp's compensation for "City of Lies?"

Jack: I believe it was \$8 million.

Mr. Chew: And you mentioned "Murder on the Orient Express." When was that shot?

Jack: So, it was shot at almost the same time. I actually can't remember which one went first, they were both shot predominantly, call it, January

to April 2017. I remember us having to workout dates. But it was the beginning of 2017.

Mr. Chew: What was Mr. Depp's compensation for "Murder on the Orient Express?"

Jack: If memory serves me, I think it was \$10 million.

Mr. Chew: Was "Murder" a studio film or an independent or what you call an indie film?

Jack: It was a studio film, it was Fox.

Mr. Chew: Mr. Whigham, you also mentioned "Fantastic Beasts 2: Crimes of Grindelwald." When was that film shot?

Jack: I believe that film was shot in the fall of 2017.

Mr. Chew: What was Mr. Depp's compensation for "Crimes of Grindelwald?"

Jack: Again, that deal predated us. I think it was 13.5 million if I remember correctly.

Mr. Chew: Was "Crimes of Grindelwald" a studio film or an indie film?

Jack: Studio, it was Warner Brothers.

Mr. Chew: And backing up a bit, Mr. Whigham, what was the first business opportunity you were able to secure for Mr. Depp after he came to you and CAA in the fall of 2016?

Jack: So, I believe it was...2017 was really...it was busy. We had a slot that summer and he wanted to do a smaller film and it was "The Professor" I believe.

Mr. Chew: How much compensation, if any, did he receive for performing in that smaller film, "The Professor?"

Jack: That deal was 3.5 million.

Mr. Chew: Was "The Professor" an independent film or was it a studio film?

Jack: It was independent.

Mr. Chew: And Mr. Whigham, how, if at all, was CAA compensated for closing the deal on "The Professor?"

Jack: So, it would be the normal 10% of the deal. So, the deal was 3.5 million, the commission would be \$350,000 to the agency.

Mr. Chew: Mr. Whigham, was 2017 a typical year for Mr. Depp in terms of the workload for an actor of his caliber and track record?

Ms. Bredehoff: Objection, leading.

Judge Azcarate: Overruled, I'll allow it. Go ahead.

Jack: Yes.

Mr. Chew: What other roles, if any, were you able to secure for Mr. Depp during your tenure at CAA before you went to the new company?

Jack: A film called "Waiting for the Barbarians," and a film called "Minamata."

Mr. Chew: When was "Waiting for the Barbarian" shot?

Jack: So, "Waiting for the Barbarian" was fall of 2018.

Mr. Chew: What, if any, plans did you and Mr. Depp have for 2018 calendar year? 2018.

Jack: We have a very specific plan for that year because 2017 was busy and he had done three studio films. And I remember him wanting to take time off to rest and be with his kids for the first half a year and then he wanted to go on a music tour which always just made him really happy. And so, that was the summer of 2018. And then we had the slot for the fall of 2018 and that's where we spent a lot of time thinking about what that movie was going to be, and "Waiting for the Barbarian" was kind of a little gift because it was based on a J.M. Coetzee novel and Johnny is, you know, very well read and knew the literature, the underlying book, and Mark Rylance was in the film and it was just like a dream actor that he always wanted to work with.

Mr. Chew: What was Mr. Depp paid for "Waiting for the Barbarian?"

Jack: \$1 million.

Mr. Chew: And I apologize if you've already said this, was "Waiting for the Barbarian" an independent film or a studio film?

Jack: It was an indie, independent.

Mr. Chew: Mr. Whigham, you also mentioned the film "Minamata." When was that film shot?

Jack: That was the very beginning of 2019, so I think a January start.

Mr. Chew: Was "Minamata," an indie film or a studio film?

Jack: It's independent.

Mr. Chew: How much was Mr. Depp ultimately paid for "Minamata?"

Jack: So, his fee became...it was \$3 million.

Mr. Chew: What, if any, role did Mr. Depp play in "Pirates of the Caribbean 5?"

Jack: He played Captain Jack Sparrow

Mr. Chew: Was he paid an actor's fee for that film?

Jack: Technically, it was before my tenure but yes, I would assume he was.

Mr. Chew: Mr. Whigham, would you please explain for the jury what are residual or back end rights?

Jack: I think the easiest way to explain a back end is it's an ownership stake on behalf of the artists in the success of the movie, and typically is only granted to stars with a certain stature.

Mr. Chew: And in addition to the fee Mr. Depp...the upfront fee that Mr. Depp was paid for Fantastic Beasts 5, which I know preceded you, what, if any, did understand...what, if any, understanding do you have of whether Mr. Depp had any back end rights for Pirates 5?

Ms. Bredehoff: Objection, Your Honor, foundation, he said that deal was at the other agency and he wasn't familiar...

Judge Azcarate: I'll allow it if he knows it, that's fine. Go ahead.

Mr. Chew: Her honor says you may answer the question.

Jack: So, you initially said Fantastic Beast. I think he meant Pirate 5.

Mr. Chew: Oh, I apologize, I did mean for Pirates 5, what, if any, back end did Mr. Depp have for Pirates 5?

Jack: I don't know what it was. I know that he had one.

Mr. Chew: To what extent, if any, did Mr. Depp ever have a deal to perform in Pirate 6?

Jack: So, when we started representing him, I remember Bryan Lourd and myself finishing a deal that had started at the previous agencies...

Ms. Bredehoff: Objection, Your Honor. May we approach?

Judge Azcarate: Okay. Hold on a minute.

Mr. Chew: ...for the interruption, Mr. Whigham. Her Honor says you may answer the question, which I believe is to what extent, if any, did Mr. Depp ever have a deal to perform in Pirates 6?

Jack: So, we finished the deal and we closed the deal at 22.5 million for that film is my memory.

Mr. Chew: Which studio was involved in the Pirate series including Pirates 6?

Jack: So, that was Disney.

Mr. Chew: Was Disney the studio involved in all of the Pirates movies?

Jack: Yes.

Mr. Chew: What role was Mr. Depp to play in Pirate 6?

Ms. Bredehoff: Objection, calls for speculation.

Judge Azcarate: I'll allow it.

Ms. Bredehoff: And hearsay.

Judge Azcarate: I'll allow it.

Jack: Captain Jack Sparrow.

Mr. Chew: Was the 22.5 million to be paid to Mr. Depp by Disney or by some other entity?

Jack: Disney.

Mr. Chew: And when was that 22.5 million to be paid to Mr. Depp?

Jack: It would be paid when he shoots principal photography, so when the film shoots.

Mr. Chew: Who was the producer of the Pirates franchise?

Jack: Jerry Bruckheimer.

Mr. Chew: Does Mr. Bruckheimer work for Disney?

Jack: No.

Mr. Chew: In 2017, to what extent, if any, was Mr. Bruckheimer supportive of Mr. Depp remaining in the Pirates franchise?

Ms. Bredehoff: Objection, Your Honor, calls for hearsay.

Judge Azcarate: I'll sustain the objection.

Mr. Chew: Thank you, Your Honor. Putting aside his role in the Pirates films, did Mr. Depp have any other affiliations with Disney in 2017?

Jack: Yes.

Mr. Chew: What were those affiliations?

Jack: If I remember, in the spring, you know, he went down to Disneyland and put on the Captain Jack Sparrow outfit and wardrobe and went into the ride. He and Disney had worked out a fun little thing where he was going to take the place of the automated, you know, Captain Jack Sparrow on the Pirates ride, and so he would kind of surprise people as they were going along there. And so, I remember he did that. And then in May of 2017, he went to Disney Shanghai to help open the "Pirates of the Caribbean" ride there.

Mr. Chew: What, if anything, did those affiliations signify about the status of Mr. Depp's relationship with Disney as of that time?

Ms. Bredehoff: Objection, Your Honor, hearsay.

Judge Azcarate: I'll sustain the objection. Next question.

Mr. Chew: Thank you, Your Honor. To what extent, if any, did Mr. Depp socialize with anyone at Disney in 2017? To the extent you know.

Ms. Bredehoff: Objection, Your Honor.

Judge Azcarate: I allowed it to the extent he knows.

Mr. Chew: Do you know whether Mr. Depp socialized with Disney during 2017, yes or no?

Ms. Bredehoff: Objection, Your Honor, foundation and hearsay.

Jack: I do.

Judge Azcarate: If you can lay a foundation to how he knows.

Mr. Chew: How do you know that Mr. Depp socialized with Disney in calendar year 2017?

Jack: Because I was there.

Mr. Chew: Would you please describe for the jury what you mean when you said you were there when Mr. Depp socialized with Disney?

Jack: We had a dinner in the spring of 2017 with myself, Jerry Bruckheimer, Johnny, and Sean Bailey, who was running the film...you know, he was the president of Disney.

Mr. Chew: How did the dinner conclude?

Jack: Great. Great. Very nice. It was a great dinner.

Mr. Chew: As of early December 2018...so we're now in December 2018. What, if anything, was your understanding of the status of whether Mr. Depp would actually appear in Pirates 6?

Ms. Bredehoff: Objection, Your Honor, calls for hearsay.

Judge Azcarate: All right, I'll sustain the objection. Next question.

Mr. Chew: Mr. Whigham, do there come a time when you saw an op-ed that purportedly written by Amber Heard that appeared in "The Washington Post?"

Jack: Yes.

Mr. Chew: Mr. Whigham, I would like to show you, please, what was entered previously into evidence as Plaintiff's Exhibit 1. Mr. Gibson, would you please pull up Plaintiff's Exhibit 1? And Your Honor, may we please publish this to the jury as it's been previously...oh, it is. Thank you. Mr. Whigham, have you ever seen this document before?

Jack: Yes.

Mr. Chew: What is it?

Jack: I believe it's the opinionated op-ed in "The Washington Post" that Ms. Heard...

Mr. Chew: In Plaintiff's Exhibit 1, and drawing your attention specifically to the third paragraph of the op-ed. Ms. Heard writes, "Two years ago, I became a public figure representing domestic abuse and I felt the full force of our culture's wrath for women who speak out." What, if any, understanding do you have of that reference?

Jack: That it was regarding Johnny and their relationship.

Mr. Chew: Directing your attention...Tom, if we could just move back up to the first page of Exhibit 1? Directing your attention to the title of the article, "Amber Heard: I spoke up against sexual violence." What, if any, understanding do you have of that reference?

Ms. Bredehoff: Objection, Your Honor, it's irrelevant what his understanding is.

Judge Azcarate: I'll allow it.

Jack: That was rather shocking I remember because it was the first time I'd heard an allegation of sexual abuse.

Mr. Chew: And against whom was the allegation of sexual abuse?

Ms. Bredehoff: Objection, Your Honor, how would he know?

Judge Azcarate: I'll sustain the objection. Next question.

Mr. Chew: Mr. Whigham, directing your attention to the fifth paragraph of Plaintiff's Exhibit 1. Ms. Heard writes, "I had the rare vantage point of seeing in real time how institutions protect men accused of abuse." To what does that refer?

Ms. Bredehoff: Objection, Your Honor, how would he know it?

Judge Azcarate: I'll sustain the objection. Next question.

Mr. Chew: Mr. Gibson, if you would please take down Plaintiff's Exhibit 1? Mr. Whigham, how, if at all, was Ms. Heard's op-ed different from other articles about the couple's relationship?

Ms. Bredehoff: Objection, Your Honor, calls for hearsay, foundation.

Judge Azcarate: All right.

Mr. Chew: Mr. Whigham, had you seen other articles in the course of your duties as Mr. Depp's agent about Amber Heard and Johnny Depp?

Ms. Bredehoff: Objection, Your Honor, still, it calls for hearsay and foundation.

Judge Azcarate: I'll allow it.

Mr. Chew: Thank you. How, if at all, was the op-ed different from other articles you had read about the Johnny Depp-Amber Heard relationship?

Jack: You know, it was a first-person account coming from the victim, it's extremely impactful.

Mr. Chew: Impactful in a good or bad way?

Jack: You know, with respect to Johnny, it was catastrophic because it was coming from, you know, a first-person account, it was not from a journalist, it was not from someone observing. It was from someone saying, "This happened to me."

Mr. Chew: Mr. Whigham, between December 18th, 2018, the date of the op-ed, and October 2020, did Mr. Depp perform in any studio films?

Jack: Sorry, could you just repeat the dates?

Mr. Chew: Between December 18th, 2018, which is the date that Ms. Heard's op-ed appeared, and October 2020, to what extent, if any, did Mr. Depp perform in any studio films?

Jack: Zero, no studio films.

Mr. Chew: How, if at all, did Ms. Heard's op-ed impact Mr. Depp's ability to land roles in studio films between December 2018 and October 2020?

Ms. Bredehoff: Objection, Your Honor, calls for hearsay, foundation, and expert...

Judge Azcarate: I'll sustain that objection. Are you near the end, Mr. Chew? I want to make sure because it's time for our morning break.

Mr. Chew: I am, Your Honor.

Judge Azcarate: Okay.

Mr. Chew: I have probably five minutes.

Judge Azcarate: Okay, that's good. Go ahead.

Mr. Chew: What effect, if any, did the op-ed have on the release of "Minamata," the indie film you mentioned?

Ms. Bredehoff: Objection, Your Honor, calls for hearsay, speculations...

Mr. Chew: He worked on the...expects hearsay speculations.

Judge Azcarate: [inaudible 01:21:48]

Mr. Chew: Sure. Yes, Your Honor. What happened, Mr. Whigham after the op-ed but before October 2020 with respect to "Minamata?"

Jack: So, the op-ed came out in December and it was right as we were going on Christmas break and "Minamata" was supposed to start in January and I remember it was very, very difficult to keep "Minamata"

together. The financing became shaky, the budget had to come down, Johnny's fee came down in order to save the movie.

Mr. Chew: Tom, if you would please pull up Plaintiff's Exhibit 584 and we're not asking to publish it because it does not come in. This is an email chain with the subject line, "Johnny Depp's Jack Sparrow won't return..."

Ms. Bredehoff: I'll object to him reading even from that to the jury.

Mr. Chew: That's fine, Your Honor, we can...

Judge Azcarate: Okay, move on.

Mr. Chew: Mr. Whigham, do you recognize this email chain?

Jack: Yes, now that I'm looking at it.

Mr. Chew: What is the date of this email chain?

Jack: I think it's December 20th.

Mr. Chew: December 20th of what year, sir?

Jack: Sorry, December 20th of 2018.

Mr. Chew: Mr. Whigham, directing your attention to the middle email message on Plaintiff's Exhibit 584. Did you receive this message from Christian Carino in or about December 20th, 2018 at 3:26 p.m.?

Ms. Bredehoff: Your Honor, I'm gonna object because it's a hearsay document, he's asking questions from the hearsay document.

Judge Azcarate: I'll allow it. I'll allow that question. Let's see where we go.

Mr. Chew: Hr Honor said you may answer that question.

Jack: Yes, you know, I see what he's asking me.

Mr. Chew: Would you please explain to the jury what the message was about?

Ms. Bredehoff: Objection, Your Honor, hearsay. Hearsay, he's asking him to essentially say...

Judge Azcarate: If you want to approach for a moment?

Mr. Chew: Tom, if you could please take that down. Mr. Whigham, did there come a time after Ms. Heard's publication of the op-ed on

December 18th, 2018 but before October 2020, that you learned more about Disney's plans about whether it would cast Mr. Depp in Pirate 6?

Ms. Bredehoff: Objection, hearsay.

Judge Azcarate: All right.

Mr. Chew: I'm just asking whether he...

Judge Azcarate: Okay, I'll allow that.

Jack: Yes.

Mr. Chew: When did that happen?

Jack: In 2019.

Mr. Chew: Go ahead.

Judge Azcarate: Next question.

Mr. Chew: What happened in 2019 with respect to Disney...you're learning about Disney's plans whether to use Mr. Depp in Pirate 6?

Ms. Bredehoff: Objection, hearsay.

Judge Azcarate: "What happened?"

Mr. Chew: Yes.

Judge Azcarate: All right, I'll allow "What happened." Go ahead.

Jack: It became clear they were going in a different direction.

Mr. Chew: When did you learn that Disney was going in a different direction and no longer planned to use Mr. Depp in Pirate 6?

Jack: Early 2019.

Mr. Chew: Who is Margot Robbie?

Jack: She's a fantastic actress. She's a client with CAA.

Mr. Chew: What, if anything, did you learn about the role Margot Robbie would be playing in Pirate 6?

Ms. Bredehoff: I think that calls for hearsay, Your Honor, I'm gonna object.

Judge Azcarate: I'll overrule the objection.

Jack: I learned that they were developing a Pirate's project for her to star in.

Mr. Chew: After you learned that Disney was going in a different direction in early 2019 and no longer planned to use Mr. Depp, did you...to what extent did you reach out to Jerry Bruckheimer or Sean Bailey?

Ms. Bredehoff: Objection, Your Honor, calls for hearsay.

Mr. Chew: It does not, Your Honor.

Judge Azcarate: Overruled, I'll allow it.

Mr. Chew: Thank you, Your Honor.

Jack: A lot.

Mr. Chew: Did you reach out to Mr. Bruckheimer and Mr. Bailey jointly or separately?

Jack: Separately.

Mr. Chew: What, if anything, was the result of your outreach to Mr. Bruckheimer and Mr. Bailey?

Ms. Bredehoff: Objection, it still calls for hearsay, Your Honor.

Judge Azcarate: It calls for hearsay, Mr. Chew?

Mr. Chew: I'm just asking what the result was.

Ms. Bredehoff: It's still based on his communications with them.

Judge Azcarate: All right, I'll sustain the objection. Next question.

Mr. Chew: After your outreach to Mr. Bailey and...well, strike that, was your outreach to Mr. Bruckheimer and Mr. Bailey successful?

Ms. Bredehoff: Objection, leading.

Judge Azcarate: I'll allow it.

Jack: No. I successfully made contact with them but I was not successful in rescuing Pirates for Johnny.

Mr. Chew: When was the last time you discussed Mr. Depp's role in Pirates 6 with Jerry Bruckheimer, Sean Bailey, or anyone else at Disney?

Ms. Bredehoff: I'm gonna object, Your Honor, hearsay.

Judge Azcarate: Overruled.

Jack: 2019 I believe.

Mr. Chew: In addition to Pirate 6, did Mr. Depp lose other films between December 2018 and October 2020 because of Ms. Heard's op-ed?

Ms. Bredehoff: Objection.

Judge Azcarate: I'll sustain the objection.

Mr. Chew: In addition to Pirate 6, did Mr. Depp lose any other films between December 2018 and October '20?

Ms. Bredehoff: Objection, Your Honor. First of all, I don't think he testified that he lost Pirate 6. Second of all...

Mr. Chew: She's now contradicting the witness's testimony, which is inappropriate.

Judge Azcarate: Both of you, overruled. Lets's go. Go ahead, answer the question.

Jack: Yes. After the op-ed, it was impossible to get him a studio film, which is what we normally would have been focused on in that time period.

Mr. Chew: Mr. Whigham, to what extent did COVID...or strike that, to what extent, if any, did COVID impact Mr. Depp's opportunities prior to October 2020?

Jack: I think it had an effect on Johnny like other actors to some degree. But we were still doing business, especially on behalf of, you know, bigger stars that greenlit films. And so, what was happening was we would close deals or, you know, put together a movie and then just set the start date for whenever people could get together and actually shoot the movie.

Mr. Chew: Mr. Whigham, in your many interactions with Mr. Depp, have you ever seen him angry?

Ms. Bredehoff: Objection, Your Honor, it's leading.

Judge Azcarate: I sustained as to leading.

Mr. Chew: In your many...thank you, Your Honor. In your many interactions with Mr. Depp, to what extent, if any, have you ever seen him lose his temper?

Jack: I never have.

Mr. Chew: To what extent, if any, has Mr. Depp ever raised his voice in your presence?

Jack: He never has.

Mr. Chew: Mr. Whigham, to what extent have you ever seen Mr. Depp engage in any violence?

Jack: Never.

Mr. Chew: Mr. Whigham, other than Ms. Heard, are you aware of any other woman who has ever accused Mr. Depp of physical abuse?

Ms. Bredehoff: Objection, leading, foundation, hearsay.

Judge Azcarate: I'll sustain the objection to leading.

Mr. Chew: Thank you, Your Honor. Thank you, Mr. Whigham. I will pass the witness.

Judge Azcarate: All right, Mr. Whigham, we'll do cross-examination in about 15 minutes. I'm gonna take a 15-minute morning recess, okay, sir? All right, ladies and gentlemen, we'll go ahead and take our morning recess. Do not discuss the case with anybody and don't do any outside research, okay? Mr. Whigham, what I'll do is put you in the lobby and then I'll...you won't see anything, in about 15 minutes, I'll bring it back, okay?

Jack: Okay. Thank you.

Judge Azcarate: Okay.

[01:31:21]

[silence]

[01:31:38]

Judge Azcarate: All right, at this point, we'll just come back at noon. Okay? All right, thank you.

Ms. Bredehoff: Mr. Whigham, you testified that you closed a deal for Mr. Depp for Pirate 6 with him acting as Jack Sparrow. Do you recall that testimony?

Jack: Yes.

Judge Azcarate: Mr. Whigham, could you do me a favor and just count from one to five for me so I can get you on my big screens here?

Jack: Sure. One, two, three, four, five.

Ms. Bredehoff: There we go.

Judge Azcarate: Okay. Thank you, sir. I appreciate it. I'm sorry.

Ms. Bredehoff: But in fact, Mr. Whigham, it's not true that Mr. Depp ever had a contract with Disney for Pirate 6. Isn't that correct?

Jack: Can you explain that question or that position?

Ms. Bredehoff: Have you ever seen a contract that provides for Mr. Depp to play Pirate 6?

Jack: To the best of my knowledge, my memory, myself and my partner closed an optional picture deal for the amount of money of what that picture would be for Johnny.

Ms. Bredehoff: And you would make sure to have that in writing, wouldn't you?

Jack: You know, that would normally go through legal counsel in terms of the codification of it.

Ms. Bredehoff: Do you have any explanation for why there exists nothing, no piece of paper, nothing suggesting that Mr. Depp ever had a deal with Disney for Pirate 6?

Mr. Chew: Objection, lack of foundation, compound.

Judge Azcarate: I'll allow it.

Jack: So, I often close...you know, as an agent, we would work on many deals where I actually wouldn't see contracts, they were verbal in nature, and then...you know, especially on optional pictures, just so there was an understanding of what the money would be.

Ms. Bredehoff: So, do you have an explanation why there is not even a piece of paper, not an email, not a text, not a document, nothing that suggests that Mr. Depp is going to be in Pirate 6 as Jack Sparrow?

Mr. Chew: Objection, asked and answered.

Ms. Bredehoff: I don't believe it was.

Judge Azcarate: Overruled, I'll allow it.

Jack: I mean, if you ask me for my opinion, it wouldn't necessarily be alarming because that would be a conversation usually to understand...Disney is gonna want to know, are we on the same page about what the money is going to be? And most of that conversation, if I remember correctly, was also with one of Johnny's lawyers at the time.

Ms. Bredehoff: Okay, and so you had...so Johnny's lawyer was discussing this, but there's no document. Do you have an explanation for that?

Jack: Well, you may know better than me if there is a document, but that was Jake bloom, you know, at the time, I believe, if memory serves me correct.

Ms. Bredehoff: All right, but would it be fair to say that you have never seen a document that provides that Mr. Depp was going to be in Pirate 6?

Jack: It would be fair to say that it was consistent with a lot of the conversations that I would have on behalf of big stars where it was verbal and there was an understanding of what the deal was going to be.

Ms. Bredehoff: Mr. Whigham, if you could please answer my question?

Mr. Chew: Objection, harassment, he did answer the question.

Judge Azcarate: I'll allow it. If you want to ask your question, go ahead.

Ms. Bredehoff: Thank you.

Jack: Sure. Can you repeat the question? Sorry.

Ms. Bredehoff: Judy, can you read that back? Thank you.

Judy: All right, but would it be fair to say that you have never seen a document that provides that Mr. Depp was going to be in Pirate 6?

Jack: It would be fair to say that I have not seen a document on Pirates. Now, just so you know...

Ms. Bredehoff: Mr. Whigham, Mr. Whigham, I don't need you to give me extra. I just want you to answer mine. I just want to know, have you ever seen a document that says Mr. Depp is going to be in Pirate 6?

Ms. Bredehoff: To fully answer the question, though, I think there's some context...

Ms. Bredehoff: That's an easy yes or no. Have you seen a document?

Jack: Technically, I perhaps have because it connects to all the other Pirates films, it's just a modification of a new document. So, I have not seen 22.5 million written on a page, you're correct about that.

Ms. Bredehoff: Okay. Now, you, in fact, had discussions back in 2016 and 2017 with Mr. Bailey, Sean Bailey, you talked about him a little bit ago, right?

Jack: Yeah.

Ms. Bredehoff: And you also had discussions with Jerry Bruckheimer in 2016 and 2017, correct?

Jack: Yeah.

Ms. Bredehoff: About Mr. Depp potentially being in Pirate 6, correct? And then you had discussions in 2018 with Mr. Bailey and he was quite non-committal about whether Mr. Depp would be in Pirate 6, correct?

Mr. Chew: Objection, hearsay.

Judge Azcarate: All right. Okay.

Ms. Bredehoff: Given that he was able to...

Judge Azcarate: I'll sustain as to hearsay, it is hearsay. All right.

Ms. Bredehoff: So, you determined, Mr. Whigham, that by the fall of 2018, it was very likely that Mr. Depp was not going to be in Pirate 6, is that correct?

Jack: It's a two-pronged answer from my perspective because there were really two individuals involved in that decision, I would say Jerry Bruckheimer and Sean Bailey. Jerry Bruckheimer in the fall of 2018 really wanted Johnny in that next film and Sean was non-committal as you said.

Ms. Bredehoff: And Mr. Bruckheimer made it clear to you that Mr. Bailey was the one who gets to decide because he's Disney, right?

Jack: Ultimately, he also wanted to be the tip of the spear to really try to convince Sean.

Ms. Bredehoff: Okay. Now, do you recall...Your Honor, may I approach?

Mr. Chew: Thank you.

Judge Azcarate: Thank you.

Ms. Bredehoff: Do you recall having your deposition taken on January 20, 2021? Okay.

Jack: Yes, ma'am, I do.

Ms. Bredehoff: Okay, can you pull that up, Michelle, please? Thank you. I'm going to ask you to turn to page 44. And Mr. Whigham, you were under oath at the time of this deposition, correct? Correct?

Jack: Yes. Yes, ma'am.

Ms. Bredehoff: Line 10. This is page 44, line 10. The question, "Do you recall approximately when in 2018 you inferred from your discussion with Mr. Bailey that the likelihood of Mr. Depp being in Pirate 6 was not high or was going away?" And your answer at that time was, "If memory serves me, the latter part of 2018 maybe." Question, "When you say latter, is that anytime from August to December, or what are you thinking?" Answer, "I would say fall, you know, maybe, you know, October, November, December, in that area." Do you recall giving that testimony under oath at that time?

Jack: I do now that I see it, yes.

Ms. Bredehoff: Okay. And in fact, there were quite a few things going on earlier in 2018 that might have had a bit of an impact on Mr. Depp's reputation, would you agree?

Jack: It might help if you...

Ms. Bredehoff: Refresh your recollection? Sure. Sure. And before I go there, though, I think you said that the reason it was so catastrophic for Mr. Depp for the op-ed was because it was a first-person account of Johnny, right? Do you remember saying that?

Jack: Yes.

Ms. Bredehoff: Okay. Wasn't it a first-person account when Ms. Heard filed for the TRO in 2016?

Jack: So, that would have predated any relationship I had to Johnny, so I had no knowledge of that.

Ms. Bredehoff: Okay, so you don't know whether it was catastrophic then?

Jack: if you're asking me my opinion on something I don't know, I can form an opinion right now. It's a court document and probably a little different than an op-ed in "The Washington Post." But I would agree it's not a...now that I'm forming an opinion, that it's not a great headline to be sure.

Ms. Bredehoff: When you read the op-ed, did you read it online, or did you read it in the actual paper?

Jack: I don't remember.

Ms. Bredehoff: Well, let's pull up Plaintiff's Exhibit 2. Does this refresh your recollection?

Jack: Very hard for me to see. Is that just the paper?

Ms. Bredehoff: We're going to try to scroll in a little bit more.

Jack: Again, you can help me, is that the paper with the article?

Ms. Bredehoff: Yes. Yes, that's "The Washington Post."

Jack: So, what's the question? Sorry.

Ms. Bredehoff: Does this help refresh your recollection of whether you saw it in print or whether you saw it online?

Jack: It does not, but I'll tell you that, I did not typically pick up "The Washington Post," you know?

Ms. Bredehoff: Okay. And so, while we're sitting, if you can just for a second, you're saying that then two years ago...we don't have to do that, let's clear that one. "Then two years ago, I became a public figure representing domestic abuse." That's this first person from Ms. Heard that's catastrophic for Mr. Depp, is that your testimony?

Jack: My testimony is that it reads like a victim statement from someone involved and the recipient and it became a...yes, a bit of a death knell catastrophic thing for Mr. Depp in the Hollywood community.

Ms. Bredehoff: All right, well, let's go to...let's pull up Defendant's Exhibit 99. Now, there was, in fact, an article published in "The Sun" newspaper

by Dan Wootton, the editor-in-chief on April 27th, 2018. Do you recall that?

Jack: No, but I'm looking at it.

Ms. Bredehoff: Does that refreshes your recollection? And in fact, this article calls Mr. Depp a wife beater, does it not?

Mr. Chew: Objection, hearsay.

Judge Azcarate: I'll allow it, go ahead.

Jack: You know what? I can't see the print even with these glasses, but I'll take your word for it.

Ms. Bredehoff: Well, the title here is, "How can J.K. Rowling be genuinely happy casting wife-beater Johnny Depp in the new "Fantastic Beasts" film?"

Mr. Chew: Objection, hearsay, Your Honor.

Judge Azcarate: I'll allow it.

Jack: Yeah.

Ms. Bredehoff: Okay. Your Honor, I'd like to move the admission of this exhibit. I think at this point, it's not offered to prove the truth of the matter asserted but it's going to...he's testified comparisons of other articles, he's testifying to the impact of the op-ed, I think in fairness, we should be able to put this in and be able to make the comparisons.

Mr. Chew: It's clearly hearsay, Your Honor.

Judge Azcarate: Okay, I'll sustain the objection.

Ms. Bredehoff: It's not offered the truth of the matter asserted, Your Honor.

Judge Azcarate: I sustained the objection.

Ms. Bredehoff: Okay. Well, let's go to the third page. No, let's go to the fourth page. So, it has...A5, I think, is what I'm trying to get to. So, it says, Paragraph 7." So, do you recall that it says in here...

Mr. Chew: Objection, hearsay, Your Honor. She's just trying to back toward your ruling.

[01:45:15]

[silence]

[01:45:31]

Ms. Bredehoff: Mr. Whigham, the article also had pictures, did it not?

Jack: I don't recall.

Ms. Bredehoff: Do you recall whether it had a picture of Ms. Heard?

Mr. Chew: Objection, hearsay, Your Honor.

Judge Azcarate: I'll allow that.

Jack: I don't recall.

Ms. Bredehoff: Can we go to the eighth page? I'm showing you the picture right now. Does that refresh your recollection?

Mr. Chew: Your Honor, hearsay, lack of foundation.

Judge Azcarate: I'll allow it.

Jack: It doesn't speak to my impression of when I read it or how I read it but I see the photo. Yes, ma'am.

Ms. Bredehoff: All right. And in fact, it shows bruises on it, doesn't it? On Ms. Heard's face.

Mr. Chew: Objection, lack of foundation.

Judge Azcarate: Overruled.

Jack: That would be what I've seen, yes.

Ms. Bredehoff: Okay. Now, Mr. Depp filed a lawsuit against "The Sun" newspaper and against Dan Wootton for this article, correct?

Jack: I believe so.

Ms. Bredehoff: June 13th, 2018? Let's pull up 1599, Defendant's 1599. Does this refresh your recollection?

Mr. Chew: Objection, hearsay, Your Honor.

Judge Azcarate: Just for refreshing recollection, I'll allow it.

Jack: Just so I understand the question, you're asking does it refresh the memory that Johnny filed against "The Sun?"

Ms. Bredehoff: Yes, and Dan Wootton, on June 13, 2018.

Jack: Sure. Now that I'm looking at it, yeah.

Ms. Bredehoff: All right, and he did so in the UK, in the High Court of Justice, correct?

Jack: I believe so. You would know better than I.

Ms. Bredehoff: Okay, and if we can just turn to page nine. And do you recall that Mr. Depp alleged that that article had caused him serious harm to his personal and professional reputation?

Mr. Chew: Objection, hearsay, calls for speculation.

Judge Azcarate: I'll allow the question.

Ms. Bredehoff: Thank you.

Jack: No, I don't recall.

Ms. Bredehoff: I going to ask you to take a look at Paragraph 11. And let me see if I can get...

Jack: I need new glasses. Your Honor, is there a way to even make that screen bigger on mine? I wish I had better glasses or more technologically-savvy.

Judge Azcarate: They can make it a little bigger but I think that about as far as they can go.

Ms. Bredehoff: I'm gonna try to highlight it here so that that might help you a little bit. Let me switch the color. So, do you recall that Mr. Depp alleged that the article in "The Sun" newspaper by Dan Wootton had caused serious harm to the claimant's personal and professional reputation?

Jack: If you're asking me, I don't recall it. I was not involved in that case at all. I'm able to read what's in front of me.

Ms. Bredehoff: But you don't recall if that had any impact on Disney in 2018?

Mr. Chew: Objection, asked and answer.

Judge Azcarate: I'll sustain the objection. Next question.

Ms. Bredehoff: All right, do you recall that Mr. Depp also alleged that he was caused significant distress and embarrassment by the publication of that article?

Jack: No, I don't recall that.

Ms. Bredehoff: Okay.

Jack: I say that because I just was not involved in that case.

Ms. Bredehoff: All right.

Jack: My memory of that was it was a tabloid and the lawyers were hitting it.

Ms. Bredehoff: All right. Michelle, you can take that down. Thank you. Now, there was a trial in the UK, was there not, on Mr. Depp's claims of libel against Dan Wootton and "The Sun?"

Jack: I believe so.

Ms. Bredehoff: And it was in July of 2020, was it not?

Jack: I don't remember the date, actually.

Ms. Bredehoff: All right. And it lasted three weeks. Do you recall that?

Jack: I don't, but I'll take your word for it.

Ms. Bredehoff: Do you recall there being an enormous amount of publicity surrounding that trial?

Mr. Chew: Objection, calls for speculation, lack of foundation.

Ms. Bredehoff: He said he did.

Judge Azcarate: Overruled.

Ms. Bredehoff: I'm sorry, Mr. Whigham, you said you did recall that?

Mr. Chew: Asked and answered.

Ms. Bredehoff: I'll allow it.

Jack: I remember there being press around it, yes, ma'am.

Ms. Bredehoff: Okay. And, in fact, do you recall that Mr. Depp gave testimony for four days?

Jack: Not specifically, I don't.

Ms. Bredehoff: Do you recall that Ms. Heard gave testimony for four days?

Jack: I don't recall any specific memory of who testified for how long or any details within the case.

Ms. Bredehoff: Do you recall there being many, many witnesses testifying at that case...on that case?

Jack: I think I'd revert to my answer just now.

Ms. Bredehoff: Okay. And the press that surrounded that case, do you recall it being focusing on things like Mr. Depp's drug and alcohol use?

Jack: Same answer.

Ms. Bredehoff: Do you recall there being the video, the kitchen video being shown repeatedly?

Mr. Chew: Objection. Your Honor, may we approach?

Judge Azcarate: Sure.

Ms. Bredehoff: I think my last question was do you recall there being a lot of publicity surrounding Mr. Depp's alcohol and drug use?

Jack: I think I answered that...

Ms. Bredehoff: That's right, I was on the video, the kitchen video. Do you recall there being...the kitchen video being played pretty repeatedly in the press?

Jack: No, I don't.

Ms. Bredehoff: Do you recall a lot of pictures of Ms. Heard reflecting bruises, cuts, injuries?

Jack: I think just to be clear, I don't recall anything that was going on within the case. I was always consumed with next film and TV opportunities and that was being handled by the lawyers.

Ms. Bredehoff: Do you recall... I just have a couple more to ask you on this, do you recall there being allegations of at least 14 incidents of domestic violence against Ms. Heard in that trial?

Jack: I do not with specificity, same answer.

Ms. Bredehoff: Now, could we bring up Exhibit number 1 again, Plaintiff's? Now, Mr. Whigham, do you know who wrote, "Amber Heard: I spoke up against sexual violence and faced our culture's wrath, this has to change.

Jack: You're talking about the title?

Ms. Bredehoff: Yes.

Jack: I wouldn't say that...to me, I would have assumed it was Ms. Heard.

Ms. Bredehoff: You assume but you don't know, do you?

Jack: I do not.

Ms. Bredehoff: Okay. And were you aware that there were also three pleaded incidents of sexual violence in the UK trial against Ms. Heard by Mr. Depp?

Jack: No, ma'am.

Ms. Bredehoff: Okay. Now, your testimony is...you can take that down now, thank you. Your testimony is that since some point in 2020, Mr. Depp has not had any more movie opportunities. Is that correct?

Jack: Sorry, repeat the date.

Ms. Bredehoff: When is the last time Mr. Depp had a movie opportunity?

Jack: The last film that he shot was "Minamata" to the best of my memory.

Ms. Bredehoff: All right. And in fact, do you know whether the article that was in the UK, the ensuing lawsuit that was brought by Mr. Depp and the ensuing trial and all the publicity, do you know whether that had any impact on Mr. Depp's career?

Mr. Chew: Objection, compound.

Judge Azcarate: All right, I'll sustain the objection.

Ms. Bredehoff: Do you know whether the collection of all of those items I just listed had an impact on Mr. Depp's career?

Jack: Remind me the dates that you're asking about.

Ms. Bredehoff: So the answer I take it is no, you don't know. Correct?

Jack: I'm just trying to make sure I give you a correct answer so I understand the question. You referenced after 2020, is that what you're saying?

Ms. Bredehoff: The article was April of 2018, the lawsuit was June of 2018, the trial was July of 2020. What opportunities has Mr. Depp had since July 2020?

Jack: Since July 2020, he has not done a film.

Ms. Bredehoft: Thank you. I have no further questions.

Judge Azcarate: All right, re-direct.

Mr. Chew: Good afternoon again, Mr. Whigham. Do you recall Ms. Bredehoft asks you questions about whether you ever actually saw a document containing the \$22.5 million deal for Mr. Depp for Pirate 6? Do you recall that?

Jack: I do.

Mr. Chew: And do you recall when you were trying to answer her question, you said you needed a little more context? Do you recall that?

Jack: Yes.

Mr. Chew: And would you please now provide the jury that context so they can have a fuller understanding of what your testimony is?

Jack: So, often on a franchise movie, when you're dealing with big stars and you're talking about future optional pictures, you engage at the high level, meaning the president or the top of the studio to get an understanding of what that deal is going to be. They then get papered typically...when I say "papered," it's amended because it's based on the same contract usually that's been in existence and it would get...sometimes we don't see paperwork or get paperwork until the film is happening.

Mr. Chew: And Mr. Whigham, on a similar line, Ms. Bredehoft asked you some questions about whether after this deal was done, it was starting to trend badly with respect to Disney and still well with respect to Mr. Bruckheimer in the fall of 2018. Do you remember that testimony?

Jack: I do.

Mr. Chew: When was it that Disney made a final decision as to whether Mr. Depp would be in Pirate 6?

Ms. Bredehoft: Objection, calls for hearsay.

Judge Azcarate: All right, I'll sustain the objection. I'll sustain the objection, next question. Mr. Chew: Mr. Whigham, it may have been trending badly as of that time but Disney had not gone in the other direction, correct?

Ms. Bredehoft: Objection.

Judge Azcarate: Overruled, I'll allow it.

Mr. Chew: You may continue.

Jack: You know, it should be earlier, it was two days after the op-ed and I was saying that Disney had never said that Johnny would not be in the film as of that date.

Judge Azcarate: Overruled.

Jack: And my testimony is the exact same as the deposition, which is it was trending badly in the late fall on behalf of Disney but Jerry Bruckheimer and I were lobbying to make it happen, and so we had hope. And it became clear to me in early 2019, that it was over.

Mr. Chew: Thank you very much, Mr. Whigham. No further questions.

Judge Azcarate: All right. Thank you. Is this witness subject to recall?

Mr. Chew: Yes, Your Honor.

Ms. Bredehoff: All right, Mr. Whigham, since you're subject to recall, you're still subject to the rule on witnesses, so you cannot discuss your testimony with anybody and you cannot watch any of the trial, okay, sir?

Jack: Okay.

Judge Azcarate: All right, but you're free for today. Thank you.

Jack: All right. Thank you.

Judge Azcarate: Thank you. All right, your next witness?

Ms. MacDowell: Your Honor, before we call the next witness, may we approach briefly?

Judge Azcarate: Okay, sure.

Woman: Do you solemnly swear or affirm to testify truthfully in this case under the penalty of the law?

Richard: Yes.

Judge Azcarate: I am good. How are you doing, sir? Good afternoon. You can sit down, sir. That's fine.

Ms. MacDowell: Good afternoon, Mr. Marks.

Richard: Good afternoon.

Ms. MacDowell: Would you please state your full name for the record?

Richard: Richard Edward Marks.

Ms. MacDowell: And Mr. Marks, where do you live?

Richard: I live in Hollywood.

Ms. MacDowell: Would you tell us a little bit about your educational background, sir?

Richard: I'm a product of the public school system in Los Angeles and I went to UCLA undergraduate, and I'm a graduate of UCLA School of Law.

Ms. MacDowell: When did you graduate from UCLA School of Law?

Richard: I graduated in 1973 and I've been an officer of the courts since then, almost 50 years.

Ms. MacDowell: Where do you work?

Richard: I work at my own law firm, Richard Marks and Associates.

Ms. MacDowell: What is Richard Marks and Associates?

Richard: It is a transactional entertainment law firm and we represent individuals, writers, directors, actors, books authors. But mainly, we represent producers who are developing product, if you will, to be produced and then exploited on television, features, streaming, things like that.

Ms. MacDowell: When you say you're a transactional law firm, what do you mean by that?

Richard: What I do is make deals, they're transactions. I'm a deal guy. So, my whole practice, all these decades, has been about getting to yes, how do you make a deal and then how do you get it documented so people sign it, and then it's clear enough that it can be administered and people can know what to do after you've made the deal.

Ms. MacDowell: Specifically, what types of clients do you work with?

Richard: Well, as I said, I work with all kinds of clients, but my bigger clients and the bulk of my practice is representing producers who produce...they develop and they produce content for exploitation.

Ms. MacDowell: Are there any particular clients that you can identify?

Richard: Yeah, I've been working for a long time with ITV, which is a huge British company with a worldwide reach in entertainment. They

produce "The Voice," "Love Island," and right now I've done all the development legal work on a mini-series that's about to shoot in France and England starring Michael Douglas as Benjamin Franklin. It's based on a novel that we optioned...I helped them option years ago, then scripts were written for the eight hours, then Michael Douglas was engaged, the director was engaged, and I do all those contracts and that's ITV.

Another one of my big clients is Village Roadshow. They're an Australian company. They partner with Warner Brothers and they produce movies like "Matrix," "Aquaman," "Scooby Doo." Right now, I am working on a television series for them doing legal production and before that, it was development with the production legal work on a reboot of the old college show where two colleges come together with teams and answer questions and here they're gonna win scholarships and the hosts are Peyton Manning and Eli Manning. So, that's currently what I'm working on for Village Roadshow.

Ms. MacDowell: Any other clients?

Richard: And I would say my third big client is a company called Media Rights, MRC, and they produce movies and TV shows. Recently, I've done a lot of work for them. They are finishing up a mini-series that I'm doing the legal work on for Apple starring Billy Crudup. We just finished a mini-series for them called "Terminal List" with Chris Pratt. That's for Amazon. And we recently finished a mini-series, doing legal dealmaking for MRC on a show called "The Shrink Next Door," which is aired. It starred Will Ferrell and Paul Rudd.

And then, I can't leave out my longest client, which is the producers of "Bosch" for Amazon. It's got to be 9-10 years ago when we went into Amazon, they had never produced a series, and we negotiated a deal for Michael Connelly's book series and we cast Titus Welliver as Bosch. They wouldn't order a series, they would only order a pilot. And now in the next few days, what I call the eighth season but which is the first season of the spin-off will be available on IMDb TV instead of on Amazon, but Amazon owns IMDb TV. And we're right now writing the ninth season, so I've had this long run with this one particular series.

Ms. MacDowell: Can you tell the jury a little bit about the types of deals that you work on for these clients?

Richard: Well, when you think of a series or a motion picture and you see the credits, there's hundreds of credits there. And every one of those people, you have to make a deal with them and you have to paper

it so that they sign it and you know what to pay them and is there a guild involved, a union, you know, what are their services? And what I do is all of that, soup to nuts many times. Sometimes I've worked with in-house counsel or other attorneys and we split up the work. But basically, you know, you want to produce a movie or a show, you might option a book, I do that deal. You might hire a writer, then you might get a director, then a line producer, a UPM, AD, then you start hiring your cast and you start making location deals.

Then you start renting equipment and props and getting releases for photos you might show or for people who might end up on camera. And then when you're done shooting, you're making deals for merchandising and deals with distributors. And in the old days, it might have been for a DVD or for merchandising a doll. And so, it's really what I do is make deals, and all deals...I've been doing it for almost 50 years, but they're all the same. They have elements of time, money, credit, rights, and perks. And I have approached deals that way so that I've made myself relevant.

When I started out, there were three networks and big studios and the attorney said, "Well, I'm a TV lawyer," or, "I'm a feature lawyer." I just said, "I'm a transactional lawyer," and so I've been able to adapt and make deals with Netflix, Quibi, YouTube. You know, you name it, I've made deals...I mean, I recently made a deal with Hellmann's mayonnaise for an actress who was going to be an influencer for them on the web and, you know, it was a good payday for this actress. But that's the way I look at deals. I'm a deal maker and that's my practice.

Ms. MacDowell: Mr. Marks, you testified that you had been working in the entertainment industry almost 50 years. How did you get started in the entertainment industry?

Richard: I get started in the entertainment industry by being born in Hollywood and it's our town industry, if you will. And I've always been interested in it and when I went to UCLA, I took all the film classes there were. And when I went to UCLA law school, it was by design because, number one, I couldn't afford the big law school, so UCLA was a public school, it was virtually free. I went to UCLA law school because if you want to practice entertainment law in Hollywood, you go to UCLA or USC. Those are the schools where you kind of create your contacts and your network. And at UCLA, they had some of the best professors who taught entertainment law-related subjects. So, I took copyright, trademark, entertainment contracts, if you will. I took everything

entertainment-related and that's how I kind of built the foundation for then my after-law school career.

Ms. MacDowell: What did you do after you graduated from law school?

Richard: Well, I wanted to do entertainment and transaction law but I realized that I could earn a little bit more money if I went into entertainment litigation, suing over copyrights and trademarks. And so, I took the highest paying job that I could get out of law school and it was in 1973, and I did IP litigation, disputes over copyrights or trademarks, disputes over rights, things like that. And I was a low-level litigator, doing depositions or motions, certainly not sitting at the...you know, examining witnesses, except it might be in a deposition. And I did that for about...it was my first year out of law school.

Ms. MacDowell: What did you do after that?

Richard: Well, after that, I kind of made a decision that being a litigator wasn't for me, that I wanted to make deals, that I wanted my career to be about getting to yes. And that involves a lot of, you know, conflicts sometimes but the goal was to get to yes so that both parties could work together. Because the goal was working together and creating the TV show, not making the deal. The deal makers had to step away so that you close the deal, and then people could live with that deal. And so, I went to a transactional law firm and I was there a couple of years and I made deals.

Ms. MacDowell: What kind of projects did you work on when you transitioned into that deal-making role?

Richard: Well, this is, you know, mid-1970s, and this law firm was hot, if you will. Some of my classmates were there, that's how I got the job. I had to take a cut in pay to go there. And I'll never forget, I'm the second chair attorney in a big conference room at Fox and we're trying to close a deal for our young client, George Lucas, to make a film called "Star Wars," A Western space movie, and Fox would not give us the budget or the salary he wanted, and this is the God's honest truth, we said, "Okay, give us the merchandising." And famously, they gave us the merchandising because they didn't think there was value there and that's how much our business has changed.

While I was at my first transactional firm, we also worked for a client, his name is Sylvester Stallone. His claim to fame is that he was a character actor, but he had written a script that all the major stars wanted to play, they wanted to play the role, Rocky, and he said, "I will not sell the script unless I play Rocky," and no one was happy about that. And the deal we

made was he got to play the role but it was a very low budget and he hardly had a dressing room, he hardly had any perks, he wasn't happy about it, but we were able to make up for that in the deals for Rocky 2 and 3. And that's the type of deals, it was...at that entertainment transactional firm, we weren't representing major companies, if you will. We were representing artists, writers, directors, talent like, you know, individuals. We weren't representing the companies I do now like ITV or Village Roadshow.

Ms. MacDowell: How long were you at that law firm?

Richard: I was at that firm for a couple of years.

Ms. MacDowell: What did you do after that?

Richard: After that, I made a decision that I wanted to go in-house where the full-time business was making, you know, product and it's very tied to production and I wanted to move away from law firms at that moment. And my first in-house job was for the Ziegler Discant Agency, which was one of the premier literary agencies in town. We represented writers and books and estates of books. And at that time in late 70s to early 80s, if you wanted to hire a writer or a book or option a book, there were three places you went. You went to Swifty, this kind of famous Swifty Lazar, some Oscar parties, or you went to Suwanee, H.L. Swanson, or you went to Ziggy and I worked for Ziggy.

Ms. MacDowell: Did you work for any other companies in an in-house capacity as a deal maker?

Richard: Oh, yeah, yeah, you know, with Ziggy, we make deals for the book, "The Princess Bride." We did a lot of...we work for William Goldman, that was his book and his screenplay, and, you know, it was a fabulous experience. But that firm was bought by ICM, a much bigger agency, and then I moved to Paramount. That's where I next went. And at Paramount, I was the attorney on the series "Cheers" and the series "Family Ties," which was the break for the young son, Michael J. Fox.

And then I did something...because I have never said I'm just a TV lawyer, I'm a dealmaker, I get to yes, and it's sort of unheard of but I moved from network television, doing the deals for "Cheers" and "Family Ties," I moved to features at Paramount because you can earn a little more money in features and I was married and I had a child. And in features, I was assigned to do the development and production work for a producer, who's in this case, Jerry Bruckheimer. And I also served...they had an overall deal with Eddie Murphy, so I did the legal

work in his films like "Beverly Hills Cop," "Coming to America," things like that. And I was at Paramount about four years.

Ms. MacDowell: Why did you go after Paramount?

Richard: After Paramount, I got this opportunity to head up business and legal affairs in the Feature Division for Jerry Weintraub studio. Jerry was famous at the time for "Karate Kid" and "Ocean's Eleven," and he represented, you know, Elvis and Frank Sinatra in music and John Denver. But this was his motion picture company and I was in features. And we made a film called "True Beverly Hills," which is starring Shelley Long. We made another film, "The Big Blue," we acquired a film library. He was positioning himself to be a major company until he went bankrupt and that was one of his only failures.

Ms. MacDowell: Where do you go after that?

Richard: After Jerry Weintraub, I went to Disney and I filled in for a year for the head of legal in features, who was on maternity leave and taking a family leave. And so, I headed up legal on films like "Dick Tracy," Madonna was in that, "Rocketeer," another live-action film. But what I really remember about my time at Disney is they were revamping the animation department and they wanted to make a different kind of Disney animated film. And part of it, in the old days, Disney animated films, the voices weren't advertised, they weren't the stars of the movie, Disney was the star or Dumbo was the star but the voices were hardly known. And we broke that mold and it was the first deal where we paid real money to someone to do a voice, it was the deal I made with Robin Williams to voice Aladdin, and it changed the whole history of Disney and feature animation. I worked on "Beauty and the Beast," and it was a tremendous experience to be involved with them.

Ms. MacDowell: After you worked at Disney, did you continue to fill in-house dealmaking roles?

Richard: Yeah, I continued my in-house road, even in the world that I could see was consolidating and it was going to be more and more difficult to stay in-house. After Disney, I went to a company called Media Home Entertainment. And they put up money for films and for their investment, they got the VHS cassette rights. So, Media Home Entertainment was one of the producers/investors in "The Nightmare on Elm Street" series and "Blue Velvet," and what they got was the right to sell video cassettes. They also manufactured and sold the Jane Fonda videos or the NFL videos. And it was a great business except the studios realized, "Are we crazy? Why are we letting another company sell

video? We should keep that in-house." And so, I was not only head of legal but I was on the board of directors, and we sold the company to Fox so that they could take in the assets and eliminate a competitor.

Ms. MacDowell: Where do you go after that?

Richard: After Media Home Entertainment, I went to a company called Kushner-Locke. It was very...it was at a time in the business where there were hundreds of independent producing companies because the networks couldn't produce for themselves, there were laws preventing it. And Kushner Locke, we produced "Pinocchio" with Jonathan Taylor Thomas, we produce a small movie called "Freeway," it was Reese Witherspoon's, one of her first roles. And I was there for eight years, it was a good long run until they, as all those independent companies ultimately did, not all, most, they went bankrupt after eight years.

Ms. MacDowell: What did you do after that?

Richard: Now, you can see I'm still chasing the in-house world. I went to a company, Nelvana, they were a Canadian animation company but they had this big office in LA. I headed up business legal. We manufactured, made, produced animated television series like "Care Bears" and merchandising also, Big Bear, Little Bear, all sorts of animated subjects and merchandising deals and cartoons, if you will. And then that Canadian company closed the LA office and move back to Canada, I didn't want to move back to Canada, and so my last in-house situation, I went to Universal Network Television and I did business and legal affairs on "Just Shoot Me" television series, a series starring Josh Brolin called "Mr. Sterling," it was kind of patterned on "Mr. Smith Goes to Washington."

And at the same time I was at Universal Network Television, I consulted with Nickelodeon features and I helped them sort of build out their feature products. They were on the Paramount lot, I had been at Paramount for a long time, and we worked on films such as "Spongebob," the animated film. And then when that consulting ended and NBC came in and bought Universal, that, you know, ended my job at Universal and I made the decision, I would go back and be a lawyer at a law firm.

Ms. MacDowell: What types of work were you doing when you went back to the law firms?

Richard: When I went back to the law firm, I did a lot of...you know, I worked on their clients and I helped a financier, Robert Silverman, in effect buy the "American Idol" brand. I worked with Berry Gordy's

company, trying to turn some of his world into theatrical plays. I worked with the Nat King Cole estate, trying to do things. So, it was a lot of reality...I remember I worked with J. Walter Thompson and they were, in effect, creating advertising opportunity or branding. And then the one that sticks in my mind is I help, you know, George Foreman market things, so that he made a deal to be the face of a thing called the George Foreman Grill and it was a...it's a good practice.

Ms. MacDowell: Mr. Marks, you testified that you now are at a law firm called Richard Marks and Associates. When did you start that firm?

Richard: Well, after the firm I just told you about that's called Greenberg Traurig, it's a large international firm, I moved to a firm called The Point Media in 2006, and I was there for 14 years, doing much the same work that I do now. And then in 2020, right at the start of the pandemic, I went out on my own and formed Richard Marks and Associates.

Ms. MacDowell: Over the course of your career, what, if any, changes have you observed in the deal-making space in the entertainment industry?

Richard: Well, before I got involved in the business, most deals for writers were how much money per week and how many weeks? When I got into the business, it was already more complicated. But through my decades, all that's happened has gotten more and more complicated. Still the essential elements of time, money, credit, perks, money, whatever, but it's gotten more complicated. You had to deal with merchandising, you had to deal with sequels, you had to deal with all sorts of derivative works, video games, you name it, you know, publicity, promotion, it all expanded so that making a deal that might have been, you know, simple 30 years before now was a major production and, you know, lawyers became integral. You couldn't do a deal without someone who was going to dive into the boilerplate and make sure that it was right.

Ms. MacDowell: Your Honor, I'm about to switch gears a little bit. I don't know if you would like to break now for lunch or...

Judge Azcarate: That's fine. If you can approach us for a moment?

Ms. MacDowell: Your Honor, before we take lunch, plaintiff would move in Mr. Marks as an expert in the entertainment industry.

Judge Azcarate: All right, any objection?

Mr. Nadelhaft: No objection.

Judge Azcarate: All right, so moved. All right, ladies and gentlemen, we'll go ahead and take our hour lunch then. Please do not talk to anybody and don't do any outside research, we'll see you back in an hour, okay? Thank you. Mr. Marks, if you just stay there for a second, sir? Thank you. Stay there for a second. Just stay right there.

Richard: Thank you.

Judge Azcarate: All right. Sir, since you're in the middle of your testimony, you cannot talk to anybody about your testimony at this time including any lawyers or Mr. Depp, okay, sir? All right. All right, then we'll be back at...let's make it 2:00, okay? All right, thank you.

[02:29:09]

[silence]

[02:29:38]

Judge Azcarate: All right. All right, are we ready for the jury?

Man: Yes, Your Honor.

Judge Azcarate: Okay.

[02:29:43]

[silence]

[02:30:44]

Judge Azcarate: All right, have a seat. Okay, your next question?

Ms. MacDowell: Thank you, Your Honor. Mr. Marks, what work were you asked to do in this case?

Richard: I was asked to bring my years of experience in the entertainment industry and look at the damage that the op-ed of 2018 created in Johnny Depp's career and his life and his reputation.

Ms. MacDowell: What work did you do to determine whether Mr. Depp's reputation had been damaged by the op-ed?

Richard: Well, again, I view the op-ed and the fallout through almost 50 years in the business, and what I did was I read the pleadings in the case, the deposition transcripts, the articles, the pleadings, all of the paperwork in this case, which is voluminous.

Ms. MacDowell: Based on the analysis you've done and your expertise in the entertainment industry, have you formed any opinions in this case?

Richard: Yes.

Ms. MacDowell: Generally speaking, what is your opinion?

Richard: My general opinion is that the op-ed damaged Mr. Depp, created a cancel situation, if you will, harm his reputation and his ability to get work in the Hollywood industry.

Mr. Nadelhaft: Objection.

Judge Azcarate: Hold on, sir. Yes?

Mr. Nadelhaft: Can we approach?

Judge Azcarate: Sure.

[02:32:27]

[silence]

[02:33:04]

Ms. MacDowell: Mr. Marks, do you have experience working with companies looking to engage actors to market or advertise their products?

Richard: Yes.

Ms. MacDowell: And what's that experience?

Richard: Well, virtually every company I work for, they are engaging actors to advertise their products. Most of the time, those products are TV shows or a streaming series or feature films that all involve product spin-offs and derivatives, and sometimes they are just products and spokespeople getting together. But yes, I have experience in hiring a star to be the face of your product.

Ms. MacDowell: What types of things do companies consider when they're looking at using actors in their marketing or advertising?

Richard: Well, as you can imagine, they consider reputation. This is a capitalist society and they're looking to make money. They want to add value to their investment, they want actors who have reputations that will bring eyeballs to the screen, bodies in the seats. They're looking for added value, not negativity.

Ms. MacDowell: Do you have experience negotiating agreements for actors to play a certain role in a film?

Richard: Oh, yes, as I explained, I negotiate deals with actors to play roles in films and...

Ms. MacDowell: What's the significance of the actor in the starring role in the context of a feature film?

Richard: The actor in the starring role becomes the face of the film, the product, the series, that actor is synonymous with the product. And again, in hiring that actor or actress, you want a reputation that supports the value that you've spent on creating the product. You might say that "Pirates of the Caribbean is Johnny Depp and vice versa. That's the importance of hiring a star.

Ms. MacDowell: What aspects of an actor's reputation might impact their ability to get hired by brands or studios?

Richard: Well, again, on the other side of the coin, you wouldn't want to hire an actor who has negativity following them. You wouldn't want to pay to actually bring your brand down, your movie. And so, that's very important, and especially in the last five years with MeToo movement, you wouldn't want negativity hiring an actor who "had been canceled."

Ms. MacDowell: Is there anything, in particular, that might prevent an actor from getting hired by a brand or a studio?

Richard: Well, I mean, we're talking about illegal activity, criminal record, but right now, the pinnacle of negativity in Hollywood is being accused of domestic abuse, sexual abuse, violence, and what we've seen is almost immediately, terminations and cancellations for the investors to the people who create that product to move away from that negativity.

Ms. MacDowell: I think you mentioned the MeToo movement. What's your understanding of what the MeToo movement is?

Richard: My understanding of the MeToo movement is that finally, society is listening to the victim, giving the victim of domestic abuse, sexual abuse, the benefit of the doubt. And there has been a shift in our society from not doing that to now, the victim gets the benefit of the doubt until there's too much doubt. And to me, that's the MeToo movement, one person can come forward and accuse Harvey Weinstein and another person can come forward and another and another. That's the MeToo part of it. But they get the benefit of the doubt, whereas in the past, the victim didn't have that benefit.

Ms. MacDowell: What impact has the MeToo movement had on how Hollywood conducts business?

Richard: In my many decades in the business, Hollywood has changed and morphed, but never as quickly as to respond to the MeToo movement that started in 2017. When I started in the business, every contract for an actor or someone involved in a movie had a morals clause, that you did certain things and you could be fired for it. They wanted to protect their brand. Before the MeToo movement, that morals clause was fading out, people with leverage has said, "Wait a second, you just can't get rid of us because you think this or that." With the MeToo movement, Harvey Weinstein, Bill Cosby, if you will, the morals clause has come back and it is a demanded feature in every entertainment employment agreement because the studios want that verbiage, they want those rights so that they can act quickly and decisively when there was a claim.

Ms. MacDowell: Mr. Marks, do you have any experience working on a project where an actor was accused of domestic abuse or sexual violence?

Richard: Yes.

Ms. MacDowell: What was that experience?

Richard: I did some of the production legal work on a film called "All the Money in the World." It was about the life of the Gettys, J Paul Getty was played by Kevin Spacey. He acted in the part, he finished his role, he was paid, and then these MeToo accusations came out. And immediately, my client in conjunction with Sony, they made a decision to take him out of the movie and Christopher Plummer was hired, they reshot all his scenes, and seamlessly cut them in to the movie. And if you see "All the Money in the World," you won't know that Kevin Spacey was ever in it. So, I had that personal experience.

And then coincidentally when that happened, I was also doing work for MRC, which produces "House of Cards," a very successful series and he was the star of it. And he was immediately cut out and everything was redone to get rid of the notion that Hollywood would support an abuser after the MeToo movement. And then because I was in the mix of all that, I also know that Kevin Spacey had completed another movie for Netflix and unlike "All the Money in the World," they couldn't reshoot it and it sits on the shelf, a movie about Gore Vidal that was finished but has never seen the light of day.

Ms. MacDowell: What's your understanding of why these companies wanted Kevin Spacey removed from those projects?

Richard: Can you repeat the question?

Ms. MacDowell: What's your understanding of why these companies wanted Kevin Spacey removed from those projects?

Richard: These companies, as I've said, they wanted Kevin Spacey removed because they didn't want the negativity. They want anyone removed so that they can get a return on their investment in our society so that they are not seen as being in the old generation where women were not given the benefit of the doubt, where victims were not given the benefit of the doubt. And a switch has been turned certainly by 2017.

Ms. MacDowell: Are there certain types of companies that are particularly sensitive to these kinds of allegations made by women in light of MeToo movement?

Richard: Well, I would say the bigger the company, the bigger the budgets, they're all sensitive. But at the pinnacle of sensitivity are the family-friendly companies like Disney. They're particularly sensitive not in a general way, but in a very specific way.

Ms. MacDowell: Mr. Marks, are you familiar with the op-ed Ms. Heard published in "The Washington Post" on December 18th, 2018?

Richard: Yes.

Ms. MacDowell: What's your understanding of how that op-ed was received in Hollywood?

Richard: My understanding of how that op-ed was received in Hollywood...

Mr. Nadelhaft: Objection, Your Honor.

Judge Azcarate: I'm sorry, sir. Yes?

Mr. Nadelhaft: Is this his personal understanding? His expert understanding? It seems like if it's his personal understanding, it's not relevant.

Ms. MacDowell: I'm asking Mr. Marks based on his nearly 50 years in the entertainment industry.

Judge Azcarate: I'll overrule the objection.

Richard: As I've said before, I am a member of the Hollywood community. That op-ed, for the first time, is in a mainstream publication called "The Washington Post." This is a flagship journal, if you will, of American news. We're not talking about a trade paper, we're not talking about a rag, we're talking about "The Washington Post." And it is geared to Hollywood. It says, "Two years ago when I was getting my divorce," Amber Heard is saying, "I was the abuser and Hollywood, you stood up for my abuser, not for me..."

Mr. Nadelhaft: Objection, Your Honor. Objection, now he's mischaracterizing the document.

Ms. MacDowell: I think he's expressing his understanding of how it was perceived.

Judge Azcarate: I'll overrule the objection. Go ahead.

Richard: What I'm saying is Hollywood got the subject matter of the op-ed loud and clear. Amber Heard was calling out Hollywood for supporting...since 2016, supporting her abuser and she felt the wrath of Hollywood, she was calling them out to do something in "The Washington Post" and on the eve of her biggest film, a big film for Hollywood. The publicity machine was in high gear, there was lots of publicity and news out there. This was the height of her fame and she used it at that moment to call Hollywood out. They, in my opinion, as a member of Hollywood, they heard that plea loud and clear, and it also got her publicity for her movie. You know, I don't think that...in my perception and people in Hollywood didn't see that as a coincidence, that date. And so, yeah, in Hollywood, I think the message was received that she was sending.

Ms. MacDowell: Mr. Marks, do you have an understanding of Mr. Depp's reputation in Hollywood with respect to whether or not he's on time to his film sets?

Richard: Yes.

Ms. MacDowell: What's your understanding?

Richard: Hollywood has a history of putting up with major artists and major stars idiosyncratic behaviors. You know, we've always had divas like Marilyn Monroe who would stay in her trailer for half a day. Johnny Depp has a reputation of being Johnny Depp, and when you hire Johnny Depp, you get all of Johnny Depp and that includes being late. And fortunately, in Hollywood, because of the budgets and the box office, you can budget for lateness, you can have second unit, you can have other

shots, you have padding in budgets, you have insurance for accidents. But Hollywood knows Mr. Depp's reputation and, you know, I heard someone say Hollywood puts up with diva and drugs. They only do that when money is involved and big stars are involved and artistry is involved.

Ms. MacDowell: Mr. Marks, did you have an understanding of Mr. Depp's overall reputation in Hollywood prior to the publication of the December 2018 op-ed?

Richard: I would say that Johnny Depp was one of the few major actors in Hollywood who managed to keep most of his personal life personal, kept himself shrouded, if you will. And his reputation, you know, preceded him as a major artist in Hollywood but what also marked him in this business is that he was congruent, he was likable, you know, he was, you know, one of the guys, and I never heard any complaints, you know, if you will.

Ms. MacDowell: Do you have an opinion about the impact of the publication of the op-ed on Mr. Depp's reputation in Hollywood?

Richard: It's devastating. It's the type of claim, the MeToo claim of sexual violence, domestic abuse that has canceled a list of actors. Chris Noth recently, I just read something about Frank Langella. We know newscasters, Les Moonves, the head of CBS. Now Johnny Depp is in their ranks. It's devastating.

Ms. MacDowell: Thank you, Your Honor. No further questions.

Judge Azcarate: All right. Cross-examination, Mr. Nadelhaft.

Mr. Nadelhaft: Good afternoon. Your rate in this case is \$975 per hour, is that right?

Richard: That's correct.

Mr. Nadelhaft: And you've charged...and you've never charged that higher rate in any other cases, isn't that right?

Richard: I've charged near that amount but...

Mr. Nadelhaft: But never that high, correct?

Richard: That's correct.

Mr. Nadelhaft: Okay. How much have you charged...how much have you received for this case?

Richard: I'd have to look at my billing. During my deposition, the attorney who deposed me asked me the same question. I said I would look it up, I did during lunch, and then she never got back to it again. I don't remember how much it was then and I don't have the figures now.

Mr. Nadelhaft: And you don't know how many hours you worked on this case?

Richard: I would guess...again, I'd be guessing and I don't know if you want me to guess. I have a full-time transactional practice. This is a very small part of my practice.

Mr. Nadelhaft: Okay. Now, you said you worked for Disney for less than a year, right?

Richard: I worked for Disney for about a year.

Mr. Nadelhaft: Yeah, and that was in 1990, right?

Richard: Yes.

Mr. Nadelhaft: So, that was about...that was 32 years ago?

Richard: Yeah.

Mr. Nadelhaft: Okay. And you worked at Greenberg Traurig from 2004 to 2006, is that right?

Richard: That's correct.

Mr. Nadelhaft: You're leaving was a mutual decision, was it not?

Richard: Yes.

Mr. Nadelhaft: Okay. Now, Mr. Depp still has an endorsement deal with Dior, correct?

Richard: I understand that, yes.

Mr. Nadelhaft: And he's had that endorsement deal since 2015, isn't that right?

Richard: I believe he's had the endorsement deal for a while and I think he still has it.

Mr. Nadelhaft: Right, and Dior hasn't dropped Mr. Depp, correct?

Richard: As far as I know, Dior has not dropped him.

Mr. Nadelhaft: All right. And Mr. Depp did not have a contract for Pirate 6, isn't that right?

Richard: As far as I know, there is no contract for Pirates 6.

Mr. Nadelhaft: Right, and all the documents you've looked at, you look at all the documents in this case and you've not seen a contract for Pirates 6, right?

Richard: That's my memory of the documents, there was no contract for Pirates 6.

Mr. Nadelhaft: And in all the documents you looked at, you didn't see a text saying Mr. Depp got the contract for Pirates 6 for 22.5 million, right?

Ms. MacDowell: Objection, asked and answered.

Judge Azcarate: Overruled, I'll allow it.

Richard: I didn't see paperwork on an agreement for "Pirates of the Caribbean 6."

Mr. Nadelhaft: So, not an email, not a text, not any written document about Pirates 6, correct?

Ms. MacDowell: Objection, asked and answered.

Judge Azcarate: I'll sustain that objection. Next question.

Mr. Nadelhaft: And you don't know one way or the other whether Mr. Depp will be in "Pirates of Caribbean 6," you don't have a crystal ball, is that right?

Ms. MacDowell: Objection, speculation.

Mr. Nadelhaft: He's an expert.

Judge Azcarate: I'll allow it. Go ahead. Overruled, go ahead and give your answer, sir.

Richard: Well, as an expert, of course, I don't have a crystal ball. But as an expert, I think Disney will do everything possible to try to put him back in "Pirates," but not under this cloud.

Mr. Nadelhaft: Okay. You would agree that there was negative publicity about Mr. Depp before the op-ed, correct?

Richard: Yes.

Mr. Nadelhaft: You know that Ms. Heard made her accusations public starting in May of 2016, right?

Richard: Yes.

Mr. Nadelhaft: And Hollywood knew about that, right?

Richard: Yes.

Mr. Nadelhaft: Okay. And Mr. Depp still had movies after May of 2016, right?

Richard: Yes.

Mr. Nadelhaft: Okay. Now, you would agree that there was negative publicity about Mr. Depp being publicly drunk before the op-ed, correct?

Richard: I agree with the proposition that there was negative publicity before the op-ed. The op-ed was something different.

Mr. Nadelhaft: And you agree, in 2014, there was an article in "The Guardian" that said, "Apparently drunk Johnny Depp cut off at Hollywood Film Award ceremony." Would you agree with that?

Richard: Again, I don't remember reading "The Guardian" and I don't remember that particular incident, but I'll take you at your word.

Mr. Nadelhaft: And you remember in looking through all the documents that you saw an article that "Johnny Depp allegedly showed up drunk to movie premiere, report say," right? That was in 2017.

Richard: I think I've testified that there is certainly Johnny Depp's behavior and negativity out there, yes.

Mr. Nadelhaft: And that a family production studio like Disney wouldn't want to be associated with, correct?

Richard: Again, you're talking about a very specific, you know, series of five films that are in billions of dollars and there is a line in Hollywood...as I've said, they'll put up with divas and drugs to make money but now we've drawn a line in Hollywood at the domestic and sexual abuse.

Mr. Nadelhaft: And in looking through the documents, you saw an article in June of 2018 that said, "Vodka for breakfast, 72-hour drug binges, and spending sprees that beggar belief." You saw that?

Richard: Again, I know these articles exist, I know they're not in "The Washington Post." I don't know what article you're referring to or who

wrote it, you know, what publication it was in, but I know that those articles exist.

Mr. Nadelhaft: And you'd agree that before the op-ed, Mr. Depp had a run of movie flops, wouldn't you agree?

Richard: Every actor has, you know, ups and downs. Mr. Depp's career has been decades long.

Mr. Nadelhaft: You would agree that in January of 2015, there was an article that said, "Johnny Depp Is On His Way To Becoming The Most Overpaid Actor in Hollywood?"

Richard: Again, you'd have to show me the article, but I don't doubt that some commentator trying to train on being smarty pants wrote that.

Mr. Nadelhaft: And you'd agree that there was another article in 2015 that says, "Has Johnny Depp become Hollywood's biggest joke?"

Richard: I don't know. Netflix has a whole festival going now, "Netflix is a Joke."

Mr. Nadelhaft: And you agree that there is an article in "Business Insider" from 2015 that says, "Johnny Depp Has His Fifth Box Office Bomb in a Row?"

Richard: If that's what it said, it said. Are you just gonna keep reading this?

Mr. Nadelhaft: I mean, this is Mr. Depp's reputation. That's what you're talking about in terms of Hollywood, correct? And in 2016, December of 2016, there's an article that says, "Johnny Depp is Hollywood's most overpaid actor for the second year in a row." Did you recall reading that?

Richard: And it was written by the second underpaid actor or...?

Mr. Nadelhaft: And you would agree that before the op-ed, there was a negative publicity for Mr. Depp about assassinating President Trump, would you agree?

Richard: No, I miss that one.

Mr. Nadelhaft: You didn't see an article in "The New York Times" that said, "Johnny Depp Flirts With Idea of Trump Assassination, Then Apologizes?"

Richard: Again, Johnny Depp talks with irony and panache and I don't particularly remember that, I have a lot of stuff in front of me...

Mr. Nadelhaft: Disney wouldn't want to be involved with somebody who's calling for the assassination of the president, would it?

Richard: I'm sure after those articles, Johnny Depp was involved in major studio projects.

Mr. Nadelhaft: Do you know one way or the other whether Mr. Depp was involved in major studio projects after June 23rd, 2017?

Richard: Again, I haven't quoted his IMDb page to memory, but he was in an animated film called "Sherlock Gnomes." I think it was released...Paramount is one of the producers, I think it was released in 2017.

Mr. Nadelhaft: Would you agree that before the op-ed, there was negative publicity for Mr. Depp about punching a crew member on a film set?

Richard: I heard about that.

Mr. Nadelhaft: Okay. So does people who work in Hollywood that Mr. Depp had an accusation of assault, correct?

Richard: I heard about it, yes.

Mr. Nadelhaft: And would you agree that there were stories about Mr. Depp drinking heavily on the set of Pirates 5?

Richard: There were lots of stories that came out and I'm sure that was one of them.

Mr. Nadelhaft: And those stories that came out in 2016 and 2017 before the op-ed, right?

Richard: Again, you'd have to show me a timeline but I'll take your word that there were articles written in various rags or trade...

Mr. Nadelhaft: And New York Times a rag? Is that what you're saying?

Richard: No, I'm not saying "The New York Times" is a rag. What I'm saying is, at the height of the MeToo movement, we have this op-ed directed at Hollywood, and in the Hollywood I know, the rest of the stuff is background noise.

Mr. Nadelhaft: And Pirates 5 did not make as much money in the box office as the prior Pirates movies did, isn't that true?

Richard: That's true, it only made about \$800 million.

Mr. Nadelhaft: They made less, though, than the first four, correct?

Richard: Yeah, and any company would want to have a box office hit that made \$800 million.

Mr. Nadelhaft: Now, can you put up Defendant's Exhibit 99, please? And if you can blow it up? Now you said the MeToo movement started in 2017, is that what you're saying?

Richard: It actually started long before that but it picked up steam to what we now call the MeToo movement in 2017.

Mr. Nadelhaft: Okay, and do you recognize this article from Dan Wootton that says, "How can JK Rowling be genuinely happy casting a wife beater, Johnny Depp, in the new Fantastic Beast film?"

Richard: Yes, this article in the UK Sun, which came to prominence by publishing topless women on page three.

Mr. Nadelhaft: And the article came out on April 27th, 2018, correct?

Richard: I haven't skimmed through this, but I'll take your word for it.

Mr. Nadelhaft: And I think what you're trying to say was that "The Sun" was a rag so no one would pay any attention to it. Is that what you're trying to say?

Richard: I'm saying "The Sun" is "The Sun" and it's in the UK. And what this article is, is repeating stuff from 2016, repeating all the stuff that you might say should be all past history after the divorce. It's one Wootton's opinion in a newspaper that claim to fame is page three women topless and, yeah...

Mr. Nadelhaft: Mr. Depp sued "The Sun" over this, right?

Richard: What's that?

Mr. Nadelhaft: Mr. Depp sued "The Sun" in the UK about this article, right?

Richard: As far as I know, he wanted to clear his name. That's right.

Mr. Nadelhaft: That lawsuit occurred in 2020, correct? It was tried in 2020?

Richard: I believe so, yeah.

Mr. Nadelhaft: And there were accusations of abuse that came out based on that lawsuit, correct?

Richard: As far as I know, the accusations were all old news and predated much...yeah, I mean, this is a 2018 article and in 2020, they probably were rehashing it.

Mr. Nadelhaft: And the old news that was coming out in 2018, that would also affect Mr. Depp's reputation, correct?

Richard: Again, I've tried to draw the line that Hollywood draws between the MeToo movement starting in 2017 and the gossip and the claims back and forth. I mean, there was also press about Amber Heard being an abuser in those years. There was also the other side of the coin.

Mr. Nadelhaft: But the op-ed didn't mention Mr. Depp at all and didn't mention any accusations at what happened to her, that's what caused Mr. Depp's reputational harm, that's what you're saying?

Richard: Well, I don't agree that this article was not about...

Mr. Nadelhaft: It didn't mention Mr. Depp, that's what I asked you.

Richard: Well, does she have another husband who abused her in 2016?

Mr. Nadelhaft: But did it talk at all about Mr. Depp's abuse?

Ms. MacDowell: Objection, Your Honor, he's trying to answer the first question, which was not exactly what the second question was, we ask that...

Judge Azcarate: Yeah, ask your question, we'll go from there.

Mr. Nadelhaft: The op-ed article didn't mention any specific abuse by Mr. Depp towards Amber Heard, correct?

Richard: The only name is Amber Heard telling her story that started in 2016 when she was domestically abused and ignored.

Mr. Nadelhaft: Now, there were headlines about the UK trial, correct?

Richard: I'm sure there were, yes.

Mr. Nadelhaft: Like, "Let's burn Amber," Texts Allegedly Sent by Johnny Depp about Ex Read in Court?"

Richard: I didn't hear you.

Mr. Nadelhaft: "Let's burn Amber," Texts Allegedly Sent by Johnny Depp about Ex Read in Court."

Richard: Yeah.

Mr. Nadelhaft: And there's a headline from July 19th, 2020 that said, "Hollywood Nervously Awaits Fallout from Explosive Johnny Depp Trial." So, Hollywood was following the following the case, correct?

Mr. Nadelhaft: When was that headline?

Richard: In 2020.

Mr. Nadelhaft: 2020. Yeah, look, Johnny Depp is the decades-long fixture in Hollywood and people were following something across the pond. You know, we thought we kind of got rid of the UK in 1776 but they were still following it, absolutely.

Mr. Nadelhaft: I mean, Mr. Depp thought enough about this article to have a three-week trial in the UK, correct?

Ms. MacDowell: Objection, calls for speculation about what Mr. Depp thought.

Judge Azcarate: I sustained the objection. Next question.

Mr. Nadelhaft: There was a three-week trial in the UK based on this article by Dan Wootton, correct?

Richard: I think I've said Mr. Depp finally had enough and he sued to clear his name.

Mr. Nadelhaft: Okay, can I approach, Your Honor?

Judge Azcarate: All right.

Mr. Nadelhaft: Mr. Marks, you testified that in the UK case, Mr. Depp was looking to clear his name, correct?

Richard: That's my assumption, yes.

Mr. Nadelhaft: And yes or no, did Mr. Depp clear his name through that lawsuit?

Richard: I wasn't in the UK and I'm not going to opine on that. That's not what I've been engaged to talk about.

Mr. Nadelhaft: You don't know one way or the other whether Mr. Depp cleared his name through that lawsuit?

Ms. MacDowell: Objection, Your Honor, asked and answered.

Judge Azcarate: I'll sustain the objection. Next question.

Mr. Nadelhaft: Can we please put up Defendant's Exhibit 115? In looking through the documents, did you see headlines from October 25th, 2018, almost two months before the op-ed, that Mr. Depp would not be in Pirates 6?

Richard: Yeah, I saw that there was speculation in different publications, none quoting a Disney executive, if you will, none being definitive. And by the way, I can't see where's this article from, I just see the headline.

Mr. Nadelhaft: The dailymail.com.

Richard: So, the "Daily Mail" is a UK publication.

Mr. Nadelhaft: All right, let's move...I mean, do you know or not?

Richard: Do I know what?

Mr. Nadelhaft: Do you know if it's a UK publication or not?

Richard: I think that the "Daily Mail" is but I'm not sure.

Mr. Nadelhaft: Okay. Now, did you review the deposition testimony in this case of the Walt Disney corporate designee?

Richard: Yes.

Mr. Nadelhaft: Okay. And do you recall that the corporate designee testified that Disney produced all documents related to its business relationship with Mr. Depp, including considering Mr. Depp for any work with Disney or future Pirates films and she did not recall seeing the op-ed or any documents referring to the op-ed in that production of documents?

Richard: I read the deposition, I don't recall seeing the op-ed in what Disney produced. What I do recall is the person giving that deposition for Disney really had no contact with Jerry Bruckheimer or Sean Bailey, just was someone that Disney put up who didn't know anything is what I...

Mr. Nadelhaft: You're a lawyer, right? You understand that a corporate designee is supposed to be in the shoes of the corporation talking for Disney, correct?

Ms. MacDowell: Objection, Your Honor, I think that's outside the scope of his expertise in this case.

Judge Azcarate: Overruled. Okay, go ahead.

Richard: I understand that that's what the corporate designee is supposed to be. But when I read [crosstalk 03:07:56] and then not in touch with the president of the company, it gives me pause.

Mr. Nadelhaft: So, Disney itself represented through this witness that it did not have the op-ed in any of its files, correct?

Richard: I don't remember that passage in the deposition but I can't remember...she certainly did not quote the op-ed or produce the op-ed or talked about the op-ed. But in Hollywood, actions sometimes speak much louder than words.

Mr. Nadelhaft: And did you recall that that same corporate designee said that Pirates 6 is still possibly in development?

Richard: Until Disney says it's not in development, it's in development.

Mr. Nadelhaft: Okay. And can we put up Defendant's Exhibit 134? And you see, this is from November 5th, 2020.

Richard: And where's this from? Some rogue website? Where is this from?

Mr. Nadelhaft: [insidethemagic.com](http://insidethemagic.com).

Richard: Okay.

Mr. Nadelhaft: Okay, and it says, "Disney reportedly scrapped plans for Depp's "Pirates of the Caribbean 6" return," and that was on November 5th, 2020, correct?

Richard: Assuming that this is a correct copy of this random website, yeah, that's what it says. They're not quoting the head of production, it's not a statement by Disney, but that's what this woman Rebekah Barton says.

Mr. Nadelhaft: Well, two years after the op-ed, it was still a question as to whether Mr. Depp was going to be in Pirates 6.

Richard: There was no contract for Mr. Depp to be in Pirates 6. But he was "Pirates" and there would always be that question until Pirates' producer or until Disney says otherwise.

Mr. Nadelhaft: And November 2020 was at the same time as all the publicity surrounding the UK case, correct?

Richard: I think the UK judgment day came out in November 2020.

Mr. Nadelhaft: And this article came out three days after the judgment, correct?

Richard: If the judgment came out and the second is just three days later in...what's this again, moviemagic.com?

Mr. Nadelhaft: Correct.

Richard: By Rebekah, you know, Barton.

Mr. Nadelhaft: Can I approach, Your Honor?

Judge Azcarate: All right.

[03:10:43]

[silence]

[03:11:06]

Mr. Nadelhaft: Now, isn't it true that you don't recall when you first read the op-ed?

Richard: As I sit here today, I don't recall when I first read it.

Mr. Nadelhaft: You don't even...I mean, it wasn't a big deal to you...you didn't read it in 2018, correct?

Richard: I have a wife, two kids, a full-time job. I don't remember.

Mr. Nadelhaft: Okay. And you have no idea when you first read it? I just want to make sure I understand that.

Ms. MacDowell: Objection, asked and answered, Your Honor.

Judge Azcarate: I sustained the objection.

Mr. Nadelhaft: Look, I wasn't at this...

Judge Azcarate: I sustained the objection. Next question.

Richard: Okay.

Judge Azcarate: I sustained the objection. Next question.

Mr. Nadelhaft: Now, as an expert in the entertainment field, do you know any actresses whose careers have gotten better after making accusations of domestic abuse against an actor in Hollywood?

Richard: I think, you know, the taint sticks to both sides and I can't think of any actresses who have prevailed and who have been canceled.

Mr. Nadelhaft: Do you know any actresses' careers that have gotten better after making accusations of domestic abuse against a man in Hollywood?

Richard: I haven't been asked to opine on that but I certainly will look into it. I don't think that this is something...

Mr. Nadelhaft: The answer is no, right? You don't know?

Richard: Again, I assume that [crosstalk 03:12:41] thought her career would get better by bringing this out, I don't know.

Mr. Nadelhaft: All right, thank you. I have nothing further.

Judge Azcarate: All right, redirect.

Ms. MacDowell: Mr. Marks, you were asked a series of questions about a number of publications and publicity related to Mr. Depp by Mr. Nadelhaft. Do you recall those questions?

Richard: He asked a lot of questions about a lot of articles.

Ms. MacDowell: And, sir, based on your experience in the entertainment industry, do you have an understanding of what types of publications carry the most weight in Hollywood?

Richard: The publications that carry the most weight in Hollywood, in my opinion after all these decades, are "Variety," "Hollywood Reporter," "Washington Post," "Wall Street Journal," "New York Times," those are the publications.

Ms. MacDowell: And Mr. Nadelhaft asked you a number of questions about certain headlines related to Mr. Depp and various news coverage related to Mr. Depp. Do you have an opinion about the impact of those articles that you looked at with Mr. Nadelhaft on cross-examination on Mr. Depp's reputation in Hollywood?

Richard: Again, I don't remember all the articles. What I do know is that Johnny Depp always had articles about him and that didn't change the baseline. If you had a big project and had a role for Johnny Depp, that didn't change the baseline.

Ms. MacDowell: Is your opinion about the op-ed Ms. Heard authored different than that?

Richard: My opinion about the op-ed in "The Washington Post," was it different, that had a different quality of headline and article.

Ms. MacDowell: Thank you, Your Honor. No further questions.

Judge Azcarate: All right, is this witness subject to recall?

Ms. MacDowell: He is, your honor.

Judge Azcarate: All right, sir, since you're subject to recall, the rule of witness does apply for you, so you cannot discuss your testimony and did not watch any of the case, okay, sir? But you're free to go today, sir. Thank you.

Richard: Thank you.

Judge Azcarate: All right, watch your step there. All right, your next witness?

Ms. MacDowell: Plaintiff calls Douglas Bania, Your Honor.

Judge Azcarate: Okay. Can you spell his last name for me?

Ms. MacDowell: B-A-N-I-A.

Judge Azcarate: Thank you.

[03:15:09]

[silence]

[03:15:25]

Ms. MacDowell: Your Honor, may I approach for just a moment?

Judge Azcarate: Okay, sure. Mr. Nadelhaft?

[03:15:29]

[silence]

[03:15:51]

Woman: Do you solemnly swear or affirm to testify truthfully in this case under penalty of law?

Douglas: Yes.

Judge Azcarate: Good afternoon, sir. Yes, ma'am.

Ms. MacDowell: Good afternoon, Mr. Bania. Would you please state your full name for the record?

Douglas: Yes, Douglas Bania.

Ms. MacDowell: And Mr. Bania, what do you do for work?

Douglas: I am an intellectual property damages and valuation expert.

Ms. MacDowell: Do you have any particular specialty in your work?

Douglas: Yes, my specialty is using internet and social media analysis when I'm quantifying value or I'm calculating damages or if I'm analyzing the impact of social media or internet events.

Ms. MacDowell: Where do you work?

Douglas: I work at Nevium, which is located in San Diego, California.

Ms. MacDowell: How long have you worked there?

Douglas: 10 years.

Ms. MacDowell: What's your position?

Douglas: I'm a founding principal and an analyst.

Ms. MacDowell: I'd like to talk a little bit about your educational background for a moment. Where did you attend college?

Douglas: I received my bachelor's degree in cinema from San Diego State University and I graduated in 1997.

Ms. MacDowell: And after you graduated in 1997, did you pursue another degree?

Douglas: Yes, I went directly to San Diego State University and got a master's degree in television, film, and new media production.

Ms. MacDowell: Is there any particular reason you chose to go to San Diego State for that?

Douglas: The new media production side of that program, I really liked. I graduated from there in 2000, so this is even before YouTube was found. So, the whole idea of putting film on the internet, kind of analyzing the internet and using analytic tools to see how things are doing on the internet is what...that's what attracted me and that's what I learned there as well.

Ms. MacDowell: What did you do after you got your master's degree?

Douglas: After master's degree, I moved to Los Angeles, and I was an independent filmmaker for a while, then I got introduced to intellectual

property and I started working for a small boutique IP firm back in San Diego.

Ms. MacDowell: What was the boutique firm you went to?

Douglas: What was the name of the firm?

Ms. MacDowell: Yes.

Douglas: The name of the firm was Consor.

Ms. MacDowell: And what did Consor do?

Douglas: Consor values intellectual property for various business reasons, they do litigation support services as well.

Ms. MacDowell: And when you say intellectual property, what do you mean?

Douglas: When I talk about intellectual property, I'm mostly talking about copyrights, patents, and trademarks. I might include related intangible assets such as domain names, websites, internet accounts, but IP for me is mostly brands, publicity, rights, copyrights, trademarks.

Ms. MacDowell: What type of work did you do while you were at Consor?

Douglas: I have various positions there, but I was a research analyst, I was a financial analyst. I was the director of business development. My last position there was a principal.

Ms. MacDowell: And what kinds of things did you work on?

Douglas: We worked on, you know, valuation, our clients, you know, they needed valuation of their IP portfolio for maybe tax or estate reasons. You know, a lot of litigation support like I'm doing now, somebody infringes on a trademark or publicity rights. That's actually the place I got my first expert witness job. I was a named expert on a right of publicity case, representing the retired players of the NFL against the NFL, they're using their name and likeness without permission. So, services such as that.

Ms. MacDowell: How long did you work at Consor?

Douglas: I was at Consor for 10 years.

Ms. MacDowell: And after Consor, where did you work?

Douglas: Then, Nevium where I am now.

Ms. MacDowell: And did you found Nevium?

Douglas: Yes.

Ms. MacDowell: What kind of work does Nevium do?

Douglas: Nevium does several things, provides several services, we value intellectual property for various reasons, tax, estate, to M&A business transactions. You know, we not only provide the value of a business, but we can break that value, what percent of the value is this trademark portfolio or this patent portfolio? We do litigation support, so like I'm here, I testify in cases of, you know, maybe a false endorsement case, somebody uses a celebrity's name and likeness without permission. Maybe there's a trademark infringement case, they use a brand without permission. You know, a defamation case such as this, you know, what's the impact of something that was posted online?

So, the third kind of bucket of services we offer is brand monetization strategies. So, I think the best way to explain that is companies have business plans, they have marketing plans, but they don't have IP plans. So, we come in and work with customers, with our clients to understand their business and their marketing plans and help them build an IP plan that fits in with those two so they can essentially make more money off of their branded products and services. And I think what's important with all of that is, you know, what differentiates us with competitors is we use internet and website analytic tools in everything we do. You know, everything is online now and understanding those tools when calculating value or calculating damages is important.

Ms. MacDowell: Do you have any professional certifications?

Douglas: I am a certified licensing professional, that is a designation given by the Licensing Executives Society, LES. LES is a not-for-profit organization that supports professionals like me who deal with a lot of licensing. I'm a Google Analytics Individual...I have a Google Analytics Individual Qualification, that is a test given by Google for those that understand and pass the tests related to internet analytics.

Ms. MacDowell: Can you explain a little bit about what Google Analytics is?

Douglas: Yeah, so Google Analytics is a web service provided by Google and it's used by business owners and website owners to understand the traffic that comes to their websites. So, essentially, once you sign up for your Google Analytics account, you're given a bit of code and you embed that code into various web...your web pages, then you can log in

and you can see like who's coming to my website? What are they doing? And really, it's essentially a tool for search engine optimization. You know, the goal of the web is to show up number one in Google organic, so then, you know, you'll tweak your website a bit, you'll look at your analytics, see if you're showing up on the first page of Google. If not, you know, you can use those analytics to keep playing around and try to end up on the first page of Google.

Ms. MacDowell: Are you a member of any professional organizations?

Douglas: I'm a member of the International Trademark Association. That is an organization...they're actually having their annual conference here in DC, so I'm hopping back and forth to that. I'm on their Right of Publicity panel, I just gave a presentation on Monday. I'm a non-attorney member of the American Bar Association, I'm on their Copyright and Social Media Committee.

Ms. MacDowell: Your Honor, at this point, plaintiff would offer Mr. Bania as an expert in internet and social media analytics.

Judge Azcarate: All right, any objection?

Mr. Nadelhaft: No, Your Honor.

Judge Azcarate: All right, so move. Thank you.

Ms. MacDowell: Mr. Bania, what were you asked to do in this case?

Douglas: I was asked to analyze the impact of the allegations of domestic abuse made by Ms. Heard as it relates to her 2016 restraining order, and then asked to also analyze the republication of that alleged abuse in her 2018 Washington Post op-ed.

Ms. MacDowell: What work have you done in connection with forming your opinions relative to that?

Douglas: So, I identified the best tools to use in this case, which are Q scores, Google Trends, and historic Google Google search results.

Ms. MacDowell: You use a few terms in there, I just want to break them down a little bit. What's a Q score?

Douglas: A Q score is...there's a Q score company that's been around for about 50 years and what they do is they measure how well a brand or a celebrity or a sports character is known and how much they're liked, and they also measure how much they're disliked.

Ms. MacDowell: Who else besides you uses Q scores?

Douglas: Q scores are used by, you know, any company that...you know, organizations that licensed in a celebrity or a brand to endorse their product or service. The PGA Golf Tours actually using Q scores right now, they're using Q scores and Google search results. They have a pool of \$40 million that they're doling out to their players. So, depending on their Google search results and their Q scores and other metrics, I'm sure they're using those to, you know, divide up that pool of money.

Ms. MacDowell: And I think you also mentioned Google Trends. What's that?

Douglas: Yeah, Google Trends is another service offered by Google. You know, as we know, everything starts with a Google search these days, there's, you know, 5 billion daily searches on Google. Google Trends allows a user like me or you to go into Google Trends and analyze search traffic for various key terms, anything you really want. Maybe there's a new football player and you want to see how that football player is trending compared to the team over time, or maybe something related to, you know, Ukraine or maybe a celebrity. So, Google Trends just shows you what kind of search volume is happening during various points in time.

Ms. MacDowell: What are historical Google search results?

Douglas: So, historical Google search results are search using Google, there's actually an area where you can go back in time and see what was showing up in Google during that time and it's really the best indication of what websites would have appeared back in time. Oftentimes, you know, working with my monetization clients, we want to know, "Hey, how were you ranking years ago for your branded service or your branded company?" And we'll go back in time and look. And then in litigation, you know, we're always going back in time, you know, so we want to figure out what was most likely happening, what websites were served back then, and when you know what websites were served back then, you typically know what people were reading and thinking about.

Ms. MacDowell: Why did you choose these particular tools for your analysis in this case?

Douglas: Well, the Q scores, I really thought it was the best idea to understand Mr. Depp's Q scores right before 2016 before the abuse allegations just to see where he is at, then I wanted to see his Q scores right after the 2016 alleged abuse allegations. And then I wanted to see his Q scores after the 2018 Washington Post op-ed, just to see if there were any changes during that period of time.

Ms. MacDowell: And what about your decision to use Google Trends and historical Google search results?

Douglas: Yeah, I mean, I felt that like those two tools together were perfect because what I wanted to do is understand...you know, as I mentioned, everyone's going to Google to figure things out, you know, what were people...when people Google Johnny Depp prior to these alleged abuse allegations, what websites were coming up and what was the public consuming about him? Then I wanted to know that after and then after the op-ed. So, I use Google Trends just to identify the dates and times, in which then I went into the historic Google search results, I searched for Mr. Depp, and then I changed those dates to go back in time and then I analyze the top three websites of each search.

Ms. MacDowell: Based on the analysis you did in this case, have you formed any opinions?

Douglas: Yeah, my analysis shows that prior to 2016 allegations, the abuse allegations, Mr. Depp was not portrayed in a negative connotation. That's the first thing that I identified.

Ms. MacDowell: Did you form any other conclusions?

Douglas: I realized that those websites that were coming up were mostly about his career, his characters, Johnny Depp as the individual, you know, his interests. Then after the 2016 mark, you know, the majority of those results turned into negative things about the abuse allegations. And then even more so after the op-ed, there seems to be kind of a theme or a flavor of not only the abuse allegations but his drinking and drug use. Does that answer your question?

Ms. MacDowell: Yes.

Douglas: Okay.

Ms. MacDowell: Mr. Bania, have you prepared a demonstrative that depicts how you use Google Trends in this case?

Douglas: Yes.

Ms. MacDowell: Your Honor, at this time, we'd like permission to approach, I have a copy. Bania Demonstrative A. And just for the record, we've marked these as Plaintiff's 1236 for identification.

Judge Azcarate: 1236 for identification. Do you want to publish it to the jury?

Ms. MacDowell: Yes, please.

Judge Azcarate: Okay.

Ms. MacDowell: And Mr. Bania, can you explain for the jury what is depicted in this demonstrative that you prepared?

Douglas: Yes. So, this is the Google Trends data. You're gonna see that it runs from 2004 into 2020 and you're going to notice the different spikes. Those spikes represent when people were searching for Mr. Depp. You're going to also notice here, I've got the red line just showing the dates when Ms. Heard filed the restraining order...can I write on this thing?

Judge Azcarate: You can touch the screen. Yes, sir.

Douglas: Thank you, Your Honor. Yes, so here I'm talking about, in this line here is just the date and time in which Ms. Heard allege the abuse and filed the restraining order, and then this line here, it's the December 18th, 2018 op-ed. And what I wanted to do is identified the peaks of interest in Mr. Depp and you're going to notice here, I found 17 spikes of interest that I analyzed. And then the 51 key webpages we're gonna get into later, I've analyzed the top three search results for each spike. And then here, I analyzed the seven spikes after, you know, the 2016 allegations of abuse and then again after the December 18th, 2018 op-ed.

Ms. MacDowell: Once you determined these spikes, the periods of significant interest in searches for Johnny Depp on Google, what did you do with that information?

Douglas: So, again, the purpose of using Google Trends was just to understand when is the most interest in Johnny Depp because, for some reason, something was going on in the news, in the media, people are turning to Google to search for Mr. Depp. So then I went to my web browser and then I searched for Johnny Depp in Google. But before I did so, I have a separate web browser I called my workbench browser, you know, I don't log in to anything, it's important to be logged out at Google because Google keeps a profile on you and your search results can be biased based on that profile. Then also, when you go into a web browser, you have to clear your cache, you have to clear your history, clear all your data, and make sure you can get the most unbiased search results as possible. So, I went into Google, I typed in "Johnny Depp," and then I searched and set the time periods for the various points here that you see labeled with letters.

Ms. MacDowell: Do you have a demonstrative that shows an example of one of those points that you examined?

Douglas: Yes.

Ms. MacDowell: Okay. Tom, could we go to the second Bania demonstrative, please?

Douglas: Yeah, so this, this is an, an example of, I believe it was Spike or Point O in the Google Trends. So, what I did is I went into Google, I cleared everything as I told you, made sure I was logged out to Google, and here you can see, I typed in "Johnny Depp," I hit the search, and then what I did is went to this Tool area, which pulls a dropdown area for the date, and I set the date to match the Google Trends spike of November of 2004. Then, we had these top three websites that came up. I downloaded those websites, and then I analyzed them.

Ms. MacDowell: So, did you undertake this analysis for each of the 17 points on the prior slide that we looked at?

Judge Azcarate: Yes, correct.

Ms. MacDowell: And what did you do once you had your web page results such as on this demonstrative?

Douglas: You mean when I reviewed each webpage?

Ms. MacDowell: Yes.

Douglas: Yeah, so what I was looking for, you know, with these web pages or articles, did they have anything to do with the alleged abuse? Did they have anything to do with his alcohol or drug use? Did they have anything to do with his work ethic? So, I basically, you know, tried to understand, you know, the content of each website or article.

Ms. MacDowell: Did you look at all of the results that turned up when you ran these historical searches?

Douglas: I only reviewed the top three.

Ms. MacDowell: Why did you choose the top three?

Douglas: So, I reviewed the top three because research shows that about 50% to 75% of the people only click on the top three, so I wanted to get the majority of the searches.

Ms. MacDowell: Tom, I think we can take that down for now. Thank you. What did you determine about the results that you found for the period prior to Ms. Heard's first allegations of abuse?

Douglas: So I determined that, you know, Mr. Depp was not portrayed in any negative connotation. The web results were about his life and his career, his acting, you know, pictures of him, you know, relationships he was in, you know, just pretty normal stuff.

Ms. MacDowell: And what did you determine about the top results after Ms. Heard's initial allegations in 2016 and then the republication and the op-ed in 2018?

Mr. Nadelhaft: Objection, Your Honor. May we approach?

Judge Azcarate: Okay.

Ms. MacDowell: Mr. Bania, what did you find about the results of the top web pages that you determined after Ms. Heard's initial allegations and then again after the publication of the op-ed?

Douglas: Yeah, so after the initial allegations in 2016, I found that the majority of them had to do with the alleged abuse. And then after, I realized that the web pages that were dealing with the alleged abuse then started talking about his drinking and drug...drinking and doing drugs. So, it appeared to me that, you know, they became negative after 2016. But then after 2018, they even included, you know, the alleged abuse but also included the drinking and drug use.

Ms. MacDowell: Did you form any opinions about the results that didn't refer to the allegations of abuse?

Douglas: That didn't? I formed an opinion that...I'm not following your question, I'm sorry.

Ms. MacDowell: Sorry, we can move on. Did any of the results that you analyze refer to Mr. Depp's work ethic?

Douglas: No.

Ms. MacDowell: Did you form any overall opinions about the results in the web pages that you looked at following Ms. Heard's accusations of abuse?

Douglas: Yes, as I stated, you know, prior to 2016, the web pages were just about his daily life and career. After the 2016 marker point, they tended to include...the majority of them included, you know, the

allegations of abuse. And then after the 2018 op-ed, the ones that included the allegations of abuse were also talking about drinking and drug use.

Ms. MacDowell: What was your overall view of the connotation of those results then?

Douglas: Yeah, so Mr. Depp was portrayed in a negative connotation after the 2016 allegations of abuse and even more so after the 2018.

Ms. MacDowell: You mentioned you also looked at Q scores as part of your analysis. How are Q scores calculated?

Douglas: Yes, so Q scores, it's a survey of 1,800 people that happens twice a year. And what they do is...it's internet-based, and they measure how well a celebrity or a brand is known, how much they're liked, and how much they're disliked. Q scores, you know, include sports figures, celebrities, even cartoon characters and brands. So, that's how the scoring system works.

Ms. MacDowell: Do you have a demonstrative that reflects the Q score analysis that you prepared?

Douglas: Yes.

Ms. MacDowell: Okay. Tom, could we have Demonstrative C, please? And Mr. Bania, what does this tell us about the Q score analysis that you completed?

Douglas: Yes, so what this is saying, again, you know, these spikes are the Google Trends that you've already seen, but what I've overlaid are his Q scores shown in the red, green, and purple area. And as you recall, I wanted to find out his Q score prior to the allegations of abuse in 2016, where he had a positive Q score of 11 and a negative Q score...I'm sorry, a positive Q score of 35 and then negative Q score of 11. And then I looked at the Q scores after and then after the op-ed.

Ms. MacDowell: And what did you determine about those Q scores?

Douglas: Yes, so what you can see here, his positive Q score, which is represented in red was at 35 and that was prior to the alleged abuse and the restraining order. And then after that, his positive Q score dropped to a 31, and what that saying is less people liked him after the date of the 2016 alleged abuse, and then his negative Q score went up from an 11 to a 16, which is telling you that more people disliked him during that timeframe.

Ms. MacDowell: And what did you find about the final Q scores that you looked at for Mr. Depp?

Douglas: Yeah, then you can see the Q Score C that I have there in purple, his positive Q score went from a 31 to a 29, his negative Q score went from a 16 to a 15. So now, his positive Q score dropped again from a 31 to 29, meaning less people had a positive impression of Mr. Depp. And then his negative IQ score did go from a 16 to a 15, so not as many people disliked Johnny during that timeframe.

Ms. MacDowell: What are your overall opinions about the Q scores that you analyzed?

Douglas: So, my overall opinions are, you know, as I mentioned earlier, I wanted to analyze the Q scores during this snapshot of time, I wanted to understand what they were before, during, and after the op-ed. And what this tells me is his positive Q score went from a 35 to a 29 and then his negative one from an 11 to a 15. So, what the Q scores is telling me is the public perception of Mr. Depp is being damaged, you know, they like him less and they dislike him more.

Ms. MacDowell: Based on all of the analysis that you completed in this case, what are your final opinions about Mr. Depp's reputation over this period of time?

Douglas: Yeah, so my opinions are that, you know, Mr. Depp was not portrayed in a negative connotation prior to the 2016 allegations of abuse. And then Mr. Depp's image, he was portrayed in a negative connotation after the 2016 allegations of abuse and then more so after the 2018 Washington Post op-ed. And then the Q scores represent that, you know, the public thinks he's damaged, they think less likely of him, his positive Q score has gone down, and they don't like him even more because his negative Q score went from the 11 to the 15.

Ms. MacDowell: I have no further questions for this witness, Your Honor.

Judge Azcarate: All right. Ladies and gentlemen, let's go ahead and take our afternoon recess of 15 minutes. Do not discuss the case and do not do any outside research. Just stay right there for a second, sir.

[03:43:26]

[silence]

[03:43:48]

Judge Azcarate: All right. And sir, since you're in the middle of your testimony, do not discuss your case even with the attorneys at this point or your testimony, okay, sir?

Douglas: Okay, thank you.

Judge Azcarate: All right, you can step down, we'll be back in about 15 minutes, okay? All right. So, let's come back then at 3:35? All right, that works? Okay.

Ms. MacDowell: Thank you, Your Honor.

Man: ...the Caribbean 6, that it had had a devastating effect on his career, that "The Washington Post," like "The Hollywood Reporter" and "Variety" is one of those main publications that everyone in the industry reads. And as we are just waiting to go back live and we heard the testimony of this IP expert who was able to track the likeability and favourability of Johnny Depp given the allegations in 2016 and...

Judge Azcarate: All right, please be seated. All right, cross-examination.

Mr. Nadelhaft: Good afternoon, Mr. Bania.

Douglas: Good afternoon.

Mr. Nadelhaft: Mr. Bania, you understand that this case is about the op-ed in December of 2018, correct?

Douglas: I understand this case to be about the allegations of domestic abuse, both as it relates to the 2016 and the republication of that and the 2018 Washington Post op-ed.

Mr. Nadelhaft: You understand that Mr. Depp is only suing Amber about the op-ed from December 2018, correct?

Douglas: My understanding is...I base my understanding on my analysis, which includes the 2016 allegations...

Mr. Nadelhaft: That's your analysis, but do you understand what Mr. Depp is suing Amber for in this case?

Ms. MacDowell: Objection, Your Honor, to the extent it calls for a legal conclusion.

Judge Azcarate: All right, I sustained the objection. Next question.

Mr. Nadelhaft: Did you read the complaint in this case?

Douglas: Yes.

Mr. Nadelhaft: Did you understand that Mr. Depp was only suing for the op-ed, about the op-ed?

Douglas: Yes.

Mr. Nadelhaft: Okay. And Mr. Depp was not suing Amber in this case from his complaint about the accusations she made in 2016, correct?

Douglas: That is my understanding.

Mr. Nadelhaft: All right. And you're not able to separate out how Mr. Depp's reputation was impacted from the op-ed in 2018 versus how it was impacted when Ms. Heard filed for divorce in 2016, correct?

Douglas: That is not correct.

Mr. Nadelhaft: Okay.

[03:46:12]

[silence]

[03:46:34]

Mr. Nadelhaft: May I approach, Your Honor?

Judge Azcarate: Yes, sir. Thank you.

Mr. Nadelhaft: Mr. Bania, you took a deposition in this case?

Douglas: Yes, I did.

Mr. Nadelhaft: And I was asking you the questions in that case, is that right?

Douglas: That's correct.

Mr. Nadelhaft: Okay. And you took that deposition on March 21st, 2022?

Douglas: That is correct.

Mr. Nadelhaft: Okay. And you were under oath at the time, correct?

Douglas: Yes.

Mr. Nadelhaft: Okay. And you were under oath to tell the truth, correct?

Douglas: Correct.

Mr. Nadelhaft: Can you turn to page 83 of your transcripts, which is on the 21st page of the...

Douglas: I'm here.

Mr. Nadelhaft: Okay, and you see Line 9?

Douglas: Yes.

Mr. Nadelhaft: And I asked you, "Are you able to separate out how Mr. Depp's reputation was impacted from the op-ed versus how it was impacted by when Ms. Heard filed for divorce?" And your answer was, "No," correct?

Douglas: Correct.

Mr. Nadelhaft: Okay. And you're not able to separate out how Mr. Depp's reputation was impacted from the op-ed in 2018 versus the publicity surrounding when Mr. Depp sued "The Sun" newspaper in the United Kingdom when "The Sun" writer called Mr. Depp a wife beater, correct?

Douglas: Are you still reading from my deposition?

Mr. Nadelhaft: No, I'm asking your question now.

Douglas: Please repeat that.

Mr. Nadelhaft: You're not able to separate out how Mr. Depp's reputation was impacted from the op-ed in 2018 versus the publicity surrounding when Mr. Depp sued "The Sun" newspaper in the United Kingdom when "The Sun" writer called Mr. Depp a wife beater?

Ms. MacDowell: Objection, compound, Your Honor.

Judge Azcarate: Sustained.

Mr. Nadelhaft: You're not able to separate out how Mr. Depp's reputation was impacted from the op-ed in 2018 versus the publicity surrounding when Mr. Depp sued "The Sun" newspaper in the United Kingdom, correct?

Douglas: My analysis shows that the web documents that I reviewed after the 2018 allegations...

Mr. Nadelhaft: Respectfully, this is a yes or no question.

Douglas: Please repeat the question.

Mr. Nadelhaft: You're not able to separate out how Mr. Depp's reputation was impacted from the op-ed in 2018 versus the publicity surrounding when Mr. Depp sued "The Sun" newspaper in the United Kingdom?

Douglas: It was not part of my analysis to carve that out.

Mr. Nadelhaft: And you wouldn't...you were not able to separate it, correct?

Douglas: I didn't try to.

Mr. Nadelhaft: Okay, and so you couldn't?

Douglas: I didn't try it.

Mr. Nadelhaft: Okay. And you understand that the article Mr. Depp sued "The Sun" over had the headline that said, "How can JK Rowling be genuinely happy casting wife-beater Johnny Depp in the new "Fantastic Beast" film," correct?

Douglas: I don't recall if that's one of the articles I reviewed.

Mr. Nadelhaft: Do you know what that article came out before Ms. Heard's op-ed?

Douglas: I don't know.

Mr. Nadelhaft: Okay. Now, you're not offering an opinion as to how the op-ed from Ms. Heard in December 2018 impacted Mr. Depp's career, correct?

Douglas: Repeat that, please.

Mr. Nadelhaft: You're not offering an opinion as to how the op-ed from Ms. Heard in December 2018 impacted Mr. Depp's career?

Douglas: Correct.

Mr. Nadelhaft: Okay. And you're not offering an opinion as to how the op-ed for Ms. Heard in December 2018 impacted Mr. Depp's reputation?

Douglas: What I'm doing is...

Mr. Nadelhaft: It's a yes or no, are you doing...are you offering an opinion into that or not?

Douglas: My opinion is related to his public image.

Mr. Nadelhaft: You're not offering an opinion as to how the op-ed from Ms. Heard in December 2018 impacted Mr. Depp's reputation, correct?

Douglas: I'm not talking exactly about his reputation, correct.

Mr. Nadelhaft: Okay. And you're not offering an opinion as to how the op-ed from Ms. Heard in December 2018 impacted Mr. Depp's public image, correct?

Douglas: I mean, I'm offering an opinion that after the 2018...

Mr. Nadelhaft: It's a yes or no, sir. It's a yes or no, you're not offering an opinion as to how the op-ed from Ms. Heard in December 2018 impacted Mr. Depp's public image?

Douglas: I am.

Mr. Nadelhaft: Turn to your deposition transcript, please. And if you go to page 74, which is on page 19. And you see Line 3 there?

Douglas: Yes.

Mr. Nadelhaft: You see Line 1, starting on Line 1, I asked you, "And you're not going to testify how the December 2018 op-ed impacted Mr. Depp's public image?" Answer, "That's correct." That was your testimony at the time.

Douglas: Okay, well...

Mr. Nadelhaft: That was your answer at the time, right?

Douglas: The perception...

Mr. Nadelhaft: Sir, that was your answer at the time, correct?

Douglas: Okay. Yes.

Mr. Nadelhaft: And that was your answer on March 21st, 2022, correct?

Douglas: Yes, the date of the deposition.

Mr. Nadelhaft: So, that was a month and a half ago, correct?

Douglas: Right.

Mr. Nadelhaft: Okay. And you're not offering an opinion as to whether the op-ed for Ms. Heard made Mr. Depp more hireable or less hireable, correct?

Douglas: Correct.

Mr. Nadelhaft: Okay. As to the articles that came up in the Google searches that you spoke about, you made the determination whether the articles had a "negative" connotation or not, right?

Douglas: Correct.

Mr. Nadelhaft: Okay. And so, that's just your view if an article had a negative connotation about Mr. Depp, right?

Douglas: Yes, that's my opinion that they had a negative connotation.

Mr. Nadelhaft: Right, so if an article criticizes Mr. Depp's acting, for example, you're not considering that article as having a negative connotation about Mr. Depp, correct?

Douglas: Repeat that, please.

Mr. Nadelhaft: So, if an article criticizes Mr. Depp's acting, you're not considering that article is having a negative connotation about Mr. Depp, correct?

Douglas: Correct.

Mr. Nadelhaft: Okay. Now, in your analysis of Google spikes, the highest spike in searches for Mr. Depp was in January 2004, correct?

Douglas: Correct.

Mr. Nadelhaft: Okay, and can...I guess you guys have it, can you put up the Demonstrative 1236? And publish to the jury? Can you see that? Can we make it just a little bit bigger? Okay, so if I'm understanding you correctly, A is where the most searches were conducted for Johnny Depp, correct?

Douglas: Correct.

Mr. Nadelhaft: And that's from January 2004, correct?

Douglas: Correct.

Mr. Nadelhaft: So, that was 18 years ago?

Douglas: Correct.

Mr. Nadelhaft: Okay, and that was when Ms. Heard was 18 years old?

Douglas: I don't know.

Mr. Nadelhaft: Okay. The top spike you marked as 100, correct?

Douglas: I did not mark that but Google Trends have identified that spike as 100.

Mr. Nadelhaft: And where it says 100, you don't know how many people actually searched for Johnny Depp at that point, correct?

Douglas: Well, the Google Trends algorithm marks the highest point of search as 100 and then everything is compared to that as a ratio or a percent. So, if you notice that A is 100, everything else is lower than that because everything is being compared to that highest point.

Mr. Nadelhaft: Right, so you don't know how many people actually did the search for Johnny Depp in January 2004, correct?

Douglas: Correct.

Mr. Nadelhaft: It could be 100 or it could be a million, right?

Douglas: I don't know.

Mr. Nadelhaft: And you don't know if it's actually human beings doing these searches, correct?

Douglas: As opposed to...?

Mr. Nadelhaft: As opposed to bots or something like that.

Douglas: I did not do an analysis to determine if it was a bot or a human being, but Google Trends is a tool that's going to show you during a timeframe, the highest point of search interest as 100.

Mr. Nadelhaft: Okay, but you don't know if it's humans, bots, my cat doing the searches, correct?

Ms. MacDowell: Objection, asked and answered, Your Honor.

Judge Azcarate: Sustained, next question.

Mr. Nadelhaft: Now, in all of these Google spikes, Ms. Heard's op-ed never came up as one of the top three searches in any of the Google spikes, correct?

Douglas: Well, that is correct because Google Trends is based on a search of a word or a name. And because Mr. Depp's name was not mentioned in that op-ed, Google Trends did not pick that up.

Mr. Nadelhaft: So, a person does a search for Johnny Depp and the op-ed doesn't come up, correct?

Douglas: In my analysis, the op-ed did not come up.

Mr. Nadelhaft: Okay. And in fact, the red line, the red dotted line all the way to the right, that shows when the op-ed was published on December 18th, 2018, correct?

Douglas: Yes.

Mr. Nadelhaft: Okay. And the searches are actually going down right after the red line, correct?

Douglas: As opposed to the searches in 2004?

Mr. Nadelhaft: Look at the red line, look at the red dotted line, and you have to you have two points here, right there. Those go down from the time of the op-ed, correct?

Douglas: Correct.

Mr. Nadelhaft: Okay. And isn't it true that the next, I guess, spike happens in March of 2019, correct? Right there.

Douglas: Yes.

Mr. Nadelhaft: And do you know that it was March of 2019 when Mr. Depp sued Amber Heard in this case?

Douglas: No, I didn't look at that date.

Mr. Nadelhaft: Right. You didn't look at any articles for this bullet, correct?

Douglas: That's correct.

Mr. Nadelhaft: And since Ms. Heard's op-ed came out on December 18th, 2018, you would agree with me that by definition, all the spikes you analyzed before December 18th, 2018 could not have been caused by the op-ed, right?

Douglas: Correct.

Mr. Nadelhaft: Okay. So, articles about Mr. Depp's drug use before December 2018 could not have been caused by the op-ed, correct?

Douglas: Correct.

Mr. Nadelhaft: Okay. And you in this chart analyzed only two spikes after the op-ed, isn't that right?

Douglas: That is correct.

Mr. Nadelhaft: Okay. And the first spike you analyze after December 2018 is V, correct?

Douglas: Yes.

Mr. Nadelhaft: And is that from...is that January 2020?

Douglas: Roughly, yes.

Mr. Nadelhaft: Okay. So, that's January 2020 is over a year after the op-ed by Ms. Heard, correct?

Douglas: That's correct.

Mr. Nadelhaft: Okay. And then the next spike you analyze was T, correct?

Douglas: Yes.

Mr. Nadelhaft: And that was in approximately July 2020?

Douglas: Correct.

Mr. Nadelhaft: Okay, so that was a year and a half after Ms. Heard's op-ed, correct?

Douglas: Yes.

Mr. Nadelhaft: Okay. And again, none of the articles...and then for V and T, if I understand it, you then analyze the top three searches that came up or the top three websites that came up after your search?

Douglas: Correct.

Mr. Nadelhaft: Okay. And none of the articles you analyze in those Google spikes after the op-ed were the op-ed, correct?

Douglas: Correct.

Mr. Nadelhaft: Okay. And isn't it true that the headlines of the articles over a year after the op-ed that you analyzed were about Mr. Depp suing "The Sun" in the UK for "The Sun" writer calling Mr. Depp a wife beater?

Douglas: You would have to pull those articles back up, I don't have those in front of me.

Mr. Nadelhaft: Isn't it true that the article...and just so I understand it, V and T, that would mean there were six articles, correct, that you analyzed?

Douglas: Yes.

Mr. Nadelhaft: Okay. And isn't it true that the article on February 26th, 2020, the headline was, "Johnny Depp's Disturbing Alleged Text Messages Read Aloud in Court as Libel Lawsuit Begins?"

Douglas: Again, I don't have that article in front of me, I did produce those as part of my analysis. I don't have that in front of me. If you'd like to show it to me...

Mr. Nadelhaft: And you understand that that was about the lawsuit against "The Sun" in the UK, not about the op-ed, correct?

Douglas: Again, I did not have that in front of me.

Mr. Nadelhaft: And another article that came up on February 27th, 2020, it's one of the top three hits when you search for Johnny Depp, the headline was, "Let's burn Amber," Texts Allegedly Sent by Johnny Depp About Ex Read in Court."

Douglas: I mean, if you want to talk about these articles, we need to bring them up.

Mr. Nadelhaft: This is your opinion, you don't recall what articles you analyzed?

Douglas: I mean, there's a lot of articles here, I didn't memorize each title.

Mr. Nadelhaft: There were six articles that you analyzed in the...almost two years after the op-ed.

Douglas: All right, can you bring those up and we can talk about them.

Mr. Nadelhaft: And on July 19th, 2020, the headline was, "Hollywood Nervously Awaits Fallout from Explosive Johnny Depp Trial." You don't recall one way or the other whether that was one of the articles in either V or T?

Douglas: Again, I know if you want to bring up my documents, I know documents 9J, 90, 9K, and 9M are mentioning the op-ed. Again, I don't have those...

Mr. Nadelhaft: And when you say mentioning the op-ed, does that mean that it just references that Mr. Depp sued Amber Heard in Fairfax?

Douglas: No, it talks about how he's alleged to have abused her. It doesn't relate to the op-ed.

Mr. Nadelhaft: Doesn't it say...I mean another headline from July 19th, 2020, the headline was, "Hollywood Nervously Awaits Fallout from Explosive Johnny Depp Trial?"

Ms. MacDowell: Objection, asked and answered.

Judge Azcarate: I'll sustain the objection. Next question.

Mr. Nadelhaft: You understood that was about the lawsuit against "The Sun" in the UK, correct?

Ms. MacDowell: Objection, asked and answered.

Mr. Nadelhaft: I didn't ask about that part.

Judge Azcarate: Overruled.

Douglas: Again, I'd like to talk about these articles, but I need to see them.

Mr. Nadelhaft: And on July 19th, 2020, the headline was, "Johnny Depp vs. Amber Heard: All the nasty bits of the UK trial, and it's all nasty." That was in point T, correct?

Douglas: Again, I do not have that list in front of me. If you'd like to bring that up, we could talk about it.

Mr. Nadelhaft: And you understood that was about the lawsuit against "The Sun" in the UK, correct?

Douglas: I do not.

Mr. Nadelhaft: And on July 19th, 2020, the headline was, "Johnny Depp claims in "The Sun" he beat ex-wife complete lies, court told," that was the quote, correct?

Douglas: I don't see that here.

Mr. Nadelhaft: That was in your report, correct?

Douglas: I would have to look at the documents. Again, I would be happy to discuss them if you would bring those up.

Mr. Nadelhaft: And then you previously had a chart that had articles from November 2020, correct?

Douglas: I'm sorry, say again?

Mr. Nadelhaft: You previously had a chart that included articles from November 2020, correct?

Ms. MacDowell: Objection, Your Honor. May we approach?

Judge Azcarate: Okay, sure.

[04:02:38]

[silence]

[04:02:57]

Mr. Nadelhaft: You understood it was Mr. Depp's decision to sue "The Sun," correct?

Douglas: I don't know, that's not part of my analysis.

Mr. Nadelhaft: Now, you talked about Q scores in your direct testimony, correct?

Douglas: Correct.

Mr. Nadelhaft: And you testified about three particular Q scores for Mr. Depp, right?

Douglas: Three periods of time of the Q scores that I analyzed.

Mr. Nadelhaft: And you're not offering an opinion as to why Mr. Depp's Q scores changed, correct?

Douglas: That's correct.

Mr. Nadelhaft: And Q scores can go up and down for actors for any sort of reason, correct?

Douglas: That's possible.

Mr. Nadelhaft: You recall testifying that they could go up and down for any sort of reason in your deposition?

Douglas: Yeah, they can go up and down for many different reasons.

Mr. Nadelhaft: So, you're not offering an opinion that Mr. Depp's Q scores were damaged because of Ms. Heard's op-ed, correct?

Douglas: That's correct.

Mr. Nadelhaft: Okay. And in comparing the Q scores from before the op-ed to the Q scores after the op-ed, Mr. Depp's Q scores dropped by two points, correct?

Douglas: I don't have those Q scores in front of me. But if you're looking at them, I believe...

Mr. Nadelhaft: We can show the third page of this demonstrative.

Douglas: What was your question, please?

Mr. Nadelhaft: Mr. Depp's positive Q scores from B to C dropped by two points, correct?

Douglas: Yes.

Mr. Nadelhaft: You're not an expert on statistics, correct?

Douglas: Correct.

Mr. Nadelhaft: And even though you're not an expert, you have an idea about what the term statistically significant means, correct?

Douglas: Yes.

Mr. Nadelhaft: And statistical significance is a measure of whether your findings are meaningful, right?

Douglas: Yes, I don't think you need statistics to understand Q scores.

Mr. Nadelhaft: And you don't know if there's any significance to a drop in two points in positive Q score, correct?

Douglas: But it absolutely is. When you're ordering Q scores, points of time...

Mr. Nadelhaft: Mr. Bania, go to your deposition, page 113, which is on 29.

Douglas: Okay.

Mr. Nadelhaft: At 10, page 113, Line 10, it says, "So, you're not offering an opinion as to the significance of a change in Q score, correct?"  
Answer, "Correct."

Douglas: Well, you're talking about statistically a difference. What I'm talking about is how we use Q scores in the industry. When you see a Q score dropping from a 31 to a 29, there's an issue. Is this somebody you really want to hire to endorse your products or your service? No, you probably not, you want to look into why, what is going on in the public to make these Q scores dropped like that?

Mr. Nadelhaft: And you don't know exactly the significance between five or six points of a drop in Q score, correct?

Douglas: Correct.

Mr. Nadelhaft: Okay. And it shows here that Mr. Depp's negative Q score actually got better from Point B to Point C, correct?

Douglas: Correct.

Mr. Nadelhaft: So, that's actually better for Mr. Depp, correct?

Douglas: Correct.

Mr. Nadelhaft: Okay. And you understand that Dr. Alan Jacobs reviewed your opinions in this case?

Douglas: Yes.

Mr. Nadelhaft: And you understand that Dr. Jacobs reviewed additional Q score data, correct?

Douglas: Yes.

Mr. Nadelhaft: Okay. Can we please put up Plaintiff's Exhibit 889 at 117?

[04:06:34]

[silence]

[04:06:51]

Mr. Nadelhaft: Mr. Bania, do you understand this is a chart of Mr. Depp's Q scores from winter 2012 through summer of 2021?

Douglas: Yes.

Mr. Nadelhaft: Do you have any reason to question the Q scores that are shown in this chart?

Douglas: Like I said in my deposition, I have not received the actual data to build this chart but I don't have any reason to not believe that this is accurate.

Mr. Nadelhaft: As I understand it, Q scores are performed on a celebrity like Mr. Depp twice a year, correct?

Douglas: Yes.

Mr. Nadelhaft: So, there's winter of a particular year and then there's summer of a particular year?

Douglas: Yes.

Mr. Nadelhaft: And the winter scores come out around February, is that right?

Douglas: I don't have that information in front of me but it sounds right.

Mr. Nadelhaft: And so, would you know when the summer scores come out?

Douglas: I don't.

Mr. Nadelhaft: Okay. And this chart shows...permission to publish this chart as a demonstrative, Your Honor.

Judge Azcarate: Any objection?

Ms. MacDowell: I don't think this witness has laid an appropriate foundation for it, Your Honor.

Mr. Nadelhaft: He said he has no reason to question that Q scores.

Judge Azcarate: I'll allow as a demonstrative, that's fine.

Mr. Nadelhaft: And so, this chart shows Mr. Depp's positive and negative Q scores, correct?

Douglas: Correct.

Mr. Nadelhaft: And the positive Q scores are in blue?

Douglas: That's correct.

Mr. Nadelhaft: Can you blow it up a little bit, Michelle? And the negative Q scores are in red?

Douglas: Yes.

Mr. Nadelhaft: Okay.

Ms. MacDowell: Objection, Your Honor. May we approach for a moment?

Judge Azcarate: Yes.

[04:08:42]

[silence]

[04:09:01]

Mr. Nadelhaft: Mr. Bania, the positive Q score for Mr. Depp in the winter of 2012 is 42, correct?

Douglas: It's in between...yeah, it's in between 40 and 45.

Mr. Nadelhaft: Okay. And did you check this actual Q scores that Mr. Jacobs demonstrated in his report?

Douglas: No, my analysis was a snapshot of time. I wanted to know Johnny Depp's Q scores directly before the 2012 allegations...the 2016 allegations of abuse and after.

Mr. Nadelhaft: Okay. And you see here that the positive Q scores for Mr. Depp dropped from 42 in the winter of 2012 to 35 in the summer of 2016, correct?

Douglas: Yes.

Mr. Nadelhaft: That's a seven-point drop, correct?

Douglas: Yes.

Mr. Nadelhaft: And that's before Ms. Heard had her divorce filing, correct?

Douglas: That's correct.

Mr. Nadelhaft: Okay. And that drop in Mr. Depp's positive Q scores could have nothing to do with Ms. Heard's op-ed, correct?

Douglas: Correct.

Mr. Nadelhaft: And that drop could have nothing to do with the allegations Ms. Heard made after the divorce filing, correct?

Douglas: Correct.

Mr. Nadelhaft: And would you agree that the positive Q scores actually start to show an increase for Mr. Depp after the op-ed? There's a decrease and then there's an increase.

Douglas: Yep.

Mr. Nadelhaft: And the same for the negative Q scores, there's a bit of a positive, and then it goes down, correct?

Douglas: Yes.

Mr. Nadelhaft: So, really, the op-ed had no effect on Mr. Depp's Q scores, correct?

Douglas: As I mentioned, my analysis looked at the snapshot of time and it shows that he was harmed, you know, from before the allegations of abuse in '16 to after the op-ed in 2018.

Mr. Nadelhaft: You look at three Q scores and you could have looked at 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, I won't even count the 2021 scores, 18 Q scores, correct?

Douglas: Yeah.

Mr. Nadelhaft: Okay, and you looked at three, right?

Douglas: That's correct.

Mr. Nadelhaft: And that's what you're basing your opinion on that the op-ed damaged Mr. Depp's Q scores?

Douglas: So, what we need to understand is...

Mr. Nadelhaft: My question is a yes or no, your counsel can come back and ask you whatever you want. Your Honor?

Judge Azcarate: Sir? Sir, if you can just answer his yes or no question?

Douglas: Oh, I'm sorry.

Judge Azcarate: That's fine.

Douglas: I didn't hear your question.

Mr. Nadelhaft: You looked at three Q scores instead of 18 Q scores, correct?

Douglas: That's correct.

Mr. Nadelhaft: Okay. And did you look at the Q scores at all after the Dan Wootton article that came out in April of 2018?

Ms. MacDowell: Objection, asked and answered, Your Honor.

Mr. Nadelhaft: I don't think I ask that...

Judge Azcarate: I Overruled, I'll allow it.

Douglas: No.

Mr. Nadelhaft: Okay. Thank you, I have nothing further.

Judge Azcarate: All right, redirect.

Ms. MacDowell: Mr. Bania, on cross-examination, you were asked some questions about the fact that you made a determination about which of these articles had a negative connotation. Do you recall that?

Douglas: Yes.

Ms. MacDowell: Is that something that you do in situations other than in your analysis in this case?

Douglas: Yeah, yeah, so a non-litigation when we're building brand monetization strategies and especially if you're going to work with a celebrity or an athlete, you want to look at what's going on out there, you know about that personality. You know, because celebrities' and athletes', you know, Q scores can go up and down, you want to analyze the time and see what's going on out in the media. Do I really want my client to license a celebrity that there's problems out there or an athlete? So, yes, it's important to look at this.

Ms. MacDowell: And I believe you were asked whether you're offering an opinion in this case about the impact of the op-ed on Mr. Depp's public image. Do you recall that?

Douglas: Yes.

Ms. MacDowell: And I believe you testified that you are offering an opinion on that. Is that right?

Douglas: Yes.

Ms. MacDowell: What's that opinion?

Douglas: Well, the opinion is that he's portrayed in a negative connotation after that date.

Ms. MacDowell: And with respect to the Q scores that you analyzed, Mr. Nadelhaft was asking you about the three points in time that you looked at. Why, in your opinion, was it appropriate to look at just those three Q scores?

Douglas: Yeah, I was trying to explain, you know, Q scores do go up and down, we're analyzing a period of time, we want to see what's happening right before an event, during that event, and if there's another event after that event, and that is our area of analysis. So, that's why just these three sets of Q scores are the appropriate way to analyze this.

Ms. MacDowell: Thank you. I have nothing further, Your Honor.

Judge Azcarate: All right. Is this witness subject to recall?

Ms. MacDowell: He is, Your Honor.

Judge Azcarate: All right. Sir, do not discuss your testimony with anybody since you are subject to recall but since you are an expert, you are allowed to stay in the courtroom if you wish, okay?

Douglas: Okay. Thank you, Your Honor.

Mr. Nadelhaft: All right. Thank you, sir. All right, you can step down.

Douglas: Okay.

Judge Azcarate: All right, your next witness?

Ms. MacDowell: Your Honor, I believe we're calling Erin Falati by deposition.

Judge Azcarate: Oh, okay.

Mr. Nadelhaft: And Your Honor, there are a few exhibits...or at least two exhibits that [inaudible 04:14:59].

Judge Azcarate: Okay, could you put...I'm sorry, could you put your microphone on?

Mr. Nadelhaft: May we approach? There's two exhibits that we have in dispute...

Judge Azcarate: Okay. All right. Well, we're...

Judge Azcarate: All right, your next witness, then.

Ms. Vasquez: Thank you, Your Honor. Plaintiff calls Erin Falati, also known as Erin Boerum-Falati, and Ms. Heard's counsel begins the questioning.

Judge Azcarate: Okay, thank you.

Man 1: Describe your full name.

Erin: Erin Falati.

Man 1: And is Boerum your maiden name?

Erin: Correct.

Man 1: Okay. So, Boerum was your last name in the 2014 to 2016 timeframe, correct?

Erin: That's correct.

Man 1: Have you communicated with anybody else from Mr. Depp's counsel other than Ms. Vasquez?

Erin: Not that I recall. Oh, excuse me, excuse me, I do. I don't remember his name, I'm sorry. I feel like I spoke with Adam, I don't know his last name.

Man 1: Did you speak to or communicate with Adam Waldman?

Erin: Perhaps, I don't recall his last name.

Man 1: Okay. And do you recall when that occurred?

Erin: That would have been through 2019 because I had a newborn at that time. So, maybe May, June, July, something like that, 2019.

Man 1: So, this is a text exchange between you and Mr. Waldman?

Erin: It appears so.

Man 1: Okay. And do you recall speaking to Mr. Waldman at all?

Erin: Yes.

Man 1: And do you recall that when you were communicating with Mr. Waldman, Mr. Waldman was Mr. Depp's attorney?

Erin: Yes.

Man 1: Ms. Falati, you're a trained nurse, is that correct?

Erin: That's correct.

Man 1: Do you have any specialties?

Erin: Well, I haven't been working, you know, like I used to, but previously, I was trained in addictions and mental health.

Man 1: And when you say addictions, are there specific type of addictions you were trained in?

Erin: No, but I primarily worked with chemical dependency.

Man 1: And where did you receive training for addiction and mental health?

Erin: Different employment places, and then I became a certified registered addictions nurse.

Man 1: You know who Dr. David Kipper is, correct?

Erin: Correct.

Man 1: Did you work for Dr. Kipper?

Erin: Not directly, but he would hire the agency I provided nursing services for, which was Turning Point, I believe. So, I worked under his guidance but not specifically for him most of the time. There have been times where I've worked specifically for him.

Man 1: Okay. When did you start working for Turning Point nursing services or whatever the name of that company was?

Erin: I don't recall, my best guess would be somewhere between 2007 or '08.

Man 1: And when did you start to begin to do any work for Dr. Kipper?

Erin: I believe 2014.

Man 1: What were the circumstances that started you working for Dr. Kipper in 2014?

Erin: If I recall correctly, it would be for services for Ms. Heard.

Man 1: Were you ever responsible for Mr. Depp's nursing care while he was under the treatment of Dr. Kipper?

Erin: I provided him with nursing care.

Man 1: So, Ms. Falati, I'm showing you what's been marked as Exhibit 2 to your deposition, and these are AH TPD 6929 through 6959. Is that the paper documents you have...a set of the paper documents you have in front of you? Part of it.

Erin: The first page?

Man 1: And the first page might have said at the bottom also K182.

Erin: Yes, I have that.

Man 1: Okay. Do you recognize these as your...what are these?

Erin: These are my nursing notes for Ms. Heard. Yes.

Man 1: And these are notes you created?

Erin: Yes.

Man 1: Did you create these notes in the ordinary course of business?

Erin: Yes.

Man 1: And were you trained in how to prepare these notes?

Erin: Yes.

Man 1: Would you write these...how long after the visit would you write up these notes?

Erin: It would depend. Sometimes I would keep notes on my phone that I transferred to the Word document when I was in front of my laptop, and if not possible, I would do it as soon as feasible.

Man 1: And how often would you show these notes to Dr. Kipper?

Erin: I don't recall. At intervals, but I don't recall

Man 1: So, if you look at the first page of the notes, the first entry is August 27th, 2014, correct?

Erin: Yes.

Man 1: Okay. And you wrote, "RN has been hired to provide private nursing care for client Amber Heard," right?

Erin: Correct.

Man 1: And RN referred to you, correct? And RN means registered nurse, correct?

Erin: Correct.

Man 1: Okay. And throughout the notes and you say this here, "Amber Heard would be referred to as client or AH, correct?"

Erin: That's correct.

Man 1: All right. And Johnny Depp would be referred to as JD?

Erin: That's correct.

Man 1: Would you agree that Mr. Depp and Amber would get into verbal arguments?

Erin: I can recall a general sense of discord in the relationship.

Man 1: What do you mean by a general sense of discord?

Erin: I could just recall there being disagreements, reconciliation, and kind of that repeating pattern.

Man 1: And would you be at times taking care of Amber because of the disagreements between Mr. Depp and Amber?

Erin: I provided emotional support. I was not present with her often but was available over the phone, via text, and sometimes in person.

Man 1: Do you recall that in March 2015, Amber went to Australia to be with Mr. Depp?

Erin: Yes, I remember she went to Australia. As to the dates, I would have to look through documentation to ascertain the exact dates.

Man 1: Okay. And on Exhibit 2, this is your note of March 7th, 2015?

Erin: That's correct.

Man 1: Okay, and you wrote, "Client notifies RN via text of increasing anxiety?"

Erin: Yes, I wrote that.

Man 1: And then on 3/8/15, you wrote, "RN received report from Debbie RN." Debbie means Debbie Lloyd, correct?

Erin: That's correct.

Man 1: Do you recall what the report you received was on March 8th, 2015 from Debbie?

Erin: I mean, I'm just reading my notes.

Man 1: Sure.

Erin: So, to answer your question, no, I don't recall specifics of what the report would have been. I assume, based on this note, that would have been a phone call.

Man 1: Okay. And it says, "Client will be returning to Los Angeles on March 9th, 2015, accompanied by house manager, Ben." Do you see that?

Erin: Yeah.

Man 1: Did you have an understanding as to why Amber was leaving Australia in March of 2015?

Erin: Yes. I don't know if this is the exact timing, but you know better than I, there was an incident in Australia and they had to be...Ms. Heard, and Mr. Depp had to be separated. So, Ms. Heard returned to Los Angeles, according to my nursing notes, and I believe Mr. Depp must have stayed in Australia.

Man 1: And what was your understanding as to why Mr. Depp and Amber had to be separated?

Erin: It's hard to call specifics because I wasn't there or involved at the time but became involved again. I remember hearing from other people that there was quite some arguments between the two in Australia.

Man 1: Do you have an understanding if anyone was injured during the argument between Amber and Mr. Depp?

Erin: Physically injured?

Man 1: Physically, yeah.

Erin: Again, I wasn't present, so I'm only speaking as to what I recall during that time period and what I sort of remember hearing from others. And also, I just remember, Mr. Depp's finger was injured. I can't tell you specifically which one, but I remember there was an injury to his finger.

Man 1: Do you have any understanding as to how his finger was injured?

Erin: No.

Man 1: And then, Erin, you wrote the next note on March 9th, 2015 that says, "RN and ct in touch via text and phone calls after client arrived at 1500?"

Erin: Yes, I wrote that.

Man 1: Okay. And 1500, you're using military time, correct?

Erin: That's correct.

Man 1: So, that would be 3:00 p.m.?

Erin: Correct.

Man 1: And you wrote, "Client expressed feeling "sad," right?

Erin: Yes, I wrote that.

Man 1: So, you recall what Amber was sad about at approximately March 9th, 2015?

Erin: I can't speak to the...you know, I don't remember specifically, but I would assume...based on my March 8th note, I would make the assumption that those feelings were in relation to the relationship issues.

Man 1: You wrote, "Client states she would like to discuss recent events between her and husband with RN in private tomorrow. Plans are made for RN to visit client at her home tomorrow."

Erin: Yes, I wrote that.

Man 1: Do you recall all the conversations you had with Amber regarding the events between her and Mr. Depp at this March...around this March 9th, 2015 timeframe?

Erin: No, I don't recall specifics.

Man 1: Do you recall anything in general?

Erin: I really don't, I'm sorry.

Man 1: Did Amber express any fear of Mr. Depp at this time?

Erin: I don't recall. I don't see that in this note, so I can't speak to that.

Man 1: And then the note for March 10th, 2015. Do you see that note?

Erin: I do.

Man 1: You can take this down. Can we put up Attachment 25, please?

Woman: [inaudible 04:30:37]

Man 1: Ms. Falati, I'm showing you a text chain between you and Whitney Heard on March 23rd, 2015, do you see that?

Erin: Yes, I do.

Man 1: And on March 23rd, 2015, you texted to Whitney Heard, "Debbie just told me what's going on and to check with you. Is Amber awake or fall asleep?" Do you see that?

Erin: I do.

Man 1: And then Ms. Heard wrote, "She finally fell asleep," do you see that?

Erin: Yes.

Man 1: Okay. Then you wrote, "Thank goodness, she must be exhausted..."

Erin: I'm sorry, just to confirm, this is from Whitney Heard, not Amber Heard, correct?

Man 1: As I understand it, it says, "Whit Heard." Is that your understanding?

Erin: I assume. Thank you.

Man 1: And then do you recall ever communicating with Whitney Heard via text or chat?

Erin: That's sounds familiar.

Man 1: Okay. And you wrote, "Thank goodness, she must be exhausted. You want me to come to the loft? Or is she safe and sound asleep?" Do you see that?

Erin: I do see that.

Man 1: Okay. And then Whitney wrote, "Safe? No, she's not, kept saying she wants to kill herself." You see that?

Erin: I see that.

Man 1: Were you ever concerned about Ms. Heard's safety as it relates to Mr. Depp?

Erin: So, if she made comments to me that she was not safe, I would be concerned about her to ensure that she was safe, yes.

Man 1: Do you recall Ms. Heard making comments to you about her safety?

Erin: I remember a general sense when they, meaning Ms. Heard and Mr. Depp would have arguments, she would often have her friends around her for support. But from a general, you know, physical sense, she was always in a safe place.

Man 1: And what you mean... "In a general physical sense, she was always in a safe place," what do you mean by that?

Erin: Meaning she was always...not always, I should say often home, often surrounded with friends, she had friends that live right down the hallway from her, so she was always supported.

Man 1: Was Mr. Depp friends with Marilyn Manson?

Erin: Yes, I believe.

Man 1: Ms. Falati, I'm showing you what's marked as Exhibit 7 and these are texts that Mr. Depp produced between you and him. And I'm focusing on this text message of October 31st, 2015. Do you see that? Also, this text message between you and Whitney is on March 23rd, 2015. Do you see that?

Erin: I do.

Man 1: Okay. And if we go back to Exhibit 2...and I'll go back. There's no entry for March 23rd, 2015. Do you see that? Not everything you did for Ms. Heard as a nurse is reflected in these notes, correct? And the next notes we have are November 25th, 2015. Do you know why there's a long period where there's no notes?

Erin: Yes, perhaps I can shed some light for you and everyone on the relationship. When I was first hired to care for Ms. Heard, I worked full time, you know, I was assigned 24/7 basically. And after a period of time, I became more part-time and on-call and I was working with different clients at that time. So, I would...how to put it? I would not be working regularly but would also be available if an issue arose or a medication change is needed or things like that. So, I would assume that would account for this gap.

Man 1: Why did you move from full-time to part-time?

Erin: I don't know the exact answer, but I assume that's not my decision to make. That's usually the client and/or treating physician.

Man 1: Okay, so that's the first page of Exhibit 2.

Erin: Yes, thank you. So, if you can...when you go down to...about the third paragraph, a little bit. Yes. "Per report from JD," which refers to Mr. Depp, "Debbie, RN, and Dr. Kipper, Client AH," which is Ms. Heard, "has reportedly been experiencing increased anxiety and agitation recently and has had several outbursts of anger and rage." From what I remember, when I was involved in the case, it was to help assist Ms. Heard with some emotional issues, anxiety issues, and attempts to assist, in layman's term, kind of calming things down a bit.

Man 1: Do you recall any examples that you knew of anger and rage showed by Amber?

Erin: I do recall her...seeing her very angry. I have to refer to my notes. It was in London, so that would have been 2014. And I believe it was in reference to a violating incident where her phone had been hacked and

she was quite upset. I saw her angry at that time. In other times, I don't recall.

Man 1: Were you in London with Amber at the time?

Erin: Yes.

Man 1: And how was Amber showing her anger?

Erin: I recall loud, kind of elevated voice, yelling, crying, quite upset.

Man 1: Do you recall receiving a call from Amber around December 16th, 2015 regarding this argument between Mr. Depp and Amber?

Erin: I don't recall a specific phone call.

Man 1: Would you doubt that a phone call occurred if you wrote it down in your notes?

Erin: If I wrote it, I don't doubt that it occurred. I just don't have a memory of it.

Man 1: And now you see the note on December 17th, 2015?

Erin: Yes.

Man 1: And you wrote, "RN in contact with clients and notify her that she'd be able to deliver medications to her home. RN waited at door for several minutes after knocking. Client greeted RN at the door looking disheveled. Hair appeared unbrushed. Client appeared weepy and sad. Posture is slouched. Client told RN about argument with husband. RN offered emotional support but reminded Client that RN could not stay as was on duty with another client and was only visiting in order to deliver medication. Per Client, she has not had contact with husband since altercation. Client had visible bright red blood appearing at center of lower lip. When RN made Client aware that she was actively bleeding on her lip, Client stated it was from injury sustained in the..." And then it's blank. Do you see that? And if we keep going down, "In the argument between her and her husband, and that it continues to bleed actively." You wrote that?

Erin: Yes.

Man 1: And then you also wrote, "Client also states that her head is bruised and that she lost clumps of hair in altercation." You wrote that?

Erin: I assume so. It's in my notes.

Man 1: Okay. And then you wrote, "RN briefly look at Client's scalp but was unable to visualize the hematomas client had described." You wrote that?

Erin: Yes, I would agree.

Man 1: And then you wrote, "RN encouraged Client to be seen by physician Dr. Kipper or go to emergency/urgent care for thorough assessment," you see that?

Erin: I do.

Man 1: And then you wrote, "Client states she will contact Dr. Kipper tomorrow. Client is supported by friends Rocky and IO, who will be staying in Client's home with her." You wrote that?

Erin: I agree, yes.

Man 1: Okay. And then on December 18th, 2015, you wrote, "Client states she went to Dr. Kipper's office and was assessed by NP Monroe T. as Dr. Kipper was out of the office." You wrote that?

Erin: Yes.

Man 1: And NP stands for nurse practitioner?

Erin: That's correct.

Man 1: And you understand when Monroe T. stood for Monroe Tinker?

Erin: Yes.

Man 1: Do you recall Mr. Depp ever forgot to take any of his medication?

Erin: Specific time or ever?

Man 1: At any of the time where you're working with him.

Erin: I would say vaguely, yes.

Man 1: Ms. Falati, I'm showing what's been marked as Exhibit 11 to your deposition, which is Falati 96 through 106. Do you see that?

Erin: Yes.

Man 1: And you recall receiving this text message, right?

Erin: I have vague memory of this.

Man 1: Do you recall if you spoke to Amber after you received this text message? Or at any time after you received this text message around May 21st-May 22nd, 2016?

Erin: Are you saying phone call? Or just...?

Man 1: Yes, phone call.

Erin: I don't really recall.

Man 1: It could have happened, you just don't recall one way or the other?

Erin: I would agree with that.

Man 1: Okay. And you received this picture from Amber?

Erin: That's correct.

Man 1: What is this picture?

Man: I'm just asking if you can scroll down. If you want to just...

Erin: Ms. Heard.

Man 1: And does the picture show redness under Ms. Heard's eyes?

Man 2: You can answer as a layperson, if she has such an opinion. If you have an opinion one way or the other, you can let him know.

Erin: I'm not an expert. So, I mean, there's color on her face in different areas, I don't know what's what.

Man 1: And you received this first picture of Amber at 12:36 a.m.?

Erin: That's the timestamp there.

Man 1: And you received another picture at 12:36 a.m.?

Erin: It appears so.

Man 1: And who do you see in that picture?

Erin: Also Ms. Heard.

Man 1: And you received the third picture of Amber at 12:36 a.m.?

Erin: Yes, it appears so.

Man 1: And is that the third picture of Amber?

Erin: Yes, that's Ms. Heard.

Man 1: And you receive the fourth picture of Amber at 12:36 a.m.?

Erin: Yes.

Man 1: And this fourth...I think this gonna be the fourth pictures of Amber, correct?

Erin: That's correct.

Man 1: And you received that at 12:36 a.m.?

Erin: Yes, that's the timestamp.

Man 1: Okay. And these are pictures of Amber's face, correct?

Erin: Yes, that's a picture of her face and neck.

Man 1: Do you recall if you...do you recall receiving those pictures?

Erin: Like I said, I have a vague memory of this but I don't specifically remember receiving it.

Man 1: Okay, do you know if you reported these pictures or what Ms. Heard reported to you to Dr. Kipper?

Erin: I would assume that if any information was presented to me, I would have contacted Dr. Kipper.

Man 1: And you know how you would have contacted Dr. Kipper?

Erin: No. Depending on the daytime, I would sometimes call, email, text.

Man 1: Do you recall if you wrote nurse notes for this incident?

Erin: I don't recall.

Man 1: Do you want us to look at Exhibit 2?

Erin: That's the nursing notes?

Man 1: Yeah. Why don't we do that? So, there was notes for May 11th, 2016. Do you see that?

Erin: Yeah.

Man 1: And then the next notes for May 26th, 2016.

Erin: Yes.

Man 1: Okay. Do you know why you didn't include notes for May 21st, 2016?

Erin: I don't know.

Man 1: And on May 26th, you wrote, "Client texted RN requesting Ambien as she states she is suffering from insomnia due to stress and anxiety. Client reports "having the hardest week of my life." You wrote that?

Erin: Yes.

Man 1: And you wrote, "Client states she cannot deal with the negative media publicity she has received surrounding the divorce she requested from her husband JD. Dr. Kipper notified Ambien 10 milligrams, QHS PRN 14 ordered for Dr. Kipper. Client is encouraged to make appointment with Dr. Kipper in the office to be assessed. Client did not respond." You wrote that?

Erin: Yes.

Man 1: Ms. Falati, I'm showing you what's been marked as Exhibit 12 in your deposition, which is Falati 114 through 119. You can take a look through them. It appears to be notes of your...when you were Mr. Depp's nurse as opposed to Ms. Heard but feel free to take a look.

Erin: That's correct, I think these are Mr...or excuse me, my nursing notes in relation to Mr. Depp.

Man 1: So, "Client" now is Mr. Depp, correct?

Erin: That's correct because these nursing notes are in reference to Mr. Depp. Yes, that's correct.

Man 1: Okay. And in the nursing note for April 23rd, 2015, you wrote, "Dr. Kipper will introduce Rosalind Philip to Debbie, RN, and clients Amber H. and Johnny Depp. Debbie RN will assist in coordinating session appointments between clients and Ms. Phillips." Do you know if Mr. Depp and Amber ever saw Rosalind Philip?

Erin: I don't, no.

[04:47:49]

[silence]

[04:48:15]

Man 1: And then Falati 117, it shows notes for June 7th, 2016, correct?

Erin: That is correct.

Man 1: You wrote, "The following medications were approved per Dr. Kipper to be given to the client," and then there's a list of medications. You wrote these notes, correct?

Erin: Yes, that's correct.

Man 1: And did you understand that Mr. Depp was taking those medications as of June 7th, 2016?

Erin: Per this nursing note, it appears that he was taking these medications listed.

Man 1: And then there's a nursing note for June 26th, 2016, do you see that?

Erin: Yes.

Man 1: And it says, you wrote, "Client is going through divorce with wife Amber H and is dealing with the loss of his mother, passed away one month ago. Client was provided with divorce request from wife AH three days after mother passed away." Do you see that?

Erin: Yes.

Man 1: And you wrote that?

Erin: Yes.

Man 1: So, was it your understanding that Amber asked for a divorce?

Erin: This note says that Mr. Depp was provided with divorce request from Ms. Heard, so it appears she was the one requesting divorce.

Man 1: Right, and you wrote next, "Client states he was not aware AH wanted divorce and expresses confusion regarding AH's desire to terminate marriage." You wrote that?

Erin: Yes.

Man 1: And is that what Mr. Depp told you?

Erin: I would assume as I wrote it in my notes.

Man 1: Then you wrote, "Client's divorce has been highly publicized and wife AH has been accused him of several character damaging allegations including domestic violence." You wrote that, correct?

Erin: Correct.

Man 1: Did you write this based on information Mr. Depp provided you?

Erin: I don't know. I would assume that I've had discussions with him regarding this considering that this is a nursing notes for Mr. Depp.

Man 1: Did Mr. Dell tell you his character had been damaged as of June 2016?

Erin: I don't recall, I have to go by what my note says here. So, it alludes to that's something that he had discussed.

Man 1: And you see where you wrote, "Clients states he felt helpless previously, but is now angry at AH and wants to clear his name." Mr. Depp told you that?

Erin: Again, I don't recall for sure, but I would go back to my nursing notes because those were written more at the time, so I would assume that he and I discussed that.

Man 1: Okay, farther down, you wrote, "RN assisted client in processing feelings and encourage clients to continue utilizing individual therapy as he responded well to RN's use of therapeutic communication," you see that?

Erin: Yes.

Man 1: And you wrote that, correct?

Erin: Yes.

Man 1: Then you wrote, "Client is resistant, stating, "I don't want anyone like Amber's, wife, therapist. He has only made things worse." You see that?

Erin: Yes.

Man 1: And you wrote that?

Erin: Yes.

Man 1: And where it's quoted, "I don't want anyone like Amber's therapist, he's only made things worse," that was something that Mr. Depp told you?

Erin: Again, as I have it in quotations, I assume he made that statement.

Man 1: A little farther down, you wrote, "Throughout RN's visit, client maintains attention and is actively participating in conversation. Client consumed three vodka drinks during RN's seven-hour visit. Client did not eat during visit, and drink water only with several prompts from RN. RN educated Client on possible interactions between prescribed

medication and alcohol. Client verbalized understanding but stated, "Right now, I need a little alcohol for all the bad things I'm going through." You wrote those lines?

Erin: Yes.

Man 1: So, the document speaks best as to how many drinks Mr. Depp had?

Erin: Right.

Man 1: And that Mr. Depp drank three vodka drinks during your visit?

Erin: That's what my notes says.

Man 1: Then you said, "RN provided one-on-one emotional support and encourage clients to limit and/or abstain from alcohol and illicit drugs." You wrote that?

Erin: Yes.

Man 1: Do you recall why you told Mr. Depp to abstain from illicit drugs?

Erin: No, but I did, and not just with Mr. Depp, but in my line of nursing, provide education always with any medication clients are on and contraindications.

Man 1: Do you know if Mr. Depp ever took any illicit drugs during the 2014-2016 timeframe?

Erin: I don't know. I didn't witness him using any illicit drugs, so I can't speak to that.

Ms. MacDowell: Your Honor, at this point, the questioning switches over to questions by counsel for Mr. Depp.

Judge Azcarate: Then it is a breaking point?

Ms. MacDowell: That's all right with us, Your Honor.

Judge Azcarate: [inaudible 04:54:30] I'm sorry, let's go ahead and break for the evening. We will see you in the morning. Do not discuss the case and do not do any outside research, all right? And we'll have the rest of this tomorrow morning, okay? Thank you. All right, so see everybody at 10:00 tomorrow, okay? Thank you.

Ms. MacDowell: Thank you, Your Honor.