

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

B E T W E E N

JOHN CHRISTOPHER DEPP II

Claimant

and

(1) NEWS GROUP NEWSPAPERS LTD
(2) DAN WOOTTON

Defendants

**ANNEX B TO CLAIMANT'S CLOSING SKELETON –
EVOLUTION OF INCIDENT TWO**

The so-called "Painting Incident" or Incident Two changed radically and on multiple occasions in these proceedings. The Court heard the shifting testimony at trial, but the distance travelled since it was first raised is extraordinary. This is relied upon by the Claimant to show that Ms Heard's testimony (and Ms Whitney Henriques's testimony in support) cannot be relied upon.

21 June 2019

1. Amended Defence pleaded painting incident occurred on "*on 8 March 2013*".
2. It averred the Claimant's violence to Ms Heard and attempt to set fire to a painting occurred after Whitney had come and gone **[1/14/C17]**
3. Amended Defence relied upon "*disco bloodbath*" text message as referring to this incident; and pleaded that the Claimant "*subsequently*" sent that text referring to that evening. The date of that text is 12 March 2013.
4. In relation to the identification of the specific painting: the Claimant's Amended Reply identified "*The signed painting ... was hanging by Ms Heard's bed*". **[1/15/C31]**

12 December 2019

5. Ms Henriques' statement has the heading "Painting incident, 8 March 2013" [2/61/E105]. She said that she saw that the painting had been taken off the wall, and Ms Heard told her a couple of days later that the Claimant had tried to burn it, and when he had failed he "*scratched out her signature to read "Tasya van Pee"*" WH at 37 [2/61/E106]. Like Ms Heard, Ms Henriques tied the Painting Incident to Keith Richards filming.

15 December 2019

6. Ms Heard's 1st witness statement put the incident in "*March 2013*": AH 1st at 52 [1/60/E13]
7. Ms Heard's described the painting's location. What she did not do is say that the Claimant, in his Reply, described the wrong painting.
8. Ms Heard linked the Painting Incident to going to the Keith Richards' documentary with her sister, AH 1st at 57-60.
9. AH 1st at 63: Ms Heard dated the incident by reference to the "disco bloodbath" text: that text is 12 March 2013.

6 March 2020

10. Re-Amended Defence pleaded painting incident was "*on or around 8 March 2013*"

20th June 2020

11. AH 5th WS, Ms Heard stated "41. On 10 March 2013 I told Kate about Johnny hitting me after being upset about Tasya. The day after the painting incident (9 March 2013), I sent a text to Kate, telling her "*There was long drama last night and I'll tell her the story later*". 2.1/71.3/E606.30-31

On or around 24 June 2020

12. The Claimant disclosed an email between the him and Jane Rose of 20 March 2013 – 8/63(a)/I1.1 This email demonstrates that Ms Heard first met Keith Richards on evening of 20 March.

4th July 2020

13. In her 6th WS at 9, said there were "*numerous incidents of violence in March 2013 and many fights over that month about the painting. While the incident is as I have described it in my statement and was around that time, I cannot say for certain it was on 8 March 2013*".

5th July 2020

14. On 5 July at 15:45, the Claimant disclosed photos of Keith Richards, the Claimant, Ms Heard and Ms Henriques. This was a photograph of their visit to the set on 21

March 2013. The Claimant also disclosed an undated photograph of Ms Heard with Ian McLagan, Keith Richards' keyboard player.

6th July 2020

15. AH's 7th WS at 5: Ms Heard changed the date of the alleged incident in purported reliance on a photograph of lines of cocaine on a kitchen glass table. There is no apparent causal connection, as to why that photo of drugs taken at her house on 22 March 2013 could possibly make Ms Heard change or recall the date of Second Incident.

Cross-examination of the Claimant (TRIAL Day 2: Transcript p.184-215)

16. In cross-examination of the Claimant, the painting incident was described to Mr Depp as taking place "*on the night in March 2013 that I'm asking you about*" (at p.192), but from the documents shown to the Claimant, Depp-Deuters texts of 22 March [7/ 65(c)/ H206.7-8], it was clear that the Defendants' case was that the 22nd being the date of the visit to the set and 21st being the attack and jealousy over the van Ree painting.

Friday 10 July 2020 (22:15)

17. The Defendants' disclosed various photographs including the undated photo of Ms Heard, Ms Henriques, the Claimant and Keith Richards apparently at Sweetzer on 21 March. There is also a photo of Ms Henriques which appears to be at same occasion.

July 16th, 2020

- 16 The Claimant disclosed travel documents for Ian McLagan and the Happy Day Script Notes showing that Mr McLagan was only on set on 23 March 2013.

Cross examination of AH (Trial Day 11: Transcript p. 1789 – 1831)

- 17 Ms Heard maintained that the 'painting' incident took place on 22nd March. "Q: *The painting incident where you say you went to Keith Richards' filming?* A. *The painting incident took place on the 22nd. (Page 1792).*
- 18 But it was not just the date of the alleged incident which had moved it was also all the details. Ms Heard claimed there was a completely different incident at the Eastern which had led to blood on the wall (something not put to the Claimant).
- 19 When shown photographs of herself looking uninjured at the Keith Richards filming, Ms Heard fell back on two responses:
 - a. While initially acknowledging she was uninjured photos of herself, she then said she could discern injuries on her face in the photographs, when there were clearly none. As was put to her, she was compelled to do so because Ms Henriques account of the 'painting incident' included seeing visible injuries to her face (something which Ms Henriques did not change in her account. See pages 2129-2130).

- b. Secondly, Ms Heard fell back on her recent change of accounts from there having been one very striking assault in March 2013, to it be a month of assaults. By re-examination (**Trial Day 13, page 2033**), Ms Heard was claiming that there were “at least three incidents” in March 2013, which involved the filming of the Keith Richards documentary.
- 20 Finally, the Court should not that at the time, Ms Heard told Nathan Holmes on 22 March 2013 at 12:37 that she was ‘trying to wake’ Mr Depp **[7/1e/H21A.17A]**, but in cross-examination that Mr Depp on 22 March was “on a 24 hour coke-fueled bender” (**Transcript, Day 11, page 1810**) and Ms Henriques’s evidence was that was in the kitchen (**Transcript Day 13, pages 2123-2124**).
- 21 Her account could hardly be further from where she started when “Incident Two” was first advanced.

END