

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

FILED
COURT SERVICES

JOHN C. DEPP, II

Plaintiff,

v.

AMBER LAURA HEARD

Defendant.

2019 NOV 26 12:25

JOHN T. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

Civil Action No.: CL-2019-0002911

PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION FOR CONTINUANCE

Plaintiff John C. Depp, II ("Mr. Depp"), by and through his undersigned counsel, hereby submits his response to Defendant Amber Heard's ("Ms. Heard") Motion for Continuance, to be heard at Calendar Control tomorrow, November 27, 2019 at 8:30 a.m.

At tomorrow's hearing, Mr. Depp's counsel will be prepared to have an appropriate discussion with the Court and Ms. Heard's counsel regarding the schedule issues that confront both parties. But Mr. Depp strongly rejects Ms. Heard's baseless assertions that Mr. Depp has been "dilatatory and obstructionist" in discovery. Ms. Heard's contrived criticisms of Mr. Depp's participation in discovery are part and parcel of her ongoing effort to distract from the merits of the case, because she knows that she cannot defend her defamatory statements on the merits.

The truth is that Mr. Depp, as the party with the burden of proof, clearly is the one who needs relevant materials produced in a timely manner—and thus is the party facing prejudice by an incomplete discovery record, not Ms. Heard. Mr. Depp has produced to date far more documents than has Ms. Heard—3,652 pages or images by Mr. Depp, compared to a paltry 870 pages or images by Ms. Heard (and that count itself is inflated because Ms. Heard broke up text message exchanges so that each single message is produced as a standalone document).

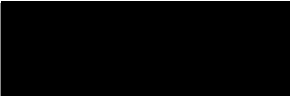
Conspicuously absent from Ms. Heard's production are central categories of documents, such as any drafts of or communications regarding her defamatory Op-Ed, or communications regarding the Op-Ed; any communications about her seeking a TRO in May 2016 in connection with Ms. Heard and Mr. Depp's divorce; and the documents relating to her physical assaults against Mr. Depp and others. Ms. Heard also has not produced any medical records concerning her supposed abuse, nor has she even executed a HIPAA waiver despite being requested to do so weeks ago. And even with respect to the documents that Ms. Heard has produced, they came too late for depositions that occurred. For example, while Ms. Heard complains that supposedly Mr. Depp did not produce communications with a third party deponent, Joshua Drew, before Mr. Drew's deposition, neither did Ms. Heard—until three days *after* Mr. Drew was deposed, thus confirming that Ms. Heard and her attorneys knew of such documents but sandbagged Mr. Depp and his counsel by delaying their production.

Furthermore, contrary to Ms. Heard's assertion, Mr. Depp has produced materials responsive to nearly all of Ms. Heard's discovery requests, including numerous emails, text messages, photos, and other documents. Yesterday, for example, Mr. Depp produced to Ms. Heard all 89 security camera videos from the Eastern Columbia Building where Mr. Depp and Ms. Heard were living **which show that Ms. Heard had no marks on her face in the days after the alleged assault on May 21, 2016.** The lack of marks is consistent with the testimony of Officer Melissa Saenz and Officer Tyler Hadden, which testimony Ms. Heard now seeks to suppress, and that of neighbor Isaac Baruch. Ms. Heard's complaints concern in large part (1) materials in the physical possession of other parties, from whom Mr. Depp is requesting their production, such as medical providers—persons who Ms. Heard herself knows of and has independently subpoenaed; (2) Mr. Depp's expert disclosures, which comply with his obligations

given the preliminary state of discovery when they were served (as Mr. Depp will explain in his separately filed opposition to Ms. Heard's motion to strike); and (3) the overbroad and largely irrelevant scope of materials that Ms. Heard has insisted on obtaining from Mr. Depp, necessitating a time-consuming and expensive search, review, and production process. None of these issues come close to supporting Ms. Heard's hyperbolic accusation of misconduct that her attorneys level in their motion.

Dated: November 26, 2019

Respectfully submitted,


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of November 2019, I caused copies of the foregoing to be served via email (per written agreement between the Parties) on the following:

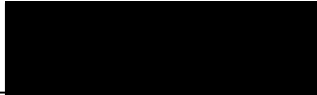
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