

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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JOHN C. DEPP, II, :

*Petitioner,* :

v. :

AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION, BENJAMIN WIZNER, and  
ANTHONY ROMERO, :

*Respondents.*  
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Index No. 154545/2021

Part 37

Hon. Arthur F. Engoron

Motion Sequence No. 004

**AFFIRMATION OF STEPHANIE TEPLIN**

Stephanie Teplin, an attorney duly admitted to practice law in the State of New York,  
hereby affirms as follows:

1. I am a partner at Patterson Belknap Webb & Tyler LLP (“Patterson Belknap”) and am counsel for the American Civil Liberties Union Foundation (“ACLU”), Benjamin Wizner, and Anthony Romero (together, the “ACLU Non-Parties”) in the above-captioned action. I am fully familiar with the facts and circumstances herein.

2. I submit this affirmation in support of the ACLU Non-Parties’ Motion for Production Expenses Pursuant to CPLR 3111 and 3122(d).

**A. Mr. Depp’s Document and Deposition Subpoenas**

3. This proceeding arises from the underlying case captioned *John C. Depp, II v. Amber Laura Heard*, No. CL2019-0002911 (Va. Cir. Ct., Fairfax Cnty.) (the “Virginia Action”). The Virginia Action was brought in 2019 by John C. Depp, II against Amber Laura Heard, and concerns an op-ed article that Ms. Heard wrote for the *Washington Post* with assistance from the ACLU (the “Op-Ed”). The Op-Ed discusses the reluctance of survivors of domestic abuse to

report their experiences, the #MeToo movement, and legislative efforts related to women's rights.

4. In early 2021, Mr. Depp served six foreign subpoenas on the ACLU Non-Parties, three subpoenas *duces tecum* and three foreign subpoenas *ad testificandum*. The six subpoenas were previously submitted at NYSCEF Dkt. [21](#), [22](#), [23](#), [24](#), [25](#), [26](#).

5. The ACLU Non-Parties served written responses and objections, in which they indicated that they intended to seek reimbursement for their production expenses. These written responses and objections were previously submitted at NYSCEF Dkt. [27](#), [31](#), [33](#).

6. Consistent with their written responses and objections, the ACLU Non-Parties initially agreed to conduct a targeted collection of documents that concerned the approval, conception, preparation and publication of the Op-Ed. Mr. Depp did not agree to accept this compromise proposal in satisfaction of the subpoenas *duces tecum* and moved to compel the ACLU Non-Parties' compliance with the subpoenas. NYSCEF Dkt. [1](#).

7. After reviewing Mr. Depp's moving brief, the ACLU Non-Parties offered to stipulate to the pertinent facts concerning Ms. Heard's donations to the ACLU. Mr. Depp declined this compromise proposal.

8. On July 22, 2021, the Court granted in part Mr. Depp's motion to compel compliance with the subpoenas (the "July 2021 Order"). NYSCEF Dkt. [70](#).

**B. The ACLU's Document Productions and Depositions**

9. In March 2021, the ACLU Non-Parties conducted a targeted collection of documents concerning the approval, conception, preparation and publication of the Op-Ed. Attorneys and technical staff at Patterson Belknap, working under my supervision, conducted a document collection limited to the custodians most directly involved in preparing the Op-Ed and

limited to the three-month period in late 2018 when the Op-Ed was conceived, written, and published. This collection and review process yielded around 500 responsive documents. The ACLU Non-Parties incurred less than \$10,000 in outside counsel fees and costs to conduct this targeted document review.

10. In August through October 2021, the ACLU Non-Parties conducted an additional, broader document collection and review consistent with the Court's July 2021 Order. This document collection used date parameters covering the time period from 2016 through the date of the collection, as called for in Mr. Depp's document subpoenas. The collection included additional document custodians most likely to have documents responsive to each of Mr. Depp's document requests, including employees in the ACLU's development and communications departments. In order to identify responsive documents, this collection used broader search terms than the March 2021 collection, which returned a materially higher number of documents with a higher proportion of non-responsive documents, increasing attorney review time. Attorneys working under my supervision reviewed over 7,000 additional documents during this second document review.

11. During this second document review, significant attorney time was required to review responsive documents for privilege and to prepare a privilege log. This was primarily a consequence of Mr. Depp's requests that sought information about the pending Virginia Action itself. The search terms used to identify responsive documents also returned many communications with in-house and outside counsel.

12. While the document review occurred in two phases, attorneys working under my supervision tailored the search parameters used in second phase to avoid re-reviewing documents that had been collected in the first phase.

13. In total, attorneys working under my supervision reviewed over 7,500 documents and prepared 1,909 responsive documents for production spanning 7,130 pages, along with associated metadata.

14. The ACLU also produced Mr. Wizner, Mr. Romero, and a corporate representative for depositions in response to Mr. Depp's three deposition subpoenas. Mr. Depp took over sixteen hours of testimony from these witnesses: over four hours from Mr. Wizner, seven hours from the ACLU's corporate representative, and over five hours from Mr. Romero.

**C. The ACLU's Production Expenses**

15. The ACLU Non-Parties seek \$85,156.59 in fees and \$1,096.67 in costs incurred in responding to the three document subpoenas, for a total of \$86,253.26.

16. The ACLU Non-Parties seek reimbursement for time billed by senior associate Michael Schwartz, junior associate Charlotte Allyn, Litigation Support Program Manager Oleg Gorelick, and Litigation Support Analyst Juan Alvarez. I supervised all work conducted on this matter, but the ACLU Non-Parties do not seek reimbursement for any of my time.

17. A detailed description of the billing entries for which the ACLU Non-Parties seek reimbursement is attached as **Exhibit 1**. Exhibit 1 was generated from Patterson Belknap's accounting system, and reflects the same information contained in invoices sent to and paid by the ACLU Non-Parties. Every Patterson Belknap attorney and support staff member records his or her billable time, to the tenth of an hour, spent on a case together with a description of the work that was done. Exhibit 1 reflects those time entries for which the ACLU Non-Parties seek reimbursement in the present motion.

18. True and correct copies of Mr. Schwartz's and Ms. Allyn's profiles from Patterson Belknap's website are attached as **Exhibit 2** and **Exhibit 3**.

19. The two technical staff members—Mr. Gorelick and Mr. Alvarez—spent time on tasks directly related to the document collection, review, and production, including initial data processing; preparing and implementing search parameters; imaging and Bates-stamping documents; inserting redactions for privilege; performing quality control checks; exporting document to a data file with accompanying metadata; and preparing a file transfer link to send to Mr. Depp’s counsel.

20. The hourly rates billed in this matter are listed below. The hourly rates charged by Patterson Belknap for work performed on this matter are comparable to or less than the rates that the firm charges to clients like the ACLU for litigation and exempt organizations-related work.

<b>Timekeeper</b>	<b>Position</b>	<b>Hourly Rate</b>
Michael Schwartz	Senior Associate	\$799.50
Charlotte Allyn	Junior Associate	\$500.20
Oleg Gorelick	Litigation Support	\$336.20
Juan Alvarez	Litigation Support	\$295.20

21. From my experience as a partner of Patterson Belknap, I understand that the hourly billing rate for Patterson Belknap’s attorneys and staff are consistent with the rates charged by Paterson Belknap to clients like the ACLU Non-Parties for litigation and exempt organizations-related work.

22. The ACLU Non-Parties do not seek reimbursement for outside counsel’s time spent conferring about document collection and review activities internally at Patterson Belknap and with ACLU employees, which totaled over \$15,000. The ACLU Non-Parties also do not seek reimbursement for other tasks related to the document subpoenas, such as preparing written

responses and objections to the subpoenas, meet-and-confer discussions with Mr. Depp's counsel, and motion practice. In addition, the ACLU Non-Parties do not seek reimbursement for the considerable time its own personnel spent searching for and collecting documents in-house without using a vendor, and in assisting outside counsel in complying with the subpoenas. The ACLU Non-Parties do not seek reimbursement of any costs associated with preparing for or appearing at the three depositions requested by Mr. Depp.

23. The ACLU Non-Parties incurred \$1,096.67 in costs in connection with responding to the subpoenas, which consists of monthly third-party data hosting and usage fees. Use of this outside vendor's platform allowed counsel to store, review, and tag documents, and then format documents with associated metadata and stamp them for production. A detailed description of these costs is attached as **Exhibit 4**.

24. Prior to filing this motion, the ACLU Non-Parties sent a detailed description of their production expenses to Mr. Depp and sought to negotiate reimbursement without Court intervention. Those negotiations were unsuccessful.

Dated: New York, New York  
April 18, 2022

/s/ Stephanie Teplin  
Stephanie Teplin

**CERTIFICATE OF COMPLIANCE**

I hereby certify that this affirmation is 1,383 words exclusive of the caption and signature block, and that this document complies with the word limit for an affirmation.

Dated: April 18, 2022

*/s/ Stephanie Teplin*

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Stephanie Teplin