

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

FILED  
CIVIL PROCESSING

2022 JUL 11 A 8:20

JOHN C. DEPP, II,

Plaintiff and Counterclaim Defendant,

v.

AMBER LAURA HEARD,

Defendant and Counterclaim Plaintiff.

Civil Action No.: CL-2019-0002911

JOHN T. FREY  
CLERK, CIRCUIT COURT  
FAIRFAX, VA

**PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S OUT-OF-TIME  
SUPPLEMENTAL MEMORANDUM IN SUPPORT OF HER POST-TRIAL MOTIONS**

Plaintiff John C. Depp, II, by and through his undersigned counsel, hereby moves this Honorable Court to strike Defendant's Supplemental Memorandum in Support of Her Post-Trial Motions ("Supplemental Memorandum"), stating as follows:

**ARGUMENT**

1. **Defendant Heard's Filing Is Untimely**

Pursuant to the Court's direction, Ms. Heard's deadline for submitting her Post-Trial Motions fell on July 1, 2022, one full month after the jury rendered its verdicts. It is undisputed that Ms. Heard did not file her Supplemental Memorandum until the afternoon of July 8, 2022, one week late, and only fewer than three days before Plaintiff's Depp's deadline for submitting his opposition to Defendant's Post-Trial Motions, due on Monday, July 11 by no later than 10:00 a.m.

True to form, Defendant neither notified Plaintiff of her forthcoming Supplemental Memorandum nor sought leave of Court for filing it one full week out of time. Because Ms. Heard filed late, and without leave of Court, the Court should grant Plaintiff's Motion to Strike.

2. **Ms. Heard Had Access to the Purported "New" Facts Months Ago**

In her Supplemental Memorandum, Ms. Heard does not, because she cannot, make any proffer as to why she could not have discovered the "new" facts until now. This is because the Clerk's Office provided the pre-panel jury list to the parties back on April 6, 2022, more than two months ago, and five days before the jury was empaneled. In a rare moment of candor, Ms. Heard admits that she was aware of the purported discrepancy in Juror 15's birth year from the very start of trial because "Juror 15 ... was clearly born later than 1945." Mot. at 40. Ms. Heard therefore concedes she had more than enough time before the trial started, and during the six-week trial, when at least two alternates were available, to investigate and discover the alleged "new" facts. Clearly Ms. Heard waived any right to allege new "facts" she chose not to investigate for so long, much less to demand the extraordinary remedy of a mistrial.

3. **Ms. Heard Cites No Unfair Prejudice**

Even if Ms. Heard had filed her Supplemental Memorandum in a timely manner – which she did not – and even had she not waived her right to raise this alleged issue by sitting on the information for more than two months – which she did – the Court should still grant Plaintiff's Motion to Strike Defendant's Supplemental Memorandum because Ms. Heard failed to city any unfair prejudice. Even assuming *arguendo* Ms. Heard's latest thesis, *i.e.*, that a son served instead of his father, there would be no prejudice, as Juror 15 was qualified to serve as a juror in


Fairfax County and was vetted by the Court and the parties' counsel just as all of the other jurors were.<sup>1</sup>

### Conclusion

Based on the foregoing, the Court should grant Plaintiff's Motion and strike Defendant's Supplemental Memorandum.

Dated: July 11, 2022

Respectfully submitted,

  
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<sup>1</sup> Defendant seems to have abandoned her prior baseless assertions - made both by Ms. Heard and her counsel on national television - that the jurors violated their oaths by watching social media during the trial, which in turn influenced their verdicts. Disgraceful that Ms. Heard made such scandalous allegations, and disappointing that no apology and recantation followed.

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