

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

JOHN C. DEPP, II,

Plaintiff and Counter-defendant,

v.

AMBER LAURA HEARD,

Defendant and Counter-plaintiff.

Civil Action No.: CL-2019-0002911

FILED
CIVIL PROCESSING

2021 JUL -7 P 3:41

JOHN T. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

**SECOND NOTIFICATION OF JUDICIAL
NOTICE OF ADJUDICATED FACTS AND LAW IMPACTING THIS MATTER**

THE COURT WILL PLEASE TAKE JUDICIAL NOTICE, pursuant to Rules 2:201, 2:202, and 2:203 of the Virginia Supreme Court, of the following adjudicated facts, law, official publications, and rulings of the United Kingdom's High Court of Justice – Queen's Bench Division and the United Kingdom's Court of Appeal (Civil Division) in the related matter of *John Christopher Depp II v. News Group Newspapers Ltd., et al.*, QB-2018-006323, which impact this matter:

1. Annexe to Judgment, Confidential to the Parties. ("High Court of Justice Confidential Annexe"). **Attachment 1- CONFIDENTIAL - FILED UNDER SEAL.**
 - a. Ms. Heard incorporates by reference ¶ 1 and **Attachment A** of her April 13, 2021 Notification of Judicial Notice of Adjudicated Facts and Law Impacting this Matter ("JN").
 - b. In the Approved Judgment of the United Kingdom's High Court of Justice – Queen's Bench Division, the Court "accepted the further allegation in the confidential annexe regarding this incident." *April 13, 2021 Notification of*

Judicial Notice of Adjudicated Facts and Law Impacting this Matter, JN Att. A, ¶ 370(xxiii).

- c. In the High Court of Justice Confidential Annexe, the Court “accept[ed] this part of Ms. Heard’s account,” and “conclude[d] that Mr. Depp did commit the sexual assault alleged by the Defendants as part of Incident 8.” Att. 1, ¶ 17.
2. Confidential Annexe to Judgment dated 25 March 2021, (“Court of Appeals Confidential Annexe”). **Attachment 2 – CONFIDENTIAL - FILED UNDER SEAL.**
 - a. Ms. Heard incorporates by reference ¶ 3 and **Attachment C** of the April 13, 2021 Notification of Judicial Notice of Adjudicated Facts and Law Impacting this Matter.
 - b. In the Court of Appeal (Civil Division)’s Approved Judgment dated March 25, 2021, the Court of Appeals referenced that “Mr Caldecott’s second complaint refers to a finding which the Judge made in the confidential annex to his judgment about a particular assault by Mr Depp on Ms Heard in the course of incident 8. We will likewise deal with it in a confidential annex to this judgment. For the reasons that we give there, we do not believe that there was any arguable error in the Judge’s approach.” *April 13, 2021 Notification of Judicial Notice of Adjudicated Facts and Law Impacting this Matter*, JN Att. C, ¶ 18.
 - c. In the Court of Appeals Confidential Annexe, the Court identified its reasons for there being no arguable error in the High Court of Justice – Queen’s Bench Division Judge’s approach. Att. 2.

Judicial Notice of Adjudicated Facts and Law Impacting this Matter, JN Att. A, ¶ 370(xxiii).

c. In the High Court of Justice Confidential Annexe, the Court [REDACTED]
[REDACTED]
[REDACTED]

2. Confidential Annexe to Judgment dated 25 March 2021, (“Court of Appeals Confidential Annexe”). **Attachment 2 – CONFIDENTIAL - FILED UNDER SEAL.**

a. Ms. Heard incorporates by reference ¶ 3 and **Attachment C** of the April 13, 2021 Notification of Judicial Notice of Adjudicated Facts and Law Impacting this Matter.

b. In the Court of Appeal (Civil Division)’s Approved Judgment dated March 25, 2021, the Court of Appeals referenced that “Mr Caldecott’s second complaint refers to a finding which the Judge made in the confidential annex to his judgment about a particular assault by Mr Depp on Ms Heard in the course of incident 8. We will likewise deal with it in a confidential annex to this judgment. For the reasons that we give there, we do not believe that there was any arguable error in the Judge’s approach.” *April 13, 2021 Notification of Judicial Notice of Adjudicated Facts and Law Impacting this Matter, JN Att. C, ¶ 18.*

c. In the Court of Appeals Confidential Annexe, the Court [REDACTED]
[REDACTED]
[REDACTED]

FOR THESE REASONS, Amber Laura Heard respectfully requests the Court take Judicial Notice of Atts. 1-2 pursuant to Rules 2:201, 2:202, and 2:203 of the Virginia Supreme Court.

Dated this 7th day of July, 2021

Respectfully submitted,

Amber L. Heard



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CERTIFICATE OF SERVICE

I certify that on this 7th day of July 2021, a copy of the foregoing was served upon counsel for Plaintiff by email, as agreed upon by the parties, addressed as follows:

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Elaine Charlson Bredehoft

Attachment 1

FILED UNDER SEAL

(Pursuant to the Stipulated Amended Protective Order entered by the
Court on June 21, 2021)



Neutral Citation Number: [2020] EWHC 2911 (QB)

Case No: QB-2018-006323

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 02/11/2020

Before :

MR JUSTICE NICOL

Between :

John Christopher Depp II
- and -
(1) News Group Newspapers Ltd.
(2) Dan Wootton

Claimant

Defendants

Eleanor Laws QC, David Sherborne and Kate Wilson (instructed by Schillings) for the
Claimant
Sasha Wass QC, Adam Wolanski QC and Clara Hamer (instructed by Simons Muirhead
and Burton) for the Defendants

Hearing dates: 7th-10th July 2020; 13th-17th July 2020; 20-24th July 2020; 27th-28th July 2020

ANNEXE TO JUDGMENT
CONFIDENTIAL TO THE PARTIES

.....
MR JUSTICE NICOL

Mr Justice Nicol:

1. Certain parts of the RAD were set out in a confidential annexe. Likewise, the Claimant responded to these in a confidential part of the RAR. As I explained in the main judgment, I agreed that evidence regarding these matters could be given in private. That is what occurred. I deal with those matters in this annexe to the principal judgment which will remain confidential to the parties absent any further order of the court.
2. Before the private hearing began an issue was raised as to whether Adam Waldman, one of the Claimant's American lawyers, could remain in court. I ruled that only the lawyers instructed for the present proceedings could remain. That did not include Mr Waldman, who, accordingly, was excluded.

Incident 3: Hicksville

3. Paragraph 2 of the Confidential Annexe to the RAD pleads,
'During the incident referred to at para 8.a.2.A of the RAD [Hicksville] the Claimant accused Ms Heard of hiding his drugs from him. Without Ms Heard's consent, he ripped off her dress, grabbed her and forced his hand inside her in a forceful "cavity search" for the drugs, causing her pain.
4. Paragraph 2 to the Confidential Annexe to the RAR denies the allegation. Mr Depp repeats his denial in the confidential Annexe to his 3rd witness statement made on 25th February 2020. In cross-examination, Mr Depp repeated his denial of this sexual assault against Ms Heard in Hicksville.
5. In a confidential annexe to her 1st witness statement, made on 15th December 2019, Ms Heard said that there were a number of incidents of sexual violence over the course of her relationship with Mr Depp. She says that it is extremely upsetting and difficult to revisit these matters. She refers specifically to one aspect of Incident 8 in Australia (see below). She does not specifically refer to the sexual aspect of Incident 3 in Hicksville.
6. There was a confidential schedule to her third witness statement made on 26th February 2020. Ms Heard says she has been asked to address an incident in Hicksville 'as part of my reply evidence'. In this witness statement she did say that, as part of the Hicksville incident, the 'cavity search' took place. She said at paragraph 3 of this schedule,

'I now understand this to be a form of sexual assault. Over the years Johnny forcefully penetrated me like this on several occasions to assert himself, demonstrate his power over me, and to attempt to dominate and shame me. This was the first time I remember it happening.'
7. It is notable that this evidence from Ms Heard did not emerge until February 2020 and then as part of her 'reply evidence'. I also find it hard to believe that Ms Heard did not, at the time, appreciate that this was a 'form of sexual assault'. I also note that Ms Sexton did not say that Ms Heard reported to her that she had been sexually assaulted at Hicksville. This is the more striking given (a) that Ms Sexton had been present at Hicksville; (b) that Ms Sexton was a confidante of Ms Heard and a person to whom Ms

Heard did report another sexual assault by Mr Depp (in Australia – see below Incident 8).

8. I conclude that the Defendants have not shown that Mr Depp sexually assaulted Ms Heard at Hicksville by subjecting her to a forcible and painful ‘cavity search.’

Incident 8: Australia March 2015

9. Paragraph 3 of the confidential annexe to the RAD pleads,
‘During the incident referred to in paragraph 8.a.10 of the RAD, the Claimant inserted a bottle into Ms Heard’s vagina without her consent and thrust it repeatedly and hard while screaming that he was going to kill her and taunting her. Ms Heard cried and pleaded with the Claimant to stop and suffered injury and severe pain.’
10. Paragraph 3 of the RAR denies the allegation which is said to have been fabricated by Ms Heard.
11. In a confidential annexe to her 1st statement, Ms Heard supported the allegation in the confidential annexe to the RAD. She concluded by saying,

‘I couldn’t even think about having sex for a long time after this incident. It is one of the most painful and traumatic events of my life – and the one I have difficulty of speaking about. I have never discussed this publicly, whether in the context of the domestic violence restraining order or otherwise, and I would be grateful if this aspect of my evidence can be protected.’
12. In a confidential schedule to her witness statement, Ms Sexton says that in late May 2016 and afterwards, Ms Heard ‘began to tell me more of the details about what had been going on in their relationship, including what had happened when they were in Australia.’ Ms Sexton says in paragraph 3 of this schedule,
‘at that time, she told me that he had “attacked” her with bottles. Since then we have been talking more about her experiences. I have tried to give her a safe space where she can talk about it and process what has happened to her. It was during one of these conversations this year (2019) that Amber told me that Johnny had, in fact, forced a bottle inside of her vagina during this incident in Australia. I told her, “Amber, that is rape”. She was crying as she discussed it and she said, “I know, but I guess I didn’t realise it then that way or consider it in that way – there was just so much violence”. I remember talking to her about it and us discussing how it is easier to realise that things are wrong when they are happening to someone else.’
13. Mr Depp, in a confidential annexe to his trial statement repeats his denial of this occurrence. He notes that Ms Heard claimed it happened on the night of 8th March 2015, but says that would be impossible since he was then in hospital.
14. In the private part of the trial, Mr Depp repeated his denial that he had forced a bottle into Ms Heard’s vagina. He also denied that he had accused her of having sex with Billy Bob Thornton (her co-star in the film ‘London Fields’).
15. Ms Sexton said that Ms Heard had talked about the sexual assault in Australia in August 2019, before Ms Sexton’s first deposition in the Virginia libel proceedings, on 30th

August 2019. Ms Sexton had moved to Australia herself in about 2017, and she had then ceased to have a professional relationship with Ms Heard as her acting coach, but she had continued to meet Ms Heard socially and, on 3-4 occasions they had had face to face meetings. It was during these that Ms Heard spoke of the sexual aspect of the assaults in Australia.

16. Ms Sexton was asked if she knew that the sexual aspect of Ms Heard's allegations was false. Ms Sexton said that she believed them to be true. When Ms Heard related them, she was crying. She was speaking in chopped sentences. Ms Sexton had no reason to believe the allegations to be false.
17. I accept this part of Ms Heard's account. She first mentioned it 3 years after the event, but it is not unusual for there to be a delay before allegations of sexual assaults are made. Unlike the Hicksville incident, Ms Heard did disclose to Ms Sexton that she had been assaulted sexually in Australia. Mr Depp's rage at Ms Heard did have a sexual dimension since (contrary to his evidence) I find that he did believe that she and Billy Bob Thornton had had an affair. Mr Depp admitted that Mr Thornton's name was part of the graffiti which he painted on the mirror in the Queensland house. Ms Heard had very recently been filming 'London Fields' with Billy Bob Thornton. Mr Depp's jealousy of Ms Heard's supposed affairs with others (including her co-stars) is of a piece with his attitudes on other occasions. In the principal judgment, I accept the Defendants' contentions that in Australia, Mr Depp drank to excess and was taking controlled drugs (including cocaine and MDMA). He committed a prodigious amount of damage to the Queensland house. Taking all of this evidence together, I conclude that Mr Depp did commit the sexual assault alleged by the Defendants as part of Incident 8. Mr Depp is right that Ms Heard is wrong about the date of the incident: it could not have been 8th March because by then he was in hospital being treated for his injured finger. However, her error in that detail does not cause me to disbelieve her account of the assault.

Bahamas December 2015

18. Ms Heard's 5th witness statement had a confidential annexe which I have considered. However, for the reasons which I have given in the main judgment, since this incident was not pleaded by either party it is neither necessary nor proportionate for me to reach decisions on it. I have also said in the main judgment, that my views would have remained the same even if that incident had been taken into account. In saying that, I have also had regard to the confidential annexe to Ms Heard's 5th statement.

Attachment 2

FILED UNDER SEAL

(Pursuant to the Stipulated Amended Protective Order entered by the
Court on June 21, 2021)



Neutral Citation Number: [2021] EWCA Civ 423

Case No: A2/2020/2034

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
Nicol J

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 25/03/2021

Before :

LORD JUSTICE UNDERHILL
(Vice-President of the Court of Appeal (Civil Division))

and

LORD JUSTICE DINGEMANS

Between :

JOHN CHRISTOPHER DEPP II
- and -
NEWS GROUP NEWSPAPERS LTD
DAN WOOTTON

Appellant

Respondents

CONFIDENTIAL ANNEX TO JUDGMENT DATED 25 MARCH 2021

- (1) The allegation to which this complaint alleges is that during incident 8 Mr Depp forced a bottle into Ms Heard's vagina. The allegation was not included in the original Defence and was included in an Amended Defence only in June 2019, which is over four years after the assault is said to have occurred. In addition to Ms Heard's own evidence about the assault, NGN also adduced evidence from a Ms Sexton, a friend who had previously worked for her as an acting coach and to whom she recounted some time in 2019 what she said had happened. At para. 16 of the annex the Judge said:

"Ms Sexton said that she believed the allegations to be true. When Ms Heard related them, she was crying. She was speaking in chopped sentences. Ms Sexton had no reason to believe the allegations to be false."

- (2) The Judge's reasons for accepting the allegation are given at para. 17 of the annex. He had already found that Mr Depp was wholly out of control during the incident, but he attached particular weight to the fact that a major part of the cause of his anger with Ms Heard was his belief that she had recently had an affair with another actor, Billy Bob Thornton. Mr Thornton's name was among the graffiti he had drawn on one of the mirrors in the house. There was also evidence in the main part of the judgment that he had drawn a penis on a photograph of Ms Heard, over her private parts. The Judge regarded the sexual character of Mr Depp's rage as making the alleged assault plausible.
- (3) Mr Caldecott had two points about this finding.
- (4) First, he argued that there was a fundamental inconsistency between the way in which the Judge had approached this allegation and his approach to the other allegation which was the subject of the confidential annex, namely that Mr Depp had performed a "cavity search" on Ms Heard in the course of incident 3. That evidence too had emerged late: it was not pleaded until a Re-Amended Defence in March 2020, almost six years after the event in question. The Judge found that it had not been proved that the assault occurred. At para. 7 he gave three reasons – that it was not pleaded until a very late stage; that he found it hard to believe Ms Heard's evidence that she had not at first appreciated that what she said had happened amounted to a sexual assault; and that she had not described the assault to Ms Sexton. Mr Caldecott submitted that if the Judge did not find that the burden of proof was discharged in relation to that incident it was inconsistent of him not to come to the same conclusion as regards the alleged assault as part of incident 8. We do not believe that there is any prospect that this Court would accept that criticism. The case as regards the later alleged assault was clearly stronger. The motive for a sexual assault, as explained at (2) above, was clearer; Ms Heard had complained about it to a confidant when she had not done so as regards the earlier alleged assault; it was pleaded sooner (though this is perhaps a variant of the same point); and the distance of time between the alleged event and the pleading was much shorter. There were plainly reasonable grounds for reaching different conclusions as between the two allegations.
- (5) Second, Mr Caldecott submits that the Judge had in reaching his conclusion "applied particular weight" to the conversation with Ms Sexton, which was plainly wrong because the fact that she believed what Ms Heard told her was irrelevant and inadmissible. But there is no reason to suppose that the Judge attached particular weight to the fact that Ms Sexton believed Ms Heard's complaint. Although he recited her evidence to that effect in para. 16, he says nothing about it in para. 17, where he gives his reasons for accepting Ms Heard's evidence.