VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

John C. Depp, II,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No.: CL-2019-0002911
	)	
Amber Laura Heard,	)	
	)	
Defendant.	)	
	)	

FILED UNDER SEAL

PLAINTIFF JOHN C. DEPP, II'S OPPOSITION TO DEFENDANT AMBER LAURA HEARD'S MOTION TO COMPEL RULE 4:10 EXAMINATION OF JOHN C. DEPP, II

This baseless Motion was transparently filed by Ms. Heard and her counsel for the improper purpose of harassing and retaliating against Mr. Depp. Reduced to its essence, the Motion makes the logically fallacious assertion that if Ms. Heard must undergo an IME then so must Mr. Depp, to be "fair." That is an argument appropriate for a schoolyard, not a court. The standard for ordering an IME is whether the mental condition of the party to be examined is "in controversy" within the meaning of Rule 4:10 of the Va. R. S. Ct. It is beyond credible dispute that Ms. Heard has tendered her mental condition as an issue in this action. ***But Mr. Depp has not***, and Ms. Heard's arguments to the contrary are specious – indeed, her demand for an IME has already been rejected once by the Court and should now be rejected again.

I. Background

Although she failed to properly designate this Motion as a motion for reconsideration and instead set it for hearing, which required the filing of an opposition by Mr. Depp (all of which violates the applicable rules – see, Fairfax Manual at 7.01-7.05), this is not Ms. Heard's first attempt at obtaining an IME.[1] She previously filed a motion seeking an IME of Mr. Depp in 2019 (**Exhibit A**), which Mr. Depp opposed (**Exhibit B**), and which the Court denied (See, Ms. Heard's Exhibit 5). In denying Ms. Heard's prior motion, former Chief Judge White explained his reasoning as follows: "The request, in this case – I don't want to characterize anyone's actions badly, but to some extent the request seems to me to be an effort to have a medical assessment by an expert who would then be offered as a witness to testify as to the credibility of one of the parties. And I don't find that to be appropriate or helpful."

Unlike Ms. Heard, Mr. Depp did not previously seek an IME. However, on February 16, 2021 Ms. Heard served expert disclosures (the "Heard Expert Disclosures"), in which she

[1] Ms. Heard is also believed to have failed to obtain approval of the Conciliator before filing this Motion, in violation of the parties' agreed procedure, as approved by the Court.

unmistakably tendered her mental condition as an issue (**Exhibit C**). The Heard Expert Disclosures reveal that for her own use in this litigation, Ms. Heard voluntarily underwent a "forensic psychological evaluation," and indicate that Ms. Heard intends to introduce self-serving evidence of her mental condition. For instance, the Heard Expert Disclosures state:

- "Dr. Hughes was asked to conduct a forensic psychological evaluation of Ms. Heard to assess for the dynamics and consequences of intimate partner violence that may have been present in her relationship with her now ex-husband, Mr. Depp, and to assess for any psychological consequences stemming from the defamatory statements to the media made by Mr. Depp";
- "Dr. Hughes will testify as to the psychological consequences on Amber Heard as a result of the... defamatory statements... included in the Counterclaim";
- "Amber Heard has identifiable psychological symptomology and distress as a result of the defamatory statements... the defamatory statements exacerbate Ms. Heard's Posttraumatic Stress Disorder (PTSD) by triggering painful and intrusive reminders of past... abuse";
- "Dr. Hughes' analysis revealed significant corroborating evidence that is consistent with Ms. Heard's report of intimate partner violence";
- "Ms. Heard's responses... support a DSM-5 diagnosis of Posttraumatic stress Disorder with an etiology of the intimate partner violence she experienced by her former partner, Mr. Depp." (**Exhibit C**, pages 2-22.)

Given the content of the Heard Expert Disclosures, Mr. Depp obviously had no choice but to seek an IME of Ms. Heard. In a letter dated June 24, 2021, Mr. Depp's counsel requested Ms. Heard's agreement to an IME, explaining that "[w]e would not ordinarily seek such an examination in the context of this action," but that "[g]iven Ms. Heard's obvious intention to present evidence of her own mental or psychological condition at trial, including evidence based

on a forensic psychological evaluation... Mr. Depp has no choice" but to seek an IME. (**Exhibit D.**) Ms. Heard's counsel signaled her intention of filing a retaliatory motion. (**Exhibit E.**)

II. Argument

a. Ms. Heard Made Her Mental Condition An Issue; Mr. Depp Has Not.

"An eye for an eye" is not the standard for obtaining discovery. Ms. Heard's arguments for an IME of Mr. Depp proceed from the fundamentally false premise that whatever discovery is appropriate for Ms. Heard is automatically appropriate for Mr. Depp as well. Not so. Each request for discovery must be evaluated on its own merits, taking into account the particular circumstances, claims, and defenses of the parties.

Here, the parties are not similarly situated. Ms. Heard made an informed, deliberate choice to tender her own mental condition as an issue in this litigation. ***Ms. Heard voluntarily underwent 25 hours of a self-serving "forensic psychological examination" by her own expert, Dr. Dawn Hughes, for the specific purpose of using it in this litigation.*** Mr. Depp did nothing of the kind. ***Ms. Heard's expert disclosures reflect that that she intends to present evidence based on that "forensic psychological examination" to bolster her claim that she was a victim of abuse and to also show that she is suffering additional trauma as a result of the purportedly defamatory statements alleged in her Counterclaim.*** Again, Mr. Depp has done nothing of the kind. It is undeniable that Ms. Heard has placed her own mental condition "in controversy"—indeed, it is difficult to imagine a more clear-cut example of a party tendering her own mental state as an issue. But it does not follow that Mr. Depp must undergo an IME as well.

b. Ms. Heard Has No Basis To Seek An IME Of Mr. Depp

Ms. Heard's demand for an IME of Mr. Depp lacks any comparable justification. The pretext offered for the Motion is Mr. Depp's designation of Dr. David Kipper as a potential

expert. Ms. Heard has sought (and obtained) extensive discovery into Mr. Depp's medical background and medical records, and previously deposed Dr. David Kipper, who was a treating physician for both Mr. Depp and Ms. Heard.[2] In her Motion, Ms. Heard presents a litany of Dr. Kipper's diagnoses of Mr. Depp, cites a reference in Mr. Depp's expert disclosures to Dr. Kipper's anticipated testimony regarding the "pharmacological effects" of certain medications, and then argues that she "should be entitled to explore (1) whether Mr. Depp suffers from these... health conditions; (2) the possible causes and effects... and (3) the effects of drugs and medication on Mr. Depp and his conditions."

This is nonsense.

First, Ms. Heard has not explained (because she cannot) how Mr. Depp's medical diagnoses or treatments are in controversy or relevant. They are not. It is not as if Mr. Depp intends to present evidence that he was diagnosed with a particular ailment and therefore could not have abused Ms. Heard. From Mr. Depp's standpoint—and notwithstanding Ms. Heard's aggressive fishing expeditions into Mr. Depp's medical background—this case ultimately involves a straightforward factual dispute about whether Ms. Heard lied about being abused. Mr. Depp's mental condition is not at issue, since unlike Ms. Heard, Mr. Depp has ***not*** alleged that he is suffering from PTSD because of her conduct.

Second, to the extent that Ms. Heard is covertly attempting to reargue the position that was rejected last time by former Chief Judge White – that Mr. Depp's medical or mental condition is somehow relevant to his credibility – her arguments are misguided and inappropriate. Credibility is for the jury to decide, not Dr. Spiegel.

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[2] Ms. Heard misleadingly comments that Mr. Depp's counsel elicited testimony about Mr. Depp's diagnoses during his deposition, but it was Ms. Heard that deposed Dr. Kipper and first inquired into those issues. The fact that Ms. Heard has launched a fishing expedition into Mr. Depp's medical background does not mean that an IME is appropriate.

Third, potential testimony as to the "pharmacological effects" of particular drugs does not require an IME, much less does it justify a complete, open-ended inquiry by a psychiatrist into the totality of a party's "mental condition."

Fourth, Ms. Heard's demand for a mental examination of Mr. Depp and the totality of his "mental condition" by a psychiatrist based on Dr. Kipper's designation is a non sequitur. Dr. Kipper is not a psychiatrist, but Mr. Depp's and Ms. Heard's treating physician. While he might be able to offer relevant factual testimony (for instance, as to whether Ms. Heard ever showed any signs of physical abuse), ***Dr. Kipper, unlike Ms. Heard's expert, was not designated to testify as to the totality of Mr. Depp's "mental condition."*** The notion that Mr. Depp's expert disclosures open the door to an open-ended exploration of his "mental condition" is specious and belies the true purpose of Ms. Heard's attempt to obtain a retaliatory IME—harassment.

III. Conclusion

The Motion should be summarily denied as an improper motion for reconsideration. In addition, this Motion completely short-circuited the Conciliation process, and appears to have been filed without any approval by the Conciliator, in contravention of the parties' agreed procedure and Consent Order regarding the same.

To the extent considered on the merits, the Motion is completely unjustified and should be denied. Ms. Heard has tendered her mental condition as an issue, but Mr. Depp has not. Mr. Depp should recover costs for opposing.

Respectfully submitted,

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Dated: October 1, 2021

CL 2019-2911

FILED UNDER SEAL-
SUBJECT TO PROTECTIVE ORDER

FILED

OCT 01 2021

JOHN T. FREY
Clerk of the Circuit Court
of Fairfax County, VA

EXHIBIT A

FILED UNDER SEAL-
SUBJECT TO PROTECTIVE ORDER

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

JOHN C. DEPP, II Plaintiff, v. AMBER LAURA HEARD Defendant.	Civil Action No.: CL-2019-0002911

DEFENDANT'S MEMORANDUM IN SUPPORT OF HER RULE 4:10 MOTION FOR AN INDEPENDENT MENTAL EXAMINATION OF PLAINTIFF

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Defendant Amber Laura Heard, by counsel, hereby files this Memorandum in Support of her Rule 4:10 Motion for an Independent Mental Examination ("IME") of Plaintiff ("Motion").

ARGUMENT & AUTHORITIES

Rule 4:10(a) of the Rules of the Supreme Court of Virginia provides that "[w]hen the mental or physical condition ...of a party...is in controversy, the court...upon motion of an adverse party, may order the party to submit to a physical or mental examination by one or more health care providers...employed by the moving party...on a motion for good cause shown." *See, e.g.*, 1 Bryson on Virginia Civil Procedure ("Bryson") § 9.09[2] (2019) ("[G]ood cause for the examination may appear in the pleadings, or it may...be shown by affidavits."). Because Ms. Heard satisfies all of the requirements under Rule 4:10 and good cause supports her Motion, this Court should enter the proposed Order attached to her Motion requiring Mr. Depp to submit to a mental examination by David R. Spiegel, M.D. ("Dr. Spiegel"), a qualified health care provider, in the manner and time set forth in her Motion and proposed Order.

Mr. Depp's Mental Condition is in Controversy & Good Cause Supports the IME

This Court has already found that Plaintiff's "complaint is broad enough to place...[Mr. Depp's] mental condition in issue." Expanded Mot. to Compel Hr'g. Tr. 26:15-18, Oct. 18, 2019 (internal punctuation omitted). This finding is indisputably correct, and good cause supports Ms. Heard's Motion for an IME.

In his Complaint, Mr. Depp repeatedly alleges that Ms. Heard submitted a "false affidavit to obtain a restraining order against Mr. Depp" in 2016 (Ms. Heard's "2016 Declaration"). Compl. at ¶ 6; *see* Compl. at ¶¶ 2-3, 5, 30, 33, 77-78, 88-89, 99-100. Mr. Depp then alleges the *Washington Post* op-ed at issue is defamatory because it implicitly refers to Ms. Heard's purportedly false statements in her 2016 Declaration and 2016 Request for Domestic Violence Restraining Order

which incorporated her 2016 Declaration.[1] *See, e.g., id.* at ¶¶ 2, 77, 88, 99; *see also id.* at ¶ 30 (alleging that Ms. Heard "push[ed] her false narrative that she is a domestic abuse victim...[i]n her false [2016] affidavit"); *see also id.* at ¶ 3 (same); *id.* at ¶ 33 (alleging Ms. Heard used her "false abuse allegations" in her 2016 Declaration "to obtain a temporary restraining order against Mr. Depp on May 27, 2016.").

Plaintiff makes the same allegations in each of his claims for relief. *See, e.g., id.* Count I at ¶ 77, Count II at ¶ 88, Count III at ¶ 99 (alleging Ms. Heard's 2016 Declaration "accus[ing] him of domestic abuse in May 2016" was false); *see also id.* Count I at ¶ 78(a), Count II at ¶ 89(a), Count III at 100(a). Thus, Mr. Depp's defamation claims, to the extent they are even actionable, are grounded in and turn on the truth or falsity of Ms. Heard's statements in her 2016 Declaration.

Throughout her 2016 Declaration, Ms. Heard attested to Mr. Depp's mental condition that motivated his actions. For example, Ms. Heard stated:

- Johnny has a long-held ... history of drug and alcohol abuse. He has a short fuse. He is often paranoid and his temper is exceptionally scary for me as it has proven many times to be physically dangerous and/or life-threatening to me. Johnny['s] relationship with reality oscillates, depending upon his interaction with alcohol and drugs. Johnny's paranoia, delusions and aggression increased throughout our relationship so has my awareness of his continued substance abuse. Because of this, I am extremely afraid of Johnny and for my safety.... Johnny also requires enrollment in anger management courses and a Batterer's intervention program. (Ex. 1 at ¶ 5).

- On April 21, 2016, I celebrated my birthday with my friends.... Johnny showed up, inebriated and high.... Johnny [started] throwing a magnum size bottle of champagne at the wall and a wine glass on me and the floor – both [of] which shattered. Johnny then grabbed me by the shoulders and pushed me onto the bed, blocking the bedroom door. He then grabbed me by the hair and violently shoved me to the floor. (Ex. 1 at ¶ 7) (the "April 21st Incident").

- [O]n May 21, 2016...[Johnny] was inebriated and high.... He became extremely angry.... As Johnny continued to rant in an aggressive and incoherent manner, he demanded we call our friend iO Tillet Wright ("iO") to prove his paranoid and

[1] The Request for Domestic Violence Restraining Order that includes Ms. Heard's 2016 Declaration is attached hereto as **Exhibit 1**.

> irrational accusations about some delusional idea he was having.... Johnny ripped the cell phone from my hand and began screaming profanities and insults at iO. I heard iO yell at me to get out of the house. Johnny then grabbed the cell phone, wound up hi[s] arm like a baseball pitcher and threw the cell phone at me striking my cheek and eye with great force.... (Ex. 1 at ¶¶ 9-12) (the "May 21st Incident").

Mr. Depp specifically challenges the truth or falsity of the above statements and his actions, as motivated by his mental condition and substance abuse. *See generally* Compl.; *see also* Compl. at ¶ 33 (quoting and challenging the truth of Paragraphs 9-12 in Ms. Heard's 2016 Declaration); Compl. at ¶ 30 (challenging the truth of Paragraph 7 in Ms. Heard's Declaration); Compl. at ¶¶ 78(a), 89(a), 100(a) (challenging the truth of Ms. Heard's allegations relating to the May 21st Incident).[2]

As shown above, the 2016 Declaration and Plaintiff's Complaint, undeniably place Mr. Depp's mental condition in controversy. Indeed, the very statements that Mr. Depp challenges in his Complaint leave no doubt that his: (i) volatility; (ii) paranoia, (iii) temper, (iv) aggressive and destructive tendencies; (v) delusional, irrational and incoherent ideations, (v) understanding of reality that "oscillates, depending upon his interaction with alcohol and drugs," and (vi) need for anger management counseling are central to the truth or falsity of Ms. Heard's statements at issue and to Ms. Heard's credibility and Mr. Depp's lack of credibility.

Mr. Depp's mental condition, therefore, is directly at issue, and an independent mental examination is essential to assessing the truth or falsity of Ms. Heard's statements relating to Mr. Depp's mental condition and turbulent nature, and is equally essential to support the credibility of Ms. Heard's account and the lack of credibility of Mr. Depp's account of these events. *See, e.g.,*

[2] As she did in her 2016 Declaration, Ms. Heard alleged in this action that when Mr. Depp was under the influence of drugs and alcohol "[h]e would become a totally different person, often delusional and violent. We called that version of Johnny, 'the Monster.'" Heard Decl. at ¶ 3 (April 10, 2019); *cf.* Compl. at ¶ 61 (disputing Ms. Heard's "portrayal of Mr. Depp as a domestic violence perpetrator and 'monster.'").

Barnes v. Commonwealth, 214 Va. 24, 25-26 (1973) (reversing the trial court's refusal to admit testimony from a hospital's rehabilitation officer and others that the alleged aggressor was a "habitual excessive drinker" with "aggressive tendencies while intoxicated" to establish self-defense, and finding the trial court should have admitted "evidence of the [alleged aggressor's] turbulent nature five years before...[because the jury] might have determined that his aggressive tendencies surfaced whenever he drank to excess, and, in view of the evidence of Abbott's intoxication at the time of his death, found that Barnes's version of the slaying was credible."); *McMinn v. Rounds*, 267 Va. 277, 281 (2004) (finding the same admissibility rules apply in civil actions where a party's turbulent nature and aggressive tendencies are at issue).

Based on the Ms. Heard's Declarations and Mr. Depp's Complaint, Ms. Heard has shown good cause for an independent mental examination. Ms. Heard, therefore, satisfies the "in controversy" and "good cause" elements under Rule 4:10(a).

Ms. Heard Satisfies All Other Elements Under Rule 4:10(a)

Because Ms. Heard has shown that Mr. Depp's mental condition is in controversy and good cause supports an IME of Mr. Depp, Ms. Heard filed her Motion requesting an IME performed by Dr. Spiegel in the manner and time set forth in her Motion. Counsel for Ms. Heard has likewise provided notice and conferred with counsel for Mr. Depp on her Motion for an IME of Plaintiff.

Dr. Spiegel is Qualified to Conduct the IME & His Selection Is Appropriate

Dr. Spiegel is a board-certified psychiatrist licensed by the Virginia Board of Medicine and in good standing. Dr. Spiegel has been continuously licensed in Virginia since 1993 and has more than 25 years of experience in his field and as an active clinical practitioner. Dr. Spiegel completed his undergraduate degree at Duke University in 1985 and his medical degree at SUNY Downstate-Brooklyn in 1989. He completed his psychiatry internship at Dartmouth-Hitchcock Medical

Center and his psychiatry residency at Penn State College of Medicine. Since 2013, Dr. Spiegel has been the Vice Chairman of the Department of Psychiatry and Behavioral Sciences at Eastern Virginia Medical School/Sentara Norfolk General Hospital and a Professor of Clinical Psychiatry there. Since 2004, Dr. Spiegel has been the Director of Consultation and Liaison Service at Eastern Virginia Medical School/Sentara Norfolk General Hospital. Dr. Spiegel has authored more than 60 publications and is a member of numerous professional organizations, including the Psychiatric Society of Virginia and the Medical Society of Virginia, and he is a Fellow of the American Psychiatric Association. Dr. Spiegel's Curriculum Vitae is attached hereto as **Exhibit 2**. Dr. Spiegel, therefore, is well-qualified to conduct the IME.

Dr. Spiegel is the appropriate health care provider to perform the IME. Under Virginia law, Defendant's selection of a qualified health care provider is preferred because "[i]t is appropriate for the adverse party to have a physician of his own choice; this guarantees the equal opportunity to examine the medical condition in controversy[, and] [t]he examinee can always select his own medical expert." Bryson § 9.09[2] (2019) ("Usually the physician named by the judge in his or her order is the one nominated by the moving party, and this is the preferred procedure.") (citing cases).[3]

[3] Dr. Spiegel's examination should be conducted without the presence of third parties or recording devices. *See, e.g., Fields v. Walke*, 1 Va. Cir. 96, 97 (Richmond Cir. Ct. 1969) (relying on federal authorities applying Fed. R. Civ. P. 35); *Morrison v. Stephenson*, 244 .R.D. 405, 407 (S.D. Ohio 2007) ("[T]he normal procedure…is that the examination take place without the presence of third-party observers or recording devices."); 8B Fed. Practice & Procedure, §2236, at 292-93 ("[T]he presence of, and possible interference by, an attorney or other representative of the examined party might disrupt, or defeat the purpose of, the examination. This concern may be heightened during a psychiatric examination."); *Holland v. United States*, 182 F.R.D. 493,496 (D.S.C. 2013) (Allowing opposing party oversight of physical examination "would give Plaintiffs an evidentiary tool unavailable to Defendant, who has not been privy to physical examination made of [plaintiff] by either his treating physicians or any experts he may have retained."); *See also* Policy Statement on the Presence of Third Party Observers in Neuropsychological Assessments, The Clinical Neuropsychologist (2001), *available at* https://doi.org/10.1076/clin.15.4.433.1888 (rejecting electronic or physical presence of third-parties during mental exams as a matter of policy).

CONCLUSION

WHEREFORE, Ms. Heard respectfully requests that this Court grant her Motion and enter an Order requiring Mr. Depp to submit to a mental examination by David R. Spiegel, M.D. in the manner and time set forth in her Motion.

Dated this 1st day of November, 2019

Respectfully submitted,
Amber L. Heard

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FILED UNDER SEAL-
SUBJECT TO PROTECTIVE ORDER

EXHIBIT B

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VIRGINIA:

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JOHN C. DEPP, II

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Civil Action No.: CL-2019-0002911

PLAINTIFF'S OPPOSITION TO DEFENDANT'S RULE 4:10 MOTION FOR AN INDEPENDENT MENTAL EXAMINATION OF PLAINTIFF

PRELIMINARY STATEMENT

This is a defamation case in which Mr. Depp does not allege that he suffers from any mental disorder or condition. Thus, Mr. Depp's mental condition is not "in controversy" within the meaning of Rule 4:10(a). Nor does "good cause" exist under the rule for an IME of Mr. Depp. Ms. Heard's only proffer for an IME is to have an additional discovery tool to challenge Mr. Depp's credibility regarding events that allegedly occurred more than three and a half years ago. This is an insufficient basis to justify the unwarranted intrusion of an IME, and the Court should deny Ms. Heard's Motion. [1]

ARGUMENT

Under Rule 4:10, "[w]hen the mental or physical condition ... of a party ... is in controversy, the court ... upon motion of an adverse party, may order the party to submit to a physical or mental examination by one or more health care providers ... employed by the moving party ... only on motion for good cause shown." "But the next sentence limits the Court's discretion by stating that: "'The order may be made *only* on motion *for good cause shown* ....'" *Fisher v. S. Ry. Co.*, 10 Va. Cir. 4, at *1 (1985) (emphasis in original). Thus, as the moving party, Ms. Heard bears the burden to prove Rule 4:10's "in controversy" and "good cause" requirements.

I. Because Mr. Depp Is Not Alleging Harm Based On A Specific Physical or Mental Injury, Ms. Heard's Motion Fails to Satisfy the "In Controversy" and "Good Cause" Requirements Imposed by Rule 4:10.

The purpose of Rule 4:10 "is to secure or preserve to a defendant the right, in a proper case, to have the injured person examined." *Virginia Linen Services v. Allen*, 198 Va. 700, 703

[1] It is preposterous notion that an IME now would shed light on Mr. Depp's mental state at the time of Ms. Heard's abuse hoax back in 2016. Ms. Heard's effort treads a well-worn path of victim blaming using the pretext of mental health. By Ms. Heard's tortured credibility logic, current IME's would also be warranted for all the dozens of eyewitnesses who have attested to the various facets of the hoaxes they witnessed years ago.

(1957) (addressing Rule 4:10's predecessor). Mr. Depp does not allege a specific cause of action for intentional or negligent infliction of emotional distress; does not assert that Ms. Heard's actions caused him a specific psychiatric injury; and does not claim that Ms. Heard's actions caused him to experience unusually severe emotional distress.[2] Ms. Heard effectively concedes this, and instead requests an IME on the empty assertion that it is somehow "central to the truth or falsity of Ms. Heard's statements at issue and to Ms. Heard's credibility and Mr. Depp's lack of credibility." Def.'s Mem. I/S/O Rule 4:10 Mot. ("Mem.") at 3. In attempting to use a medical expert to challenge Mr. Depp's credibility, Ms. Heard ignores her obligation to show that Mr. Depp's mental condition is "in controversy" for the purposes of Rule 4:10 because she is not using the IME to verify Mr. Depp's actual harm. Indeed, Ms. Heard cannot—and did not—cite a single case addressing Rule 4:10(a) in support of her own IME request, because doing so would have highlighted the distinction between her request's improper basis challenging credibility, on one hand, and successful Rule 4:10 motions challenging a plaintiff's actual harm, such as in personal injury cases, on the other.[3]

Ms. Heard's proffer not only fails to satisfy Rule 4:10's "in controversy" requirement, but also fails to provide the requisite good cause. Indeed, "[a] party's mere assertion that a discovery tool 'is necessary for a movant to investigate fully and prepare his case is clearly

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[2] In his complaint, Mr. Depp alleges damages for "emotional distress". Courts routinely reject arguments suggesting that these type of "garden variety" damages give rise to a proper basis for an IME. *See LaFave v. Symbios, Inc.*, No. CIV.A. 99-Z-1217, 2000 WL 1644154, at *2 (D. Colo. Apr. 14, 2000) (under Rule 4:10's nearly identical Federal equivalent, Fed. R. of Civ. P. 35, the court found that the plaintiff's "garden variety" allegations of emotional distress, while not specific enough to justify a Federal Rule 35 examination, were nevertheless sufficient, in discovery, to permit defendants access to her medical records).

[3] *See, e.g., Perkins v. Lillich*, 23 Va. Cir. 526 (1991) (plaintiff alleging permanent injury in a personal injury action); *Firesheets v. Norfolk & W. Ry.*, 53 Va. Cir. 3, *1-3 (2000) (plaintiff alleging damages based on his injuries sustained within course of employment at railroad company).

insufficient as a statement of good cause.'" *Richter v. Manning*, No. 1166-12-4, 2013 WL 1897657, at *7 (Va. Ct. App. May 7, 2013) (*quoting Rakes v. Fulcher*, 210 Va. 542, 546, 172 S.E.2d 751, 755 (1970)). Federal Rule of Civil Procedure 35, nearly identical to Rule 4:10(a), also requires a movant to prove that a plaintiff's mental or physical condition is "in controversy" and show "good cause" for an IME.[4] Ms. Heard cites no precedent allowing an IME to evaluate a plaintiff's credibility as to a party's perception of the facts, as Ms. Heard would have the Court order here.

Federal courts addressing IME requests under Rule 35 have rejected attempts to secure "an assessment of Plaintiff's credibility by a medical expert." *See, e.g., Jones v. Perea*, No. CV 05-644 JP/LFG, 2006 WL 8444487, at *5 (D.N.M. Feb. 16, 2006).

> Defendants hope to present evidence to convince the fact finder that it should not believe [plaintiff] because he is paranoid; that what he says occurred is a product of his delusional thinking and does not comport with reality; and that his psychological condition causes him to believe things occurred that did not actually occur. Thus, without so stating, Defendants seek a Rule 35 examination so as to challenge [plaintiff's] credibility.

Id. Citing multiple cases that "rejected requests for Rule 35 examinations when the requester's need for the exam is couched in terms of testing the opponent's credibility," *id.* at *6, the *Jones* court rejected defendants' request for an IME as lacking good cause. Applying *Jones*, the Court should reject Ms. Heard's "paranoia" and "delusional ideations" proffer – Mem. at 3 – as lacking good cause. Indeed, "'[i]t is not the purpose of Rule 4:10 to create a final arbiter' of evidentiary disputes because that function must remain with the factfinder." *Richter*, WL 1897657 at *7 (*quoting Virginia Linen Service, Inc.*, 198 Va. at 703).

[4] "While federal court decisions applying Fed.R.Civ.P. 35 are not binding on this Court, the Court may look to such decisions for guidance where they are informative and there is no controlling Virginia statute, rule or decision." *Young v. Food Lion Store No. 622*, 70 Va. Cir. 313, at *4 (2006).

II. Mr. Depp's Current Mental State Has No Bearing On The Truth Or Falsity Of Alleged Incidents Allegedly Occurring Years Ago.

A present-day mental evaluation to prove the truth of incidents that allegedly occurred over three and a half years ago would be unavailing, because the results of such an IME conducted now would not constitute reliable evidence of Mr. Depp's mental state then. The "in controversy" and "good cause" requirements of Rule 4:10 do not carve out an exception to relevance requirements; to the contrary, IMEs are subject to a more stringent standard. Addressing an IME request under Federal Rule 35, the U.S. Supreme Court held "[t]he specific requirement of good cause would be meaningless if good cause could be sufficiently established by merely showing that the desired materials are relevant, for the relevancy standard has already been imposed by Rule 26(b)." *Schlagenhauf v. Holder*, 379 U.S. 104, 118 (1964). Indeed, Rule 4:10's heightened standard is underscored by myriad of cases allowing the discovery of medical records, as the Court recently ordered Mr. Depp to do here, while *disallowing* an IME request. *See, infra* § III.

Several cases flatly reject the "credibility" proffer.[5] In *Boadi v. Ctr. for Human Dev., Inc.*, for example, the court denied an IME request because it was "not persuaded that personal examination and testing conducted four years after the fact would provide a basis for a reliable expert opinion concerning Plaintiff's mental health impairments and capacities in April 2013." No. 3:14-CV-30162-KAR, 2017 WL 2369372, at *4 (D. Mass. May 31, 2017). Similarly, in *Valdivia v. BNSF Ry. Co.*, the court found that "plaintiff's current medical condition is not 'in

[5] To support her claim, Ms. Heard relies on two cases that fail to address Rule 4:10, Federal Rule 35, or an IME request. Further, in both *Barnes v. Commonwealth*, 214 Va. 24 (1973) and *McMinn v. Rounds*, 267 Va. 277, 278 (2004), the Supreme Court of Virginia permits evidence of witness testimony on specific acts that allegedly occurred before the misconduct at issue. The Court should disregard Ms. Heard's citation to *Barnes* and *McMinn*, because the type of evidence at issue before the Supreme Court of Virginia is so distinct from the evidence at issue here where Ms. Heard is attempting to assess Mr. Depp's mental condition (not a specific act) to discredit Mr. Depp years *after* (not before) the alleged misconduct occurred.

controversy'" and failed to establish good cause because "Defendant has not clearly articulated what information could possibly be learned from a present day examination of plaintiff with regard to the August 19, 2006 headache." No. 07-2467-KHV, 2008 WL 1774779, at *3 (D. Kan. Apr. 16, 2008). Thus the Court should not find that an IME is "essential to assessing the truth and falsity of Ms. Heard's statements" regarding alleged incidents in 2016.

III. Because of an IME's Intrusive Nature and Ms. Heard's Access to Alternative Evidence, the Court Should Use Its Discretion to Reject the Rule 4:10 Motion.

In exercising its discretion, the Court should balance the needs of the parties by considering the "serious and invasive nature of the examination and [plaintiff's] privacy rights" versus the fact that the defense could still present admissible evidence of plaintiff's "conduct, statements, and behavior" and argue that plaintiff's "perception is not reality" and that plaintiff "should not be believed." *Jones*, 2006 WL 8444487 at *7. This Court recently granted Ms. Heard's motion to compel, requiring Mr. Depp to sign a broad HIPPA authorization including any mental health records, with which he has complied, and on which Ms. Heard can depose him. Because many courts have found the availability of medical records to be a proper alternative to IMEs,[6] and Ms. Heard has several other sources of evidence at her disposal that more directly bear on the incidents she alleges, the Court should find Ms. Heard's request for an IME unwarranted.

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[6] *See, e.g.*, *Boadi*, 2017 WL 2369372 at *4 (finding an IME "unwarranted" considering that that "defendants' expert has access to Plaintiff's medical records from that period as part of the discovery ... [i]n any event, such an opinion [as a result of an IME] would not be significantly more reliable than an opinion based on a review of Plaintiff's medical records from the relevant time."); *Valdivia*, 2008 WL 1774779 at *3 (denying request for IME, reasoning that "[i]t appears BNSF has access to all plaintiff's prior medical records for the relevant time period") and "[a] present day examination would also not provide any information as to what effect the medication taken by plaintiff had on him on August 19-20, 2006."); *Schlagenhauf*, 379 U.S. at 118 ("The ability of the movant to obtain the desired information by other means is also relevant.").

Dated: November 8, 2019

Respectfully submitted,

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FILED UNDER SEAL-
SUBJECT TO PROTECTIVE ORDER

EXHIBIT C

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

JOHN C. DEPP, II, Plaintiff and Counterclaim Defendant, v. AMBER LAURA HEARD, Defendant and Counterclaim Plaintiff.	Civil Action No.: CL-2019-0002911

COUNTERCLAIM PLAINTIFF AND DEFENDANT'S
DISCLOSURE OF EXPERT WITNESSES

Counterclaim Plaintiff and Defendant Amber Heard ("Ms. Heard") hereby identifies the following individuals who are expected to be called as expert witnesses at trial:[1]

Dawn M. Hughes, Ph.D., ABPP
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Introduction

Dr. Dawn Hughes was retained by counsel for Amber Heard, in connection with *John C. Depp II v Amber Heard* (Civil Action No. CL-2019-0002911) which is pending in the Circuit Court of Fairfax County, Virginia. Ms. Heard is being sued for defamation by her ex-husband, John C. Depp II (known as "Johnny Depp"), in relation to her authoring an op-ed in the *Washington Post* on being a survivor of domestic violence. Although the op-ed never mentioned

[1] While this Expert Designation primarily addresses expert testimony and opinions relating to Ms. Heard's Counterclaim, it also includes some testimony and opinions that relate to Ms. Heard's defenses because of some similarities in the issues and areas of dispute.

Mr. Depp by name, Mr. Depp stated in the complaint in this matter that he "never abused Ms. Heard." Ms. Heard then filed a counterclaim against Mr. Depp for defamation. Dr. Hughes was asked to conduct a forensic psychological evaluation of Ms. Heard to assess for the dynamics and consequences of intimate partner violence that may have been present in her relationship with her now ex-husband, Mr. Depp, and to assess for any psychological consequences stemming from the defamatory statements to the media made by Mr. Depp through his attorney and agent, Adam Waldman.[2]

Expertise and Qualifications

Dr. Dawn Hughes is a clinical and forensic psychologist and an expert in interpersonal violence, abuse, and traumatic stress, which includes intimate partner violence, rape and sexual assault, physical assault, childhood maltreatment and abuse, and sexual harassment. For the past

[2] Specifically, Dr. Hughes will testify as to the psychological consequences on Amber Heard as a result of the following statements ("defamatory statements") included in the Counterclaim, at Paragraphs 45-47, and at Exhibits F, G and H to the Counterclaim:

45. Depp, through Waldman, continued to claim that Ms. Heard was committing perjury to the Daily Mail, when he stated on April 8, 2020 that "Amber Heard and her friends in the media use fake sexual violence allegations as both a sword and shield, depending on their needs. They have selected some of her sexual violence hoax 'facts' as the sword, inflicting them on the public and Mr. Depp."

46. Then on April 27, 2020, Depp, through Waldman, again told the Daily Mail that "Quite simply this was an ambush, a hoax. They set Mr. Depp up by calling the cops but the first attempt didn't do the trick. The officers came to the penthouses, thoroughly searched and interviewed, and left after seeing no damage to face or property. So Amber and her friends spilled a little wine and roughed the place up, got their stories straight under the direction of a lawyer and publicist, and then placed a second call to 911."

47. On June, 24, 2020, Depp, through Waldman, falsely accused Ms. Heard in the Daily Mail of committing an "abuse hoax" against Depp.

25 years, Dr. Hughes has conducted hundreds of assessments and psychological treatments of both male and female victims of intimate partner violence, rape and sexual-assault, childhood sexual abuse, and sexual harassment in the workplace. She has significant training and experience regarding the dynamics and consequences of abuse, intimate partner violence, victimization, sexual harassment, and traumatic stress. Dr. Hughes has made numerous professional presentations, invited addresses, and conducted formal trainings (including judicial trainings) in the areas of interpersonal and intimate partner violence, abuse, and trauma. She is frequently contacted by judges and court administrations to conduct continuing legal education seminars on trauma and was selected by the Appellate Division of the State of New York to conduct their mandatory attorney trainings on intimate partner violence, traumatic stress, and how the psychological impact of exposure to violence and abuse may influence the victim's participation in the legal system. In addition, she routinely attends professional conferences and trainings, obtain continuing-education credits, read journal articles, and consult with peers as part of her general practice as a clinical and forensic psychologist to remain current with developments in her field of practice.

Dr. Hughes is a Clinical Assistant Professor of Psychology in the Department of Psychiatry of New York Presbyterian Hospital-Weill Cornell Medical Center serving on the voluntary faculty for approximately 20 years. In this capacity, she contributes to the psychology training program, teaches an ethics seminar to interns, engages in other intern didactics, and was instrumental and active in the NYP-COPE program which provided much needed psychological first aid and resources to hospital staff who struggled with emotional, psychological, and traumatic effects from being on the front lines in battling the Covid-19 pandemic in NYC.

Dr. Hughes is actively engaged in professional activities in several organizations, such as the American Psychological Association (Trauma Psychology Division and American Psychology-Law Society), International Society of Traumatic Stress Studies, the Women's Mental Health Consortium, among others. She was a founding member of the Trauma Psychology Division of the American Psychological Association and has served on the Executive Committee for a good portion of the past decade. She recently completed her three-year term as an elected member to the Council of Representatives of the American Psychological Association representing the Trauma Division. Dr. Hughes was a founding member and past-President of the Women's Mental Health Consortium, a NYC-based multidisciplinary organization providing services and resources regarding women's mental health.

Dr. Hughes is Board Certified in Forensic Psychology by the American Board of Professional Psychology representing one of approximately 350 psychologists in North America who are board certified in forensic psychology by the American Board of Forensic Psychology, a specialty board of the American Board of Professional Psychology (ABPP). This credential is intended to signify the highest levels of expertise and practice in forensic psychology. Dr. Hughes has been qualified as an expert witness by courts in the States of New York, New Jersey, Connecticut, and Pennsylvania, and in the United States District Courts for the Southern, Eastern, and Northern Districts of New York. She is licensed to practice in the States of New York, Connecticut, and North Carolina. Her curriculum vitae can be found in **Att. 1.**

Summary of Opinions

Dr. Hughes' opinions are based on more than 25 years of clinical and forensic experience assessing and treating victims of intimate partner violence and the empirical and social-science data pertinent to this subject matter. Further, these opinions are based on her forensic

psychological evaluation of Amber Heard, a review of copious documents and materials that have been made available to her in this case, and collateral interviews. The documents that she reviewed and relied on are listed in **Att. 2.** This designation represents a summary of Dr. Hughes' professional analysis and opinions and does not purport to represent all the information and data that was derived from the comprehensive forensic evaluation process. Dr. Hughes' opinions are offered to a reasonable degree of psychological probability and/or certainty.

A brief summary of Dr. Hughes' professional opinions (which are discussed in greater detail below) are as follows:

1. Amber Heard's report of violence and abuse in her relationship with Mr. Depp is consistent with what is known as intimate partner violence, a pattern of manipulation, fear, and control in a relational context that is maintained through the use of multiple abusive behaviors such as physical violence, psychological aggression, coercive control, emotional abuse, and sexual violence.

2. The intimate partner violence inflicted upon Ms. Heard by Mr. Depp is categorized as severe because it consists of strangulation, punching, beating up, sexual violence, threats to kill, an increase in frequency and severity of abuse, and serious injuries such as black eye, facial bruising, nose injury, concussion, and loss of consciousness.

3. Amber Heard has identifiable psychological symptomatology and distress as a result of the defamatory statements (as set forth in ¶¶ 45-47 of the Counterclaim) made to the press and media about her. Each statement has its own properties that elevate psychological distress and emotional disequilibrium; however, importantly, the defamatory statements exacerbate Ms. Heard's Posttraumatic Stress Disorder (PTSD) by triggering painful and intrusive reminders of Mr. Depp's past physical, emotional, and sexual abuse toward her thereby greatly intensifying the psychological impact of each statement. Mr. Depp's defamatory statements are a continuation of the psychological abuse that was prominent in the relationship, such as denial, blame, avoidance of responsibility, and gaslighting.

4. Ms. Heard was assessed to be a reliable historian. Psychological testing revealed that she approached the evaluation in a forthright matter with no evidence of malingering or feigning psychological distress. Additionally, Ms. Heard did not appear to distort or exaggerate the information she provided, nor did she try to portray Mr. Depp as worse than was likely accurate and continued to profess empathy for him and his own psychological struggles. Ms. Heard demonstrated the ability to offer both positive and negative aspects of herself, her behavior, her partner, her relationship, and her life.

5. With respect to intimate partner violence, it is commonly understood that such acts often occur in private with few witnesses and with little external corroboration, however, that does not appear to be the case in this matter. Dr. Hughes' analysis revealed significant corroborating evidence that is consistent with Ms. Heard's report of intimate partner violence including text messages, photographs, video tape, audio files, medical documentation, therapy records, collateral interviews, and witnesses to the aftermath of the violence.

6. Dr. Hughes will provide expert testimony that is relevant, scientifically based information regarding the common experiences, perceptions, psychological consequences, and actions of individuals exposed to intimate partner violence as well as their participation, or lack thereof, in procedures and sanctions against their partner. In addition, Dr. Hughes' expert testimony will seek to dispel myths and misconceptions about intimate partner violence that are commonly held by lay persons about what the persons in such a relationship "should" do or "shouldn't" do, and why these are not correct assumptions.

In support of these opinions, Dr. Hughes is expected to testify to the following:

Methodology

A standard forensic psychological evaluation of a particular individual contains several parts: psychological testing, comprehensive semi-structured clinical interview, review of materials relevant to the case (legal, medical, psychological), consultations, and interviews with collateral sources (if relevant and if available). Amber Heard was psychologically evaluated on five separate occasions –September 26, 2019; October 11, 2019; November 8, 2019; November 11, 2019; and January 18, 2021 – for a total of approximately 25 hours. Ms. Heard was administered several psychological tests which are detailed below. Documents and materials relevant to her case were reviewed and are listed in **Att. 2.** Additionally, collateral interviews were conducted with both her therapists that she was in treatment with during her relationship with Mr. Depp, including Dr. Bonnie Jacobs and Dr. Connell Cowan. A collateral interview was also conducted with her mother, Paige Heard, who is now deceased.[3]

[3] Dr. Hughes is expected to testify as to her collateral interviews with Dr. Jacobs, Dr. Cowan, and Paige Heard which helped form her opinions in this case. Dr. Jacobs, Dr. Cowan, and Paige

Summary of Psychological Testing

Dr. Hughes administered multiple psychological assessment measures to Ms. Heard:

1. Personality Assessment Inventory (PAI)
2. Trauma Symptom Inventory – 2 (TSI-2)
3. Miller Assessment of Symptoms Test (M-FAST)
4. Life Events Checklist (LEC)
5. Posttraumatic Stress Disorder Checklist for DSM-5 (PCL-5)
6. Beck Depression Inventory – II (BDI-II)
7. Beck Anxiety Inventory (BAI)
8. Mood Disorder Questionnaire (MDQ)
9. Abusive Behaviors Observations Checklist (ABOC)
10. Conflict Tactics Scale-2 (CTS-2)
11. Danger Assessment Scale (DA)

Some of these psychological tests have validity indices that were designed to assess the individual's response style, consistency, carelessness, confusion, defensiveness, reading difficulties, exaggeration, malingering, and other factors that could potentially distort the results of the test. In a forensic context where a motivation may exist to falsely report or distort psychological symptomatology, the issue of malingering and exaggerating psychological distress and/or mental illness was carefully considered. Results from psychological testing, when examined within the context of clinical examination, history, and corroborative data, suggest that Ms. Heard is not malingering or feigning psychological difficulties.

The overall impression of the objective psychological testing suggests several clinically significant difficulties for Ms. Heard that likely cause notable impairments in functioning. Her profile is remarkable for significant anxiety, traumatic stress, fears, affective lability, depressive experiencing, intrusive experiences, defensive avoidance, and difficulties in relationships. She

Heard corroborated that Ms. Heard made contemporaneous reports of physical, psychological, and emotional abuse by Mr. Depp.

endorsed a symptom picture that is consistent with traumatic stress, particularly interpersonally related trauma.

Ms. Heard was administered the *Posttraumatic Stress Disorder Scale for DSM-5 (PCL-5)*. Intimate partner violence is recognized as a traumatic stressor capable of resulting in posttraumatic stress symptomatology and related difficulties. Ms. Heard's responses on the *PCL-5* support a DSM-5 diagnosis of Posttraumatic Stress Disorder with an etiology of the intimate partner violence she experienced by her former partner, Mr. Depp. Ms. Heard endorsed symptoms in all four clusters of PTSD: intrusive reminders of the trauma, avoidance of reminders of the trauma, negative alterations in cognition and mood, and alterations in arousal and reactivity.

For an assessment of intimate partner violence (IPV) related behaviors, Ms. Heard was administered the *Abusive Behavior Observation Checklist (ABOC)* and the *Conflict Tactic Scale-2*, both of which measure common characteristics of intimate partner abuse. Results revealed the presence of severe IPV including physical abuse, physical injury, sexual violence and abuse, coercion and threats, intimidation, isolation, and minimization and denial of the abuse. She was also administered the *Danger Assessment Scale*, a 20-item measure that assesses for risk factors that have been associated with homicides in violent relationships. The *Danger Assessment Scale* revealed that Ms. Heard was in a very serious situation with Mr. Depp and at risk for serious, repetitive, and deadly intimate partner violence.

Analysis of Intimate Partner Violence

This evaluation and review of the evidence revealed that Ms. Heard's report of her relationship with Mr. Depp is consistent with a pattern of chronic and severe intimate partner

abuse, including physical violence, psychological abuse, sexual violence, and controlling behaviors.

The Center for Disease Control (CDC) has determined that intimate partner violence (IPV) remains a serious public health problem that affects millions of Americans. Intimate partner violence is described by the CDC as physical violence, sexual violence, stalking, and psychological aggression (including coercive acts) that are utilized by a current or former intimate partner. Intimate partner abuse is often part of a larger coercive relational dynamic that is characterized by a pattern of manipulation, fear, and coercive control that is maintained through the use of multiple abusive behaviors, such as (1) physical abuse; (2) psychological abuse (i.e., a pattern of behavior that functions to instill fear, intimidate, threaten future harm, and maintain power and control over another individual); (3) emotional abuse (i.e., behaviors that serve to denigrate a person's self-worth through offensive put-downs, slurs, name-calling, insults, constant criticism, humiliation and subjugation); (4) economic abuse (i.e., withholding or making all financial decisions); and (5) sexual abuse (i.e., when one is forced, either by threats, coercion, or physical force, to submit to sexual activity against their will).

The alternating cycle of violence and abuse in the relationship is often interspersed with neutral and/or positive moments and times without violence. These good times keep the victim psychologically attached to their partner and instill false hope for positive change. However, the overarching dynamic of these relationships is the perpetrator's unchecked power, manipulation, and control over the battered victim, and his relentless use of violence and abuse, which deteriorates the psychological functioning of the victim, diminishing her coping resources and strategies, and ultimately rendering it difficult for her to extricate herself from the abusive relationship.

Physical Violence

Ms. Heard described a significant amount of physical abuse perpetrated by Mr. Depp throughout the course of their relationship. It is severe based on types of abuse, the duration of the abuse, and the frequency of the violent acts. Specific physically abusive behaviors that were reported in this case include: grabbed, pushed, and shoved her; physically restrained her; pulled her by the hair; strangled her; punched her on her face, head, body; slapped her with the front and back of his hand which was adorned with heavy metal rings; kicked her; headbutted her; slammed her against the wall and floor; dragged her across the floor; threw her into a glass table; threw objects at her; flicked a cigarette at her; pulled her by the hair; and beat her up.

Physical Injury

Ms. Heard reported sustaining significant pain and numerous injuries as a result of Mr. Depp's physical and sexual assaults. She often did not seek medical evaluation or treatment for assault-related injuries as is common for abuse victims. Notwithstanding, there were several times when she did seek medical treatment from Dr. Kipper's practice and his nurses. In addition, photos were taken of her injuries on multiple occasions by herself and her friends.

Specific injuries that were reported in this case include: excruciating pain; bruises on her face and body; black eyes; busted lip; loss of consciousness; vaginal pain; cuts; concussion; nose injury and pain; lost hair; and cuts on her feet and arms from broken glass.

Psychological Aggression and Abuse

Ms. Heard reported that Mr. Depp engaged in repeated psychological aggression and abuse which is a pattern of behavior that functions to instill fear, to intimidate, to denigrate a partner's self-worth, to threaten future violence, and to maintain power and control over an intimate partner. Mr. Depp repeatedly demonstrated not only his ability, but his willingness, to

use multiple and serious forms of physical assaults and sexual violence against Ms. Heard which decreased her psychological functioning and increased her fear and helplessness.

Mr. Depp's abuse of Ms. Heard was punctuated and exacerbated by his chronic addiction to drugs and alcohol. Whereas alcohol and substance abuse can be present in relationships characterized by intimate partner violence, it does not cause the violence and abuse. What it does do is increase the risk to the victim because one's level of internal controls are markedly reduced when one is intoxicated. This substance-fueled raged also pulled for Ms. Heard to adopt a caretaking role with Mr. Depp and offer herself and others repeated excuses for his behavior thereby obfuscating the abuse and the harm caused to her.

Psychologically abusive behaviors that were reported in this case include but are not limited to: intimidation by throwing things, slamming things, and erratic behavior; antagonistic behaviors about her career; criticized her ambition; constant unreliability then blamed her for not waiting for him or for addressing it; obsessive jealousy about male co-stars; offensive and degrading comments (whore, cunt, bitch, easy, ugly, fat ass); constant accusations of flirting and infidelity; controlling her clothing choices ("no woman of mine if going to dress like a whore"); surveillance and tracking efforts (calling directors and male co-stars to check on her; showing up on set; insisting on using his security detail; having to "prove" things to him; searching her phone); threats to kill her; criticized her body; and emotional manipulation (threats of suicide; threats and actual engagement of self-harm), among others.

Mr. Depp's psychological instability, as evidenced by his chronic substance abuse, erratic violent outbursts, deranged writing on walls, tables, mirrors, etc., repeated property damage, frequent throwing of objects, acts of violence toward himself and self-harm, and withdrawal from the relationships for long periods of time where he was unreachable, among others, are not

only highly dysfunctional, but forms of psychological abuse, intimidation, and emotional manipulation. These acts continued to keep Ms. Heard psychologically unstable, hypervigilant, anxious, emotionally dependent, and often left her walking on eggshells as to what Mr. Depp was going to do next. The illusion of safety and calm was always short lived. Mr. Depp's instability required Ms. Heard to continue to deal with days of chaos and trauma, always trying to calm Mr. Depp first, and then seek safety for herself second. The unpredictability, volatility, and severity of Mr. Depp's behavior increased Ms. Heard's fear of him and his ability to maintain power and control in the relationship. This dynamic created formidable psychological obstacles for Ms. Heard to identify the abuse and extricate herself from the relationship.

Sexual Violence

This evaluation revealed significant sexual violence perpetrated by Mr. Depp toward Ms. Heard. Sexual violence is forcing or attempting to force a partner to take part in a sex act, sexual touching, or a non-physical sexual event (e.g., sexting) when the partner does not want to or cannot consent. Intimate partner sexual abuse is any form of sexual violence that takes place within a current or former intimate relationship and it often co-occurs with other forms of abuse.

Ms. Heard reported that there were multiple instances when Mr. Depp forcibly and aggressively grabbed Ms. Heard's head coercing her to engage in fellatio, and times when he forcibly performed cunnilingus on her. Whereas she did not say no, Ms. Heard was desperate to make him feel loved, be less mad at her, and make him feel that they were "okay." Thus, she tolerated these aggressive violations, always hoping that such acts would turn "romantic," yet they rarely did. She often made excuses for Mr. Depp in order to psychologically shield herself from the reality and psychic pain of these violations.

Mr. Depp also engaged in serious sexual violence during instances of rage and violence in which he forcibly penetrated Ms. Heard's vagina with the neck of a liquor bottle during one of the most violent episodes in their relationship. Other times, he forcibly and violently thrust his fingers up her vagina, moved her body by holding onto her vagina, and yelled obscenities at her. None of these acts were to initiate sex and none of them consensual. Quite the contrary, they were acts of sexual violence reflecting an abuse of Mr. Depp's power and control over her, and specifically perpetrated to humiliate and subjugate Ms. Heard. These repeated sexual violations were often accompanied by vulgar and degrading verbal assaults toward her. These sexual violations were psychologically devastating to Ms. Heard and physically painful. The research has suggested that women who are exposed to both physical and sexual violence in an intimate relationship are at risk for more severe psychological and traumatic symptomatology.

Danger Assessment

The *Danger Assessment Scale* is an empirically validated measure specifically designed to assess for risk factors that have been associated with severe and lethal intimate partner violence. In examining the factors present in this case, there is statistical support to suggest that the intimate partner violence perpetrated by Mr. Depp toward Ms. Heard was serious, severe, and dangerous. When someone scores in that range and is still in the relationship, assertive safety planning and risk reduction strategies are recommended.

Specific lethality risk factors that were identified over the course of the relationship include:

- an increase in violence and abuse
- threats to kill
- forced sexual violence
- strangulation
- use of illegal drugs and problematic drinking
- controlling behaviors

- persistent jealousy
- destruction of property
- surveillance behaviors
- threats to commit suicide.

There were two very serious abusive incidents worth noting in which Ms. Heard thought Mr. Depp could kill her. The first time was in Australia in March 2015 when Mr. Depp engaged in an all-out assault upon her whereby he hit her, slapped her, threw her around, pinned her on her back on a counter, squeezed her neck strangling her, ripped off her nightgown, and raped her with a Jack Daniels bottle while screaming over and over again, "You ruined my life. I hate you. I'm going to fucking kill you." As noted above, strangulation, sexual violence, destruction of property, substance abuse, and threats to kill are significant risk factors for severe and lethal intimate partner violence.

Then, in December 2015 in Los Angeles, Mr. Depp perpetrated another severe assault against Ms. Heard wherein he repeatedly punched and slapped her with his ring-adorned hands, dragged her by the hair across the apartment, headbutted her, and strangled her while yelling "I fucking hate you. I hate you. I'm going to fucking kill you." Making a threat to kill increases the likelihood of an act of serious harm and when combined with a perpetrator's use of violence, psychological instability, and substance abuse represents a very high-risk and dangerous situation.

Coping Responses to Violence and Abuse

The research has demonstrated that women who are involved in abusive relationships employ a variety of formal, informal, and personal strategies to cope with the abuse, avoid the abuse, protect themselves from the abuse, and escape from the abuse. They do many things - it just does not stop their partner's abuse and victimization. Some strategies represent formal help-seeking behaviors such as calling the police, obtaining protection orders, seeking medical

assistance, going to a shelter, obtaining counseling, and terminating the relationship. Commonly, women in abusive relationships attempt to stop and deal with the abuse from within the relationship. Examples of these informal strategies include talking with their partner to try to get him to change, complying with his demands, acquiescing, talking to family members and friends, passive and active forms of self-defense, and physically fighting back. Importantly, the research also demonstrates that it ultimately remains the perpetrator's choice to cease his use of violence and abuse regardless of the strategies employed by the victim.

A woman's difficulty in extricating herself from an abusive relationship does not in any way indicate that she is unconcerned about the abuse or wants it to occur. Rather, the victim *is* absolutely concerned about the abuse but engages in psychological avoidance, minimization, denial, and suppression efforts herself in order to maintain the relational status quo, because she is emotionally attached, and in order to stay safe. An abused woman's decisional analysis to stay or leave is mediated by multiple and complex factors such as personal resources, tangible resources, ongoing abuse, psychological functioning, emotional attachment, love and hope for change, vulnerability factors, and threats of retaliation.

This evaluation revealed that Ms. Heard utilized many formal and informal strategies to cope with the violence and abuse inflicted upon her by Mr. Depp. Informal strategies included efforts to work with and negotiate with Mr. Depp on ways to stop the violence and abuse. She attempted to please Mr. Depp, appease him, avoid angering him, and comply with his eccentric ways to prevent further abuse and degradation. She hid her scripts and refrained from practicing lines to obviate an altercation. She altered her choice of clothing to satisfy him and prevent being told she dressed like a whore. She avoided going to cast parties, rap parties, and talking with her male co-workers because this made Mr. Depp irrationally jealous, often resulting in

verbal and physical fights. She repeatedly tried to talk with Mr. Depp to persuade him to stop his abusive behaviors, stop his significant drug addiction and excessive alcohol abuse, and engage with her in positive ways. She pleaded with him and constantly encouraged him to get treatment for his own abusive childhood which she saw as a contributing factor to his self-loathing, self-destructive tendencies, and his polysubstance abuse. She repeatedly requested that Mr. Depp engage with her in couples therapy which they did on a few occasions of limited duration and minimal success. She repeatedly encouraged and assisted him in obtaining professional treatment and support for his substance abuse.

Other informal and personal coping strategies involve obtaining support from others. Ms. Heard disclosed the abuse to her mother, her sister, and multiple friends, all in an attempt to receive emotional support in the aftermath of an explosive incident. At times, in her conversations with others, Ms. Heard also engaged in minimization, suppression, and denial of the true extent of Mr. Depp's violent and abusive behavior and this is because Ms. Heard knew that others would tell her to leave Mr. Depp. She did not want to be criticized for staying and did not want Mr. Depp to be negatively judged as she still loved him and was committed to working on the relationship despite the abuse, thus she maintained the secret. In addition, Mr. Depp actively sabotaged Ms. Heard's efforts at self-care and external support, vilifying and sometimes excommunicating those individuals with whom she relied on. Engaging in deliberate behavior that isolates victims from social support is a common tactic of abusers.

Another informal coping strategy utilized by Ms. Heard in response to the violence and abuse by Mr. Depp was her own use of passive and active forms of physical and defensive actions during an abusive incident. This is not uncommon. A high percentage of women in abusive relationships use some form of responsive violence against their partner. Importantly,

Ms. Heard's use of defensive physical actions did not prove to be an effective strategy as it did not stop the assault, but rather increased Mr. Depp's anger and violence toward her. It is important to recognize that there is a distinction between relationship "fights" and "assaults." Partner assaults differ from fights because of the motive, dynamics, and consequences. Assaults function to hurt, denigrate, punish, subjugate, exploit, dominate, and control an intimate partner and, importantly, they are not attempts to resolve conflict. Partner assaults are repeated over time, tend to escalate, and have marked asymmetry in the amount of injury sustained. Intimate partner violence has long been understood as comprising more than just hitting, but rather a wide array of abusive tactics, such as psychological degradation, coercion, abuse of power and control, threats, manipulation, the instillation of fear, sexual violence, and surveillance controls. Importantly, when taking Ms. Heard's reactive violence into account, this evaluation revealed that there was a significantly differential impact of the violence and abuse utilized by Mr. Depp. There was a serious imbalance of power and control, a disparity of size and strength, differential perpetration of severe violence, differential threat and risk of serious injury, sexual violence, differential impact of actual physical injury and psychological harm, and an imbalance of fear and danger.

Ms. Heard also engaged in formal strategies to cope with the intimate partner violence including engaging in psychological treatment with multiple providers and engaging with Mr. Depp's providers. She actively spoke with Mr. Depp's medical team, conceptualizing his drug and alcohol addiction as a core dysfunctional aspect of their relationship and a functional cause of the abuse. She attended Al-Anon meetings and actively participated in efforts to help Mr. Depp achieve sobriety. She read countless books about substance abuse, and dysfunctional and abusive relationships. Ms. Heard's efforts to help Mr. Depp get safe and sober were repeated

over and over again throughout the course of the relationship thereby funneling her psychological resources to caring for him and away from her own needs and the full realization of the severity of the abuse inflicted upon her.

Another formal strategy was Ms. Heard's own psychological treatment. Ms. Heard engaged in psychotherapy with multiple treatment providers, including Dr. Connell Cowan and Dr. Bonnie Jacobs, over the course of the relationships to try and figure out what *she* could do to stop Mr. Depp's abuse upon her. This is a common misattribution error in cases of intimate partner violence where the abused victim eventually comes to believe her partner's claims that she is the cause of his aberrant behavior. She constantly felt responsible for his abuse, apologized often, and contemplated what she could do "better" to not have him hurt her. Notwithstanding, Ms. Heard spoke to Mr. Depp on countless occasions that she could no longer sustain any further abuse. Sometimes he indicated he understood and promised to do better, and yet other times he denied the abusive incidents even occurred, denied hurting her, minimized the extent of the abuse, and blamed her for his use of violence. Despite desperately wanting him to change, Mr. Depp's alcohol and drug addiction remained chronic and his controlling and violent tendencies persisted. Mr. Depp did not change. In fact, the abuse toward Ms. Heard worsened over time, increasing in frequency and severity. In the end, she obtained a temporarily restraining order against him.

Importantly, Ms. Heard was embroiled in the profound paradox that is the hallmark of intimate partner violence where love and violence are intertwined. Women can be in love and afraid at the same time and this phenomenon is clinically understood as a tolerance for cognitive inconsistency. It is a myth that women just leave at the first sign of trouble or "should leave" if it is truly that bad. It is normal to give one's abusive partner second, third, and sometimes

unlimited chances to redeem themselves. But, over time, the violent acts become normalized as a central feature of the relationship that needs to be tolerated – not accepted but tolerated. Ms. Heard was no exception. She was caught in a web of love, emotional attachment, genuine loyalty and concern for Mr. Depp, and the illusion that he would finally come to his senses and change for the better. As such, she often concealed and minimized his violence and abuse (to family, friends, and even treatment providers) to protect him, and herself at some point, from public condemnation. She assumed the best and denied the worst in order to hold on to the positive aspects of the relationship and the love she had for Mr. Depp. However, eventually, those psychological defenses broke down and were no longer effective as the physical and psychological injury became too great to bear and the positive aspects became all too infrequent resulting in the decisional analysis for Ms. Heard to finally terminate the relationship.

Psychological Impact of Defamation

In cases of intimate partner violence, leaving the relationship does not always end the violence and abuse. In fact, ending an abusive relationship is statistically a very dangerous point in time for the abused victim. Whereas Ms. Heard left Mr. Depp, filed for a restraining order due to domestic violence, and eventually divorced him, she was not free. Mr. Depp's psychological and emotional abuse continued. Mr. Depp's defamation suit and false statements to the media halted her healing from the traumatic effects of victimization and introduced new levels of psychological abuse, intimidation, degradation, and gaslighting which continued that cycle of abuse that she thought she escaped from, this time abusing Ms. Heard through the legal system and through media attacks. The overarching theme of Mr. Depp's attacks are that Ms. Heard is a liar. For a victim of intimate partner violence, fear that they would not be believed ranks among the highest reasons why they do not speak out about their abuse and why violence against

women is the most underreported crime. This has had devasting consequences for Ms. Heard.

The psychological impact of three of Mr. Depp's defamatory statements (through Adam Waldman, his attorney and agent) were specifically assessed (April 8, 2020; April 27, 2020; and June 4, 2020). Whereas it was determined that these comments had notable psychological impact, they represent a continuation and exacerbation of the totality of Mr. Depp's abusive behaviors. Ms. Heard suffered repeated attacks on her credibility with Mr. Depp's frequent lies to the media, a particularly significant problem when one is in the public sphere. The problem with every lie is that one must refute that lie, and that requires intense psychological resources. As such, with each unpredictable media comment made by Mr. Depp, havoc and chaos were again thrust into her life to no fault of her own, forcing her to deal with the negative consequences of having to explain and "prove" the lie. These lies resulted in numerous losses, such as the loss of time and energy; loss of friendships; loss of jobs; and financial loss, all of which greatly impacted her daily functioning and her capacity to cope.

As a result of Mr. Depp's defamatory statements (through Adam Waldman, his attorney and agent), Ms. Heard suffered notable psychological distress and an exacerbation of posttraumatic stress disorder that stems from the initial pattern of violence and abuse. Each time Mr. Depp released a defamatory statement to the media calling her a liar or that her account of violence and abuse in the relationship was a "hoax," Ms. Heard suffered (and continues to suffer) from stress, anxiety, nightmares, crying, flashbacks, feeling afraid, emotional numbing, dissociation, struggles with trusting others, significant sleep disruption, relationship and intimacy problems, interpersonal disconnection, hypervigilance, and intense psychological pain.

In addition, Mr. Depp's defamatory statements activated long held feelings of shame and humiliation about the abuse and the relationship in general, common consequences of

victimization. This was particularly true with Mr. Depp's April 8, 2020 remarks about "fake sexual violence" and a "sexual violence hoax." Rape and sexual violence are one of the most humiliating, violating, and shame inducing experiences that an individual could endure, and it is one of the most powerful predictors of PTSD in both men and women. The sexual violence that Ms. Heard experienced by Mr. Depp is one of the most private, vulnerable, and painful aspects of her life. For Mr. Depp to call her account "fake" and for her to have to refute it, has resulted in significant psychological distress, emotional pain, humiliation, and an exacerbation of PTSD.

While in the abusive relationship, Mr. Depp repeatedly utilized abusive tactics whereby he minimized his abuse and violence, blamed her for the abuse, denied that the abuse even occurred, and reversed the attack on her claiming that he was the victim, and she was the abuser. But Ms. Heard successfully extricated herself from that awful dynamic of violence and abuse and yet Mr. Depp's abuse continued through his false media comments. This forced her to confront the whole cycle of abuse, violence, blame, gaslighting, and condemnation all over again.

The psychological consequences and harm to women because of partner violence have been well documented, and include decline in general mental health, depression, anxiety, posttraumatic stress disorder, substance abuse, suicidality, shame, humiliation, self-blame, and diminished self-worth and self-efficacy, among others. This evaluation revealed that Ms. Heard meets DSM-5 criteria for Posttraumatic Stress Disorder (PTSD) with an etiology of the violence and abuse perpetrated by Mr. Depp. Ms. Heard endorsed symptoms in all four clusters of PTSD: intrusive reminders of the victimization, violence, and abuse (flashbacks, memories, nightmares); conscious avoidance efforts to detract her from reliving the violence and abuse; negative effects on her thinking and mood; and an increase in hyperarousal and physiological reactivity.

Importantly, PTSD is a cue-related disorder and environment stimuli serve to trigger the disorder with accompanying psychological reactivity. Each time Mr. Depp released a media statement branding her a liar, that served as a trauma trigger activating memories of the horror and truth of the abusive relationship. Mr. Depp's comments are so inextricably connected to the original trauma that they result in additive psychological and traumatic effects. His statements also activate the PTSD dimension of hyperarousal and hypervigilance as Ms. Heard experiences greater concern for her personal safety, resulting in anxiety, an acute awareness of her surroundings, and continual scanning for danger.

Prognosis

Ms. Heard's prognosis is guarded and her treatment is likely to be long term. Psychological recovery from the traumatic effects of intimate partner victimization is more than just the physical healing of cuts and bruises because the psychological damage from the relational betrayal and emotional abuse runs deep. Ms. Heard has continually availed herself of professional treatment and has been motivated for healing to occur, but her treatment is currently in the infancy stage because it has necessitated a focus on crisis management and psychological stabilization resulting from the defamatory statements by Mr. Depp. Her physical and emotional safety continues to be threatened, thereby exacerbating her PTSD. Interpersonal violence-related PTSD can be a chronic condition, often waxing and waning throughout a person's life, being triggered by environmental and life stressors. Ms. Heard will require treatment to address and ameliorate these trauma triggers as they arise. In addition, she will require treatment for victimization-associated traumatic sequelae, such as shame, self-blame, humiliation, intimacy problems, interpersonal disconnection, and trust difficulties. Her psychological care will be palliative and function to remedy the psychological impact of the trauma arising during her life.

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Mr. Schnell's C.V. is attached as **Att. 3**. Mr. Schnell is an accomplished executive with a history of running large technology organizations, from early stage startups to large divisions of S&P 500 corporations. Mr. Schnell has also served as a testifying and consulting expert witness on high-profile cases in the areas of intellectual property, software licensing, cyber security, and other highly technical matters. He has knowledge of over forty computer languages, and is an adjunct professor at Nova Southeastern University, teaching computer security and operating systems in the computer science department.

Mr. Schnell is expected to testify as an expert in the field of statistical and forensic analysis of social media. As an expert in this field, Mr. Schnell and his firm, Berkley Research Group, conducted an investigation relating to posts on social media, primarily Twitter, that contained and/or expressed negative comments and negativity ("negative posts" or "posts") about Amber Heard, from April 8, 2020 through the present. Mr. Schnell located and collected, and is expected to testify, that there are over a million negative posts relating to Amber Heard from April 8, 2020 through the present. Specifically, from the beginning of April 2020, until the end of January 2021, there were 1,243,705 negative posts relating to Amber Heard, including one or more of the tags #JusticeForJohnnyDepp, #AmberHeardIsAnAbuser, #AmberTurd, or #WeJustDontLikeYouAmber. Some of them are overlapping. The total number of distinct tweets that fall into that category is 1,019,433. Mr. Schnell has collected these on a hard drive,

which has been provided to counsel for Mr. Depp. Mr. Schnell is expected to testify to these negative posts, including providing examples from the hard drive of collected data.

Some examples of posts that Mr. Schnell has collected and provided to counsel for Mr. Depp, and is expected to testify to, include:

angelagrace @[illegible] · Nov 27, 2020

Replying to [illegible]

Big pass on that. I don't watch shows with abusers and liars in it. I'll read the book again instead.

Brian K. Murphy @[illegible] · Nov 27, 2020

It also doesn't hurt that ALL of the evidence proves that [illegible] & [illegible] regardless of what [illegible] ruled & was printed in the [illegible]

At the end of this there will be [illegible]
So there's that...

Ane @[illegible] · Nov 27, 2020

Thinking about when Johnny and Amber went into couples therapy and the therapist confirmed that Amber had severe personality disorders. Maybe the therapist should testify? Inform about manipulation, ruthlessness, lack of empathy, violence [illegible]

Max_Gordatio · Jun 27, 2020

I read the book and liked it. I'd love to watch this show, but I won't support anything that liar and abuser Amber Heard is involved in. This woman mocks victims of domestic violence and uses them to make a career. So no thanks.

CheeryRosie Wald-mignon #JusticeForJohnnyDepp · Jul 28, 2020

Well its took 4 years but everyone knows the truth now, she can hold as many press conferences as she likes its out there and the world knows it!!!

Melissa · Jul 28, 2020

We don't want anything from you. You are a vile excuse of a human being, a money grabbing, fame hungry tramp, who stood on the backs of genuine survivors and trampled all over what it means to be feminine.

Beth · Jul 28, 2020

Replying to

is the abuser not johnny. Of course it was painful, to have to recount all the fvcked up stuff she did to him. She needs to just go away and rot!

WriterEmmaBombeah

Amber Heard lied at every point. It's clearly mapped out here today. Her lies are so bad it is embarrassing to read. And yes as stated she has many mental issues.

Johnny Depp

Mr. Schnell is expected to testify about his statistical analysis of the Twitter posts, including the number of such posts per user, the number of users creating such posts, the commonality of the wording and formatting of such posts, the timing of such posts, and the frequency of such posts. This is all supported by the materials in the hard drive provided to counsel for Mr. Depp.

To conduct his search, Mr. Schnell and his team utilized the official Twitter "API" and conducted the following searches, starting from April 1, 2020: #JusticeforJohnnyDepp; #AmberheardIsAnAbuser; #AmberTurd; and #WeJustDontLikeYouAmber. The results of these searches were then pulled directly from Twitter using the API's functionality. Because of the nature of those searches, Mr. Schnell is expected to testify that it is possible to show that the vast majority of the results contain negative statements about Ms. Heard. Mr. Schnell will also testify that based on the number of negative posts about Ms. Heard during this time on Twitter, a similar magnitude of negative comments would also be published on Instagram and Reddit, and Mr. Schnell is expected to provide examples of such negative posts and the relationship among the three social media sources.

Mr. Schnell is also expected to testify that there is no way to remove other people's posts from these social media platforms, and therefore, the negative posts' impact will always remain and be accessible to the public.

Mr. Schnell's opinions are to within a reasonable degree of scientific probability and/or certainty, and are based on his expertise, educational and technical background, his work experience, consultation with leading works and peer consultations, his knowledge based on all of the above, and his examination and review of data from the three social media platforms described.

It is expected that Mr. Schnell will review additional materials as they become available, including in discovery, including in response to discovery served in California that is being objected

to and challenged in the California courts, and may supplement his opinions based on additional information and materials he locates and is otherwise made available to him.

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Expertise and Qualifications

Ms. Arnold's C.V. is attached as **Att. 4**. She is an award-winning film producer and executive with over twenty years of experience in film production, acquisition, distribution, international sales, and film financing. Ms. Arnold has extensive experience in script development, screenwriting, casting, packaging, contract negotiation, production, sales, distribution and chain of title. She has worked with talent agents, producers, studio and distribution executives, investors, and lawyers in the development, production, financing and distribution of feature film projects, television, and online programming. Ms. Arnold has produced and/or executive produced six feature films, been involved in the development and production of dozens of feature film and television projects, produced a live streaming web series, and directed a documentary film.

Since 2008, Ms. Arnold has provided consultant services to attorneys, financiers, investors, production companies, international sales organizations, and film commissions in all areas related to entertainment industry standards and practices, including providing expert testimony. In addition, based on Ms. Arnold's experience in the entertainment industry, Ms. Arnold has served as an expert witness and consultant on cases involving a broad array of matters including, but not limited to, economic and reputational damage analysis, intellectual property rights, copyright issues, chain of title, licensing, contracts, and business practices.

Summary of Engagement

Ms. Arnold has been asked to offer her expert opinion and assess the reputational harm and economic opportunities lost by Ms. Heard as a result of the defamatory statements described in Paragraphs 45-47 of Ms. Heard's Counterclaim, and Exhibits F-H attached to the Counterclaims ("the defamation" or "the defamatory statements"). Specifically, Ms. Arnold will testify as to the economic consequences on Amber Heard as a result of the following statements ("defamatory statements") included in the Counterclaim, at Paragraphs 45-47 (with the Exhibits F, G and H):

45. Depp, through Waldman, continued to claim that Ms. Heard was committing perjury to the Daily Mail, when he stated on April 8, 2020 that "Amber Heard and her friends in the media use fake sexual violence allegations as both a sword and shield, depending on their needs. They have selected some of her sexual violence hoax 'facts' as the sword, inflicting them on the public and Mr. Depp."

46. Then on April 27, 2020, Depp, through Waldman, again told the Daily Mail that "Quite simply this was an ambush, a hoax. They set Mr. Depp up by calling the cops but the first attempt didn't do the trick. The officers came to the penthouses, thoroughly searched and interviewed, and left after seeing no damage to face or property. So Amber and her friends spilled a little wine and roughed the place up, got their stories straight under the direction of a lawyer and publicist, and then placed a second call to 911."

47. On June 24, 2020, Depp, through Waldman, falsely accused Ms. Heard in the Daily Mail of committing an "abuse hoax" against Depp.

Sources Consulted

In conjunction with the rendering of her opinion in this litigation, Ms. Arnold has reviewed pleadings, discovery, documents provided in discovery by both parties, trial and deposition testimony, has spoken with Ms. Heard and her publicist and management team, has conducted research, and has relied on these sources as well as her extensive experience and resources in the entertainment industry.

Ms. Arnold has also consulted with Ron Schnell, a forensic expert in computer and social media data, also identified in this Designation. Mr. Schnell has reported to Ms. Arnold that Ms. Heard has been the subject of over 1,243,705 negative tweets and posts arising after the defamation, from the beginning of April until the end of January, including one or more of the tags #JusticeForJohnnyDepp, #AmberHeardIsAnAbuser, #AmberTurd, or #WeJustDontLikeYouAmber. Some of them are overlapping. The total number of distinct tweets that fall into that category is 1,019,433. Mr. Schnell also reported to Ms. Arnold that a similar magnitude of negative comments would also be published on Instagram and Reddit,

This is significant because the entertainment industry relies heavily on the reputation of actors in social media and frequently will run searches of social media cites on any actors being considered for any role. Likewise, entities considering actors for commercial opportunities place substantial importance on the actor's reputation in social media in determining the actor to best promote their products and services.

Summary of Ms. Arnold's Opinions

Ms. Arnold is expected to testify that film studios and production companies evaluate the reputation of an actor in the public sphere when determining whether to offer an actor a role, and on what terms to hire an actor. Similarly, Ms. Arnold is expected to testify that companies looking to market products evaluate an actor's reputation in the public sphere to determine whether, and on what terms, to hire an actor to promote such products in advertising. Ms. Arnold is expected to testify to the importance of actor's reputation in the entertainment industry, and the negative impact on Ms. Heard's reputation and the opportunities she may receive when she is accused of the conduct described in Paragraphs 45-47 of the Counterclaim and Exhibits F-H to the Counterclaim.

Because of the defamatory statements and ensuing negative public reaction, Ms. Arnold is expected to testify that Ms. Heard incurred significant reputational damages and economic loss. Ms. Arnold is expected to testify that a reasonable way in the entertainment and commercial industry to calculate the reputational and economic damages suffered by Ms. Heard is to measure against reasonable comparators in the industry. Based on such comparisons, Ms. Arnold is expected to testify that Ms. Heard's economic losses as a result of the defamatory statements over a 3-5-year period range from $47 million to $50 million. Ms. Arnold is also expected to testify that, based on her experience in the entertainment industry, it is difficult to repair an actor's reputation, especially where there has been so much negative reaction in the social media since the defamatory statements, they are not erasable, and it may take many years to repair and/or restore Ms. Heard's reputation.

Ms. Heard's Career was Flourishing Before the Defamation

Ms. Arnold's bases for her opinions includes her review of Ms. Heard's career as a working actress. Ms. Heard has been a working actress in film and television for over 15 years with over 50 productions to her credit. Ms. Heard received critical and box office acclaim in movies such as THE DANISH GIRL released in 2015 and most notably her starring roles in JUSTICE LEAGUE (2017) and AQUAMAN (2018) alongside Jason Momoa. Throughout this period, Ms. Heard was able to power through and overcome the negative publicity she received surrounding her divorce from Mr. Depp in 2016.

Ms. Arnold is also expected to testify as to Ms. Heard's press opportunities before the defamation. Ms. Heard's performances in DANISH GIRL and AQUAMAN created tremendous awareness and momentum throughout the world. Ms. Heard was traveling around the world for press events and was on the cover of a variety of global magazines. Examples include:

After the DANISH GIRL:

- November 2015 – California Style cover story
- December 2015 – Marie Claire cover story
- December 2015 – Elle cover story

After JUSTICE LEAGUE

- December 2017 GQ Australia Collector's EditiStory as "Woman of the year"

After AQUAMAN

- December 2018 – Marie Claire UK cover story
- December 2018 – Shape cover story
- December 2018 – Glamour Mexico cover story (Considered a "role model of the world")
- December 2018 – In Style Russia cover story
- December 2018 – Porter The Edit
- January 2019 – Glamour US cover story

Ms. Heard's Reputation and Career Suffered Significant Negative Impact After the Defamation

Ms. Arnold is expected to testify that Ms. Heard's career gains were severely damaged if not destroyed by the defamatory statements, beginning in April 2020 and continuing through the present. After the release of AQUAMAN in 2018, Ms. Heard starred in the TV series "The Stand."

However, in contrast to before the defamatory statement, Ms. Heard has not been involved in any press activity surrounding The Stand even though it is based on a Stephen King novel, which Ms. Arnold is expected to testify should have garnered tremendous interest for Ms. Heard. LA Style magazine, who wrote a piece on the series, was planning to place Ms. Heard on the cover. After the defamatory statements came out, Ms. Heard's cover story was pulled. In fact, since the defamatory statements have been released, Ms. Heard's world has been virtually

silent — she has received virtually no press requests.

Ms. Heard's endorsements have also stopped. In April of 2018, between the release of JUSTICE LEAGUE and AQUAMAN, Ms. Heard signed an endorsement deal with L'Oreal for $1.5 million for a period of two years, with the option to renew for an additional year. Although L'Oreal had the right to utilize Ms. Heard's services for 20 days, it has only utilized Ms. Heard for a few days since the contract was signed. Since the defamatory statements, Ms. Heard has not been hired for any other endorsement deals.

Comparable Actors to Ms. Heard Have Received Many More Projects than Ms. Heard

Ms. Arnold reviewed Ms. Heard's career trajectory to that of comparable actors during similar time frames. Actors in similar age ranges and acting styles, who broke out around the same time as Ms. Heard, have watched their careers sky-rocket, while the damage to Ms. Heard's reputation has effectively stalled her career. Ms. Arnold is expected to testify to the following comparators:

Jason Momoa, Ms. Heard's co-star in AQUAMAN, has worked outside of the franchise and earned significant dollars:

- SEE / Apple+ TV series
- DUNE / feature film with $165M budget
- SWEET GIRL (Netflix for which he is acting and producing)
- SATURDAY NIGHT LIVE (excellent publicity event)
- THE SIMPSONS (a relevant social marker in today's zeitgeist)

Gal Gadot, starred in WONDERWOMAN, a female superhero movie like Ms. Heard, but unlike Ms. Heard, has worked outside of the franchise and earned significant dollars:

- DEATH ON THE NILE / ($55M budget for Fox)
- RED NOTICE / ($160M budget for Netflix)
- HEDY LAMARR / Limited series for Apple+, Gadot also Ex. Prod.
- THE SIMPSONS / Voiceover for hit TV show

Zendaya, SPIDERMAN, an actress in a superhero movie like Ms. Heard, but unlike Ms. Heard, has worked outside of the franchise and earned significant dollars:

- EUPHORIA on HBO Emmy — Best Actress in a Drama
- THE GREATEST SHOWMAN w/Hugh Jackman ($84M budget for Fox)
- DUNE – ($165M Budget) alongside Jason Momoa
- MALCOM & MARIE –$30M sale to Netflix, owns a piece of the film
- Several animated films

Ana De Amas, BLADE RUNNER 2049, an actress in a superhero movie like Ms. Heard, but unlike Ms. Heard, has worked outside of the franchise and earned significant dollars:

- KNIVES OUT ($40M budget for Lionsgate)
- DEEP WATER (Adriane Lynne directing with a $49M budget)
- NO TIME TO DIE (the new James Bond film with a budget of $250M)
- BLONDE ($41M budget)
- THE GRAY MAN ($250M budget for Netflix)

Chris Pine, STAR TREK BEYOND and WONDER WOMAN:

- WRINKLE IN TIME ($103M budget for Disney)
- OUTLAW KING ($120M budget for Netflix)
- SPIDERMAN INTO THE SPIDER VERSE ($90M budget for Sony)
- WONDERWOMAN 1984 ($200M budget for WB)

- VIOLENCE OF ACTION
- DON'T WORRY DARLING ($20M for New Line)
- ALL THE OLD KNIVES (Amazon)

In contrast to these comparables, Ms. Heard has been in only one project since AQUAMAN, and Ms. Arnold will testify that it would be expected that without the defamatory statements and subsequent harm to her reputation, Ms. Heard would have been as active as any one of these actors.

In addition, Ms. Arnold examined these comparables to Ms. Heard in terms of endorsements. Ms. Heard only has had the limited endorsement with L'Oreal. By contrast, the actors listed in the "comparables" section above have entered into multiple endorsement contracts since their break-out hits:

Jason Momoa, Heard's co-star in AQUAMAN:

- Rocket Mortgage – Super bowl campaign
- Harley Davidson
- Mananalu Water
- So Ill climbing gear
- + several offers that have been passed on.
- 3-5 appearance engagements at $250,000 each

Gal Gadot, WONDER WOMAN:

- Revlon
- Smart Water
- Huawei
- Reebok
- Tiffanys
- ASUS
- Wix
- Boss Zhphin (China only)

- Bolan (China only)
- Hot TV provider (Israel only)
- + offers that have been passed on

Zendaya, SPIDERMAN:

- Lancôme beauty and fragrance
- Tommy Hilfiger fashion collaboration
- Bvlgari jewelry
- Dolce & Gabbana Spring / Summer fashion campaign
- Covergirl[4]

Calculation of Ms. Heard's Damages

In order to assess the economic damages the defamation caused to Ms. Heard, Ms. Arnold calculated the money ranges Ms. Heard's comparables have been receiving over the same or similar time period. Based on her review of the materials described above and her knowledge, experience and sources within the industry, Ms. Arnold is expected to testify it is reasonable that but for the defamation, Ms. Heard would have realized as part of her career, over the next three to five years, the following:

- A streaming TV series, earning her at least $1 million per episode for at least 8 episodes;
- Starring in several feature films, earning at least $5 million plus residuals and back end;

[4] This endorsement came out the year before SPIDER-MAN's release, but after the studio announced she was part of the film. Ms. Arnold is expected to testify that many brands will lock in talent upon hearing they have been cast as part of a large film franchise, so the brand can take advantage and piggy-back off the marketing and publicity of the film. In fact, L'Oreal did this with Ms. Heard – they signed her May 2018 and AQUAMAN was released December 2018.

- Landing several endorsement deals, earning her several million dollars;
- Producing and starring in a movie, earning approximately $12 million.

Ms. Arnold is also expected to testify that as Ms. Heard performed in more projects, her earning power would have grown exponentially, allowing her to negotiate for even more money per film. In total, Ms. Arnold estimates, based on the above, and specifically considering the comparables, Ms. Heard's economic damages for lost career opportunities range between $47 and $50 million over the next 3-5 years.

All of Ms. Arnold's opinions are within a reasonable degree of professional probability and/or certainty. Ms. Arnold may also testify in response to the testimony and opinions of the Mr. Depp's expert witnesses, if any, and reserves the right to consider and supplement her opinions based on further discovery and documentation or facts which become available to her.

David R. Spiegel, MD
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Expertise and Qualifications

Dr. Spiegel's C.V. is attached as **Att. 5**. Dr. Spiegel is a Professor of Psychiatry and Behavioral Sciences at Eastern Virginia Medical School, which he joined in 2001 after almost a decade in private practice. Dr. Spiegel obtained his medical degree from SUNY-Health Science Center at Brooklyn, and then completed his psychiatry residency at Dartmouth-Hitchcock and Hershey-Penn State. Dr. Spiegel is a clinical supervisor for psychiatry residents and psychology interns and presents to community mental health professionals. Dr. Spiegel's inpatient and outpatient practices involve new and follow-up comprehensive evaluations, which include history, mental status examination, diagnoses, and treatment planning, and encompasses about

85-90% of Dr. Spiegel's daily workload. Throughout his career, Dr. Spiegel has diagnosed, treated and provided therapy to patients suffering from varying degrees of alcohol and substance abuse, as well as to both victims and perpetrators of intimate partner violence ("IPV").

Dr. Spiegel has testified as expert in the Commonwealth of Virginia, as well as Maryland and South Carolina on a range of topics in psychiatry and behavioral sciences. He has written and lectured extensively on the effects of alcohol and drugs (both legal and illegal) on the human brain and the person's interactions with others (both short-term and long-term), the causes and effects of intimate partner abuse, and other psychiatric issues.

In conjunction with the rendering of his opinion in this litigation, Dr. Spiegel reviewed and relied upon the relevant pleadings, videos, audios, pictures, text messages, emails, medical records, and other documents produced in discovery, testimony from the UK, depositions, see **Att. 6** ("data reviewed" or the "record evidence"), and an interview with Ms. Heard. Dr. Spiegel requested an assessment of Mr. Depp, but Mr. Depp declined.

Dr. Spiegel will testify as an expert in the fields of Psychiatry and Behavioral Sciences. Dr. Spiegel bases his opinions, to within a reasonable degree of medical and professional probability and/or certainty in the fields of psychiatry and behavioral sciences, upon his background, experience, knowledge, a review of the materials provided to him, and other information available to him, including the sources cited in this Designation.

Dr. Spiegel has been engaged to analyze and opine on the impact of alcohol and substance abuse, including the combination of drugs taken by Mr. Depp, and the potential impact of sustained use of these substances on memory, cognition, and how this may impact Mr. Depp. Dr. Spiegel has also been asked to analyze the risk factors associated with perpetrators of

Intimate Partner Violence ("IPV"), and in his evaluation of the record evidence, whether Mr. Depp has exhibited conduct or behaviors indicative or consistent with any of these risk factors.

I. The Impact of Alcohol and Drug Use/Abuse Over a Prolonged Period of Time.

Dr. Spiegel is expected to testify about the medical and psychological impact on Mr. Depp based on the evidence of Mr. Depp's alcohol and drug use since the 1980s. Dr. Spiegel is expected to testify that the record evidence demonstrates that Mr. Depp has a history of using or overusing alcohol and controlled drugs, including cocaine, ecstasy (MDMA), magic mushrooms and cannabis as well as certain prescribed drugs (notably Oxycodone, Roxicodone or Roxies, Xanax and Adderall). Dr. Spiegel is also expected to testify that regularly associating with others who extoll the virtues of drugs is an indicator of a drug problem, and in this case, Mr. Depp regularly associated with such people, including Hunter S. Thompson, Keith Richards, and Marilyn Manson, who extolled the virtues of drugs and alcohol. Dr. Spiegel will also testify about record evidence, including but not limited to, Dr. Kipper attempting to treat Mr. Depp for years for "polysubstance abuse" (the abuse or dependence to many substances), text messages where Mr. Depp is seeking cocaine and ecstasy, articles where Mr. Depp admits that he spends much more than $30,000 a month on wine, deposition and trial testimony of Mr. Depp's drug and alcohol abuse, and notes from Mr. Depp's own doctors, including Dr. Kipper's analysis that Mr. Depp "is uncomfortable, is pessimistic that he will ever be able to stop doing drugs, actually romanticizes the entire drug culture and has no accountability for his behaviors." Based on this evidence, Dr. Spiegel is expected to testify that Mr. Depp's conduct is indicative of and consistent with displaying a long-term alcohol and drug addiction and has abused drugs and alcohol, which is considered a significant risk factor of IPV, as further discussed below.

Dr. Spiegel is also expected to testify that hundreds of studies show a significant link between substance abuse and memory loss, which, as a result, affects cognitive functions such as learning, language and comprehension. When a person experiences a blackout during alcohol or drug use, for example, it prevents the brain from completing the process of forming memories. Persistent drug use can cause not only issues with recalling recent events but also long-term memory loss. Drug and alcohol use affects the hippocampus which is essentially the brain's memory-storage system. Someone who becomes heavily dependent on drugs, including alcohol, will start to see long-lasting effects to their memory and brain function. They may begin to struggle with learning new things and have trouble recalling details such as birthdays and other important dates. Dr. Spiegel is also expected to testify that there is a high correlation between domestic abuse, heavy alcohol abuse, and cognitive disorders. *See* Differential Cognitive Profiles of Intimate Partner Violence Perpetrators Based on Alcohol Consumption, Alcohol Volume 70, August 2018, Pages 61-71, SaraVitoria-Estruch; AngelRomero-Martínez; MarisolLila; LuisMoya-Albiol.

Dr. Spiegel is expected to testify that based on his review of Mr. Depp during the video deposition taken of Mr. Depp on November 10, 11 and 12, 2020, Dr. Spiegel was able to review and assess Mr. Depp's appearance, behavior and thought process, thought content, cognitive symptoms, insight and judgment. Dr. Spiegel is expected to testify that Mr. Depp demonstrated impaired attention, difficulty with word-finding retrieval, demonstrated impaired cognitive memory and processing speed, and difficulty in his ability to focus on the topic at hand. Dr. Spiegel is expected to testify that based on Mr. Depp's age of 57, these impairments cannot be attributable to age, but are consistent with Mr. Depp's use and abuse of alcohol and drugs. This is also consistent with the record evidence, which has demonstrated Mr. Depp having cognitive

impairments not in line with his age, such as failing to recall his lines for his movies, and having them read to him while wearing an ear piece.

II. Intimate Partner Violence

A. Analysis of IPV

Dr. Spiegel is expected to testify as to the definition of IPV, which is a pattern of assaultive and coercive behaviors that may include inflicted physical injury, psychological abuse, sexual assault, progressive social isolation, stalking, deprivation, intimidation and threats.

IPV is common. It affects millions of people in the United States each year. Data from CDC's National Intimate Partner and Sexual Violence Survey indicate about one in four women have experienced contact sexual violence, physical violence, and/or stalking by an intimate partner during their lifetime and reported some form of IPV-related impact. About 35% of female IPV survivors experience some form of physical injury related to IPV. There are also many other negative health outcomes associated with IPV. These include a range of conditions affecting the heart, digestive, reproduction, muscle and bones, and nervous systems, many of which are chronic. Survivors can experience mental health problems such as depression and posttraumatic stress disorder (PTSD) symptoms.

Dr. Spiegel is expected to testify that, based on his work with perpetrators and victims of IPV, as well as significant research in the field, there are identified risk factors, or characteristics of a person that increase risk of that person being an IPV perpetrator. Those risk factors include heavy alcohol and drug use, poor behavioral control/impulsiveness, a narcissistic personality, and attitudes accepting or justifying IPV. Dr. Spiegel is expected to testify that, based on the evidence he reviewed, including text messages, photographs, video tapes, audio files, medical

documentation, therapy records, witnesses, depositions, trial testimony and other exhibits, Mr. Depp has engaged in conduct indicative of or consistent with these risk factors.

Dr. Spiegel is expected to testify that this case includes allegations of all forms of IPV, including physical violence, sexual abuse, and psychological aggression, and is further expected to testify as follows:

i. **Physical violence.** Physical violence involves forceful physical contact that may vary from light pushes and slaps to severe beatings and lethal violence. A review of the evidence in this case shows a significant amount of physical abuse perpetrated against Ms. Heard throughout the course of their relationship, and that Ms. Heard was physically assaulted several times per week, sometimes daily. There are numerous witnesses who reported seeing cuts, bruises, and injuries for years, and it was reported that Mr. Depp grabbed, pushed, and shoved Ms. Heard; physically restrained her; pulled her by the hair; strangled her; punched her on her face, head, and body; slapped her with the front and back of his hand; kicked her; slammed her against the wall and floor; threw objects at her; suffocated her, flicked a cigarette at her; pulled her by the hair; and beat her up.

ii. **Sexual abuse.** Sexual abuse includes coercive and physical behaviors varying from trying to persuade someone to perform a sexual act against their will, ignoring "no" responses, to physically forced sex acts. There is record evidence of Mr. Depp sexually assaulting Ms. Heard on a number of occasions.

iii. **Psychological aggression**. Psychological aggression (or emotional abuse) refers to acting in an offensive or degrading manner toward another, usually verbally, and may include threats, ridicule, withholding affection, and restrictions (*e.g.*, social isolation, financial control). These behaviors are perpetuated by someone who is, was, or wishes to be involved in

an intimate or dating relationship with an adult or adolescent, and one aimed at establishing control by one partner over the other. (Capaldi DM, Knoble NB, Shortt JW, Kim HK. A Systematic Review of Risk Factors for Intimate Partner Violence. Partner Abuse. 2012;3(2):231-280.doi:10.1891/1946-6560.3.2.231.)

Psychologically abusive behaviors by Mr. Depp that were reported in this case include but are not limited to: intimidation by throwing things, slamming things, writing on surfaces, such as countertops, lamp shades, mirrors and walls, erratic behavior; antagonistic behaviors about Ms. Heard's career; criticizing her ambition; obsessive jealousy about male co-stars; offensive and degrading comments (whore, cunt, bitch, ugly, fat); constant accusations of flirting and infidelity; controlling her clothing choices and movie parts; insisting on using his security detail and vehicles, not permitting her to have a password on her devices, showing up on set, insisting she spend his money and being upset when she resisted; criticizing her body; and emotional manipulation (threats of suicide; threats and actual infliction of self-harm).

B. <u>Substance Abuse is a Risk Factor of IPV</u>

Substance abuse has been found to occur in 40-60% of IPV incidents across various studies. Several lines of evidence suggest that substance use/abuse plays a facilitative role in IPV by precipitating or exacerbating violence. This includes IPV perpetration in the contexts of intoxication, and withdrawal and addiction. Likewise, drug-induced paranoia and fears of infidelity were used by perpetrators to justify IPV in ways that extended men's more everyday invocations of sexual jealousy and distrust as reasons for checking up on partners. Dr. Spiegel is expected to testify that intoxication related to alcohol and stimulant drugs (methamphetamines and cocaine) was linked to IPV perpetration in all studies. Several studies have also shown that both survivors of IPV and perpetrators talk about how partners under the influence of alcohol

and/or drugs turn from a "good husband to a bad husband" (Boonzaier & Rey, 2003); from "Dr. Jekyll to Mr. Hyde" (Gilbert et al., 2001)] ; from "a warrior to a beater" (Matamonasa-Bennett, 2015)]; turn into "dictators," and "converts you into a monster" (Gilchrist et al., 2015) (Boonzaier & Rey, 2003).

Studies have also shown an increased risk of IPV perpetration when dependent perpetrators were in withdrawal or craving alcohol, heroin and stimulant drugs due to irritability and frustration (Satyanarayana et al., 2015; Wilson et al., 2017) (Gilbert et al., 2001) (Abdul-Khabir et al., 2014; Ludwig-Barron et al., 2015) (Watt, 2012).

As discussed above, the record evidence reflects that Mr. Depp had a history of alcohol and drug abuse, including during the relationship with Ms. Heard.

C. Lack of Behavioral Control and Impulsiveness is a Risk Factor of IPV

Dr. Spiegel is expected to testify that the lack of behavioral control and impulsiveness is also a strong risk factor for IPV. Research indicates a robust association between impulsivity, or the inability to regulate certain behaviors, and various forms of aggressive behavior (*e.g.*, *Abbey et al.*, 2002; Hynan & Grush, 1986; Netter et al., 1998), including IPV (*e.g.*, Cohen et al., 2003; Shorey, Brasfield, Febres, & Stuart, 2010; Schafer et al., 2004). Cross-sectional research indicates that men who report IPV perpetration are higher in impulsivity compared to men who do not report IPV (Cohen et al., 2003).

Dr. Spiegel is expected to testify that the record evidence reflects that Mr. Depp lacks behavioral control and impulsiveness. This evidence includes, but is not limited to, notes from Mr. Depp's doctor (Dr. Kipper) referring to Mr. Depp: "[t]here is also an issue of patience. He's driven almost reflexively by his id - has no patience for not getting his needs met, has no understanding of delayed gratification and is quite childlike in his reactions when he does not get

immediate satisfaction." This lack behavioral control and impulsiveness is another significant risk factor for IPV.

D. Narcissism is a Risk Factor of IPV

A narcissist is a person who has an inflated sense of their own importance, a deep need for excessive attention and admiration, troubled relationships, and a lack of empathy for others.

Dr. Spiegel will testify that according to the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition, symptoms of Narcissistic Personality Disorder include (1) requiring excessive admiration; (2) possessing a sense of entitlement, such as an unreasonable expectation of favorable treatment or compliance with his or her expectations; (3) is exploitative and takes advantage of others to achieve his or her own ends; (4) lacks empathy and is unwilling to identify with the needs of others; (5) is often envious of others or believes that others are envious of him or her; and shows arrogant, haughty behaviors and attitudes. Dr. Spiegel will testify that narcissists have a fragile self-esteem that is vulnerable to the slightest criticism.

Dr. Spiegel is expected to testify that in his review of the record evidence, Mr. Depp has engaged in behavior and conduct indicative of and consistent with all these symptoms of Narcissistic Personality Disorder which is another risk factor for IPV. These behaviors and characteristics are documented by Mr. Depp's own treating physician, Dr. Kipper, as well as reflected by other record evidence.

Studies have shown that narcissistic men are more likely to commit domestic violence. For example, the findings of Kent State University researchers (2010) suggest that "the anger, hostility, and short fuse that accompany a man's narcissism tend to be directed toward ... women," and that "narcissistic men can become enraged when they are denied gratification... including when people reject them." In fact, some of the more common traits that overlap both

narcissists and abusers include lack of empathy, controlling behavior, self-absorption, displays of physical violence when told "no," and displays of anger when they perceive rejection from their partner. Dr. Spiegel is also expected to testify when there is an association of substance abuse disorder with Narcissistic Personality Disorder, there is a significantly increased likelihood of more hostility and aggression from the perpetrator.

E. Attitudes Accepting or Justifying IPV is a Risk Factor of IPV

Attitudes toward IPV are known predictors of IPV victimization and perpetration. Dr. Spiegel is expected to testify that there is record evidence demonstrating that Mr. Depp would "joke" about IPV, even in public articles. This includes, but is not limited to, a GQ article in which Mr. Depp admitted telling Hunter S. Thompson about Kate Moss, "she gets a severe beating." Mr. Depp was also involved in a particularly striking text exchange, dated June 11, 2013, where Mr. Depp wrote "Let's burn Amber!!!" and "Let's drown her before we burn her!!! I will fuck her burnt corpse afterwards to make sure she's dead." Dr. Spiegel is expected to testify that such cavalier attitudes toward IPV are a significant risk factor of IPV actually occurring in intimate relationships.

F. Being a Previous Victim of Physical or Psychological Abusive is a Risk Factor of IPV

Studies have also demonstrated that previously being a victim of physical or psychological abuse and witnessing IPV between parents as a child can also be a risk factor that leads to a person being an IPV perpetrator in his intimate relationships.[5] Dr. Spiegel is expected

[5] *See e.g.*, Storvestre GB, Jensen A, Bjerke E, Tesli N, Rosaeg C, Friestad C, Andreassen OA, Melle I, Haukvik UK. Childhood Trauma in Persons With Schizophrenia and a History of Interpersonal Violence. Front Psychiatry. 2020 May 5;11:383. doi: 10.3389/fpsyt.2020.00383. PMID: 32431632; PMCID: PMC7214725; Ernst AA, Weiss SJ, Hall J, Clark R, Coffman B, Goldstein L, Hobley K, Dettmer T, Lehrman C, Merhege M, Corum B, Rihani T, Valdez M, Adult intimate partner violence perpetrators are significantly more likely to have witnessed

to testify that his review of the evidence demonstrates that Mr. Depp was a previous victim of physical violence from his mother, and saw his parents engage in IPV. This includes Mr. Depp's testimony that his "[b]rains [were] beaten out by my mom" as far back as he could remember, through the age of 17. Mr. Depp also testified that his mother would punch his father, knocking teeth out of his father's mouth, and that his father, in response, punched holes in the wall. This witnessing of violence at a young age is a high-risk factor of IPV.

G. Warning Signs of IPV

In addition to risk factors of IPV, Dr. Spiegel is expected to testify based on studies and his work with perpetrators and victims of IPV, that there are certain warning signs to help recognize if someone is an IPV perpetrator. These warning signs include:

- **Use of physical aggression**. They often slap, hit, shove, or push their partner. Dr. Spiegel is expected to testify that based on the record evidence, including but not limited to, audio recordings, pictures of Ms. Heard's injuries, text messages, video recordings, and deposition and trial testimony, the record reflects that Mr. Depp has slapped, hit, shoved Ms. Heard on a regular basis, and has also head-butted her, grabbed her hair and punched her, dragged her across the room, kicked her, thrown objects at her, strangled her, and suffocated her.
- **They are unpredictable. Their moods tend to change rapidly and radically**. Dr. Spiegel is expected to testify to the record evidence, including but not limited to deposition and trial testimony, emails, texts, video, audio, and journal entries,

intimate partner violence as a child than nonperpetrators. Am J Emerg Med. 2009 Jul;27(6):641-50; Flynn A, Graham K. "Why did it happen?" A review and conceptual framework for research on perpetrators' and victims' explanations for intimate partner violence. Aggress Violent Behav. 2010;15(3):239-251. doi:10.1016/j.avb.2010.01.002; https://www.cdc.gov/violenceprevention/intimatepartnerviolence/riskprotectivefactors.html

that demonstrate Mr. Depp's change from a loving husband to what even Mr. Depp called "the Monster."

- **They are often jealous, suspicious, and/or angry – even if they have no reason to be.** Dr. Spiegel is expected to testify about the record evidence, which reflects Mr. Depp's jealousy of virtually any man who worked with Ms. Heard, and his fear that she was having affairs with multiple partners.
- **They control their partner's time. They monitor and control their partner's activities, including whether they go to work or school, and how much they see their family and friends.** Dr. Spiegel is expected to testify that Mr. Depp reflected this conduct as well. Based on the record evidence, including deposition and trial testimony, he would call directors and male costars to check on her, insist she use his vehicles and security detail, not have passwords on her devices so he could easily access them, interfere with filming and roles, and regulate and manipulate who she could see and spend time with.
- **They control their partner's money. They make important financial decisions with shared money by themselves, or they take their partner's money without permission.** Dr. Spiegel is expected to testify to the record evidence that reflects that Mr. Depp exerted his financial control over Ms. Heard and attempted to exert even more control.
- **They use verbal threats. They are not afraid to name-call, swear, and yell at their partner.** Dr. Spiegel is expected to testify to the degrading comments Mr. Depp made toward Ms. Heard (whore, cunt, bitch, ugly, fat).

- **They isolate their partner. They may limit their partner's use of the phone or other sources of communication, or may force their partner to stay at home.** Dr. Spiegel is expected to testify that the evidence of Mr. Depp controlling where Ms. Heard stayed, regulating who she can see and when, and requiring that she not have any passwords on devices so he had unfettered access to her devices and communications is a warning sign of IPV.
- **They blame. They often try to blame their partner or others for their problems.** Dr. Spiegel is expected to testify that the record evidence reflecting Mr. Depp constantly blaming Ms. Heard for the problems in their relationship.
- **They threaten to hurt themselves, their partner, or their partner's loved ones if their partner tries to leave.** Dr. Spiegel is expected to testify as to the warning signs of IPV, where Mr. Depp regularly told Ms. Heard during or after an altercation that he was thinking of suicide or threats of (and actual) self-harm if she did not do as he pleased, and audo recordings relating to using a knife and inflicting a cigarette burn.

Dr. Spiegel is expected to testify that in his review of the record materials and in speaking with Ms. Heard, Mr. Depp exhibited all these warning signs in his relationship with Ms. Heard.

All of Dr. Spiegel's opinions are within a reasonable degree of psychiatry and behavioral sciences and professional probability and/or certainty. Dr. Spiegel may also testify in response to the testimony and opinions of the Mr. Depp's expert witnesses, if any, and reserves the right to consider any further discovery and documentation or facts which become available to him.

FILED UNDER SEAL-
SUBJECT TO PROTECTIVE ORDER

February 16, 2021

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ATTACHMENT 1

Curriculum Vitae
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EDUCATION

1996	Doctor of Philosophy in Clinical Psychology Nova Southeastern University, Fort Lauderdale, FL
1992	Master of Science in Clinical Psychology Nova Southeastern University, Fort Lauderdale, FL
1988	Bachelor of Arts in Psychology Hamilton College, Clinton, NY

PROFESSIONAL TRAINING

9/96 - 9/97	*Postdoctoral Fellow - Research Associate in Psychiatry* Weill Cornell Medical College - New York Presbyterian Hospital Anxiety and Traumatic Stress Program - Payne Whitney Clinic New York, NY
6/94 - 6/95	*Predoctoral Intern* Yale University School of Medicine - Department of Psychiatry Substance Abuse Treatment Unit and West Haven Mental Health Clinic New Haven, CT

CURRENT POSITIONS

1998 - Present	*Independent Practice in Clinical and Forensic Psychology* Specialization in Traumatic Stress, Interpersonal Violence and Anxiety Disorders
2010 - Present	*Clinical Assistant Professor of Psychology in Psychiatry* Weill Cornell Medical College - New York Presbyterian Hospital New York, NY

LICENSURE & BOARD CERTIFICATION

1997 New York Licensed Psychologist
2005 Board Certification in Forensic Psychology - American Board of Professional Psychology
2015 Connecticut Licensed Psychologist
2015 North Carolina Licensed Psychologist

PROFESSIONAL AFFILIATIONS

American Psychological Association (APA)
- American Psychology and Law Society
- Division of Trauma Psychology
- Psychologists in Independent Practice
- Society for the Psychology of Women

New York State Psychological Association (NYSPA)
American Board of Professional Psychology (ABPP)
Fellow – American Academy of Forensic Psychology (AAFP)
International Society for Traumatic Stress Studies (ISTSS)
Anxiety Disorders Association of America (ADAA)
Women's Mental Health Consortium (WMHC)
International Society for the Study of Trauma and Dissociation (ISSTD)

PROFESSIONAL ACTIVITIES

American Psychological Association (APA)
- *Council of Representatives* – Division of Trauma Psychology – 2018-2020
- *Member-at-Large* – Division of Trauma Psychology – 2013-2014
- *Leadership Institute for Women in Psychology* – 2011-2012
- *Awards Chair* - Division of Trauma Psychology – 2010-2012
- *Convention Program Co-Chair* – Division of Trauma Psychology 2008-2010

Women's Mental Health Consortium
- President 2009-2017
- Membership Chair 2007-2009

International Society for Traumatic Stress Studies (ISTSS)
- Program Committee 2001

CLINICAL EXPERIENCE

1/97 - 9/97	*Clinical Diagnostic Interviewer* Rockefeller University-Laboratory of Human Neurogenetics, NY, NY
9/92 - 8/93	*Psychology Extern* Veterans' Administration Outpatient Clinic, Oakland Park, FL
9/91 - 8/92	*Psychology Extern* Family Violence Program, Nova University, Fort Lauderdale, FL
9/90 - 6/91	*Psychology Trainee* Nova University Community Mental Health Center, Lauderhill, FL
5/91 - 11/91	*Crisis Clinician* Nova University Crisis Services, Fort Lauderdale, FL
5/89 - 7/90	*Legal Services Assistant* The Legal Aid Society - Federal Defenders Services Unit, New York, NY

5/88 - 5/89	*Substance Abuse Counselor* Narco Freedom, Bronx, NY
10/87 - 5/88	*Field Study Intern* Central New York Psychiatric Center, Marcy, NY

TEACHING EXPERIENCE

2002 - 2010	*Clinical Instructor of Psychology in Psychiatry* Weill Cornell Medical College, New York, NY New York Presbyterian Hospital - Payne Whitney Clinic
1998 - 2000	*Consultant: Professional Development, Education and Training* Victim Services, New York, NY
9/92 - 12/92 9/93 - 12/93	*Teaching Assistant* Nova Southeastern University, Fort Lauderdale, FL Courses: Advanced Research Design and Intermediate Statistics

RESEARCH EXPERIENCE

5/92 - 5/94	*Research Coordinator* Sexual Abuse Survivors Program Nova University Community Mental Health Center, Fort Lauderdale, FL
9/91 - 5/94	*Research and Statistical Consultant* Nova University - Fort Lauderdale, FL

PUBLICATIONS

Tardiff K. and Hughes, D.M. (2011). Structured and clinical assessment of risk of violence. In Drogin et al. (Eds.) *Handbook of Forensic Assessment: Psychiatric and Psychological Perspectives*, John Wiley & Sons, Inc., New Jersey

Hughes, D.M. & Cloitre, M. (1999). Rape and sexual assault among adult women. In K. Tardiff (Ed.). *Medical Management of the Violent Patient,* Marcel Dekker, Inc., New York

Gold, S.N., Hughes, D.M. & Swingle, J. (1999). Degrees of memory of childhood sexual abuse among women survivors in therapy. *Journal of Family Violence, 14*, 35-46.

Gold, S.N., Elhai, J., Lucenko, B.A., Swingle, J.M., & Hughes, D.M. (1998). Abuse characteristics among childhood sexual abuse survivors in therapy: A gender comparison. *Child Abuse and Neglect, 22*, 1005-1012.

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Gold, S.N., Hughes, D.M. & Swingle, J. (1996). Characteristics of childhood sexual abuse among female survivors in therapy. *Child Abuse and Neglect, 20*, 323-335.

Gold, S.N., Hughes, D.M. & Hohnecker, L. (1994). Degrees of repression of sexual abuse memories. *American Psychologist, 49*, 441-442.

PROFESSIONAL PRESENTATIONS

Hughes, D.M. and Rocchio, L.M. (August 2014). *Essentials of Forensic Assessment of Trauma in Criminal and Civil Matters.* Presentation at the 122nd Annual Convention of the American Psychological Association, Washington, D.C.

Hughes, D.M. (November 2013). *It Matters: The Developmental Lifespan of the Trauma Therapist.* Symposium presentation at the 30th Annual Meeting of the International Society for the Study of Trauma and Dissociation, Baltimore, MD

Hughes, D.M. (November 2011). *Conceptualization of Complex Trauma and PTSD in Forensic Matters.* Panel presentation at the 27th Annual Meeting of the International Society of Traumatic Stress Studies, Baltimore, MD

Hughes, D.M. (August 2011). *Assessment of Complex Trauma in a Forensic Setting.* Presentation at the 119th Annual Convention of the American Psychological Association, Washington, D.C.

Hughes, D.M. (June 2011). *What Every Psychologist Needs to Know About Trauma.* Workshop presentation at the New York State Psychological Association Annual Conference, New York, NY

Hughes, D.M. (March 2011). *Vicarious Traumatization in Forensic Practice: Why Does It Matter?* Presentation at the American Psychology and Law Annual Conference, Miami, FL

Hughes, D.M. and Rocchio, L.M. (November 2010). *Forensic Assessment of Psychological Trauma and PTSD.* Workshop presented at the 26th Annual Meeting of the International Society of Traumatic Stress Studies, Montreal, Canada

Hughes, D.M. (August 2010). *Ethical Dilemmas and Professional Considerations for Working with the Adult Survivor of Sexual Abuse: Forensic Psychology.* Presentation at the 118th Annual Convention of the American Psychological Association, San Diego, CA

Hughes, D.M., Courtois, C., Walker, L.E., and Vasquez, M. (August 2009). *Trauma treatment in independent practice: Principles and resources.* Workshop presented at the 117th Annual Convention of the American Psychological Association, Toronto, Canada

Hughes, D.M. (August 2008). *Difficulties and dilemmas when dissociation is present in forensic cases.* Presentation at the 116th Annual Convention of the American Psychological Association, Boston, MA

Hughes, D.M. (November 2007). *Forensic issues in the assessment of trauma.* International Society for Trauma and Dissociation 24th Annual Conference, Philadelphia, PA

Hughes, D.M. (November 2000). Multi-method approach to assessment in forensic evaluations. In A. Pratt (Chair) *Forensic assessment and testimony: Psychological trauma.* A workshop presentation at the 16th Annual Meeting of the International Society for Traumatic Stress Studies, San Antonio, TX.

Hughes, D.M. (August 1999). *Training in interpersonal violence: The next generation.* Presentation at the American Psychological Association Annual Convention, Boston, MA.

Gold, S.N., Hughes, D.M. & Swingle, J. (November 2000). *Memory for childhood sexual abuse: A matter of semantics.* Panel presentation at the16th Annual Meeting of the International Society for Traumatic Stress Studies, San Antonio, TX.

Hughes, D.M. & Gold, S.N. (November 1997). *Memory for childhood sexual abuse and adult symptomatology.* Poster session presented at the 13th Annual Meeting of the International Society for Traumatic Stress Studies, Montreal, Canada.

Hughes, D.M., Cloitre, M., Hand, R., Klein, C., Herwitz, J., Bleiberg, K. & Pessier, J. (November 1997). Role functioning impairment in CSA-related PTSD. In D.M. Hughes (Chair), *Role functioning impairment among women with childhood sexual abuse related PTSD.* Symposium presentation at the 13th Annual Meeting of the International Society for Traumatic Stress Studies, Montreal, Canada.

Cloitre, M., Hughes, D.M. & Hand, R. (November 1997). A two-phase treatment for CSA-related PTSD: Rationale and preliminary results. In D.M. Hughes (Chair), *Role functioning impairment among women with childhood sexual abuse related PTSD.* Symposium presentation at the 13th Annual Meeting of the International Society for Traumatic Stress Studies, Montreal, Canada.

Klein, C., Hughes, D.M. & Cloitre, M. *Ethnocultural considerations in the assessment of PTSD in survivors of sexual assault.* (November 1997). Poster presentation at the Annual Meeting of the Association for the Advancement of Behavioral Therapy, Miami, FL.

Gold, S.N., Hughes, D.M. & Swingle, J. (July 1995). *Degrees of memory of childhood sexual abuse among female survivors in therapy.* Paper presented at the 4th International Family Violence Research Conference, Durham, NH.

Stear, C.A., Gold, S.N., & Hughes, D.M. (November 1994). *Family of origin atmosphere of sexual abuse survivors, distressed, and non-clinical families.* Paper presented at the Illinois Psychological Association Annual Convention, Chicago, IL.

Gold, S.N., Williamson, C. & Hughes, D.M. (March 1994). *Male sexual abuse survivors: Integrating empirical and clinical findings.* Paper presented at the Mid-Winter Convention of APA Divisions 29, 42, & 43.

Hughes, D.M., Bramson, J., Galper, L., Gelpi, H., Rubenstein, F & Dutton, M.A. (June 1992). *Training in the context of relationships: A model for the family violence clinician.* Paper presented at the First World Congress of the International Society for Traumatic Stress Studies, Amsterdam, The Netherlands.

INVITED ADDRESSES

Hughes, D.M. (October 29, 2020). *Intimate Partner Violence: Understanding Women's Use of Force.* In CLE program, 2020 Judicial Symposium on Domestic Violence – Keynote Webinar Series. New York States Courts Office of Policy and Planning. New York, NY

Hughes, D.M. (September 17, 2019). *Mental Health Issues and the Workplace.* In CLE program, The Interplay of Mental Health Disabilities and Workplace Accommodations. New York City Bar Association, New York, NY

Hughes, D.M. (April 3, 2019). *Psychological Issues in the Workplace 2019.* Practicing Law Institute, New York, NY

Hughes D.M. (June 8, 2018). *Trauma and the Courtroom.* Alumni College Speaker. Hamilton College, Clinton, NY

Hughes, D.M. (February 2, 2018). *Domestic Violence 2018: Survivors as Defendants, Respondents, and Parole or Clemency Applicants.* Practicing Law Institute, New York, NY

Hughes, D.M., & Rocchio, L.M. (August 6, 2016). *Forensic work with trauma populations.* APA Division 56 – Trauma Psychology suite presentation at the American Psychological Association Annual Convention. Denver, CO

Hughes, D.M., Courtois, C., & Brown, L. (August 5, 2016). *Establishing a clinical practice in trauma psychology.* APA Division 56 – Trauma Psychology suite presentation at the American Psychological Association Annual Convention. Denver, CO

Hughes, D.M. (September 16, 2015 and October 7, 2015). *Interpersonal Violence, Trauma, and the Courtroom in Understanding the Ties that Bind: Judicial Responses to Domestic and Sexual Violence.* Judicial Training -New York Unified Court System - Domestic Violence Task Force. White Plains and Rochester, New York.

Dutton, M.A. and Hughes, D.M. (April 13, 2015). *Expert Witness Testimony in Cases Involving Domestic Violence.* Webinar conducted for the National Clearinghouse for the Defense of Battered Women.

Hughes, D.M. (September 2012). *The Relationship Matters: Maximizing Success.* Presentation to attorneys at Outten and Golden, LLP. New York, NY

Hughes, D.M. (June and August 2012). *Promoting Healthy Relationships: Living Without Violence and Abuse.* Professional training presented to the United States Army National Guard. Fort Hamilton, NY

Hughes, D.M. (July 2011). *Remaining Civil with the Uncivil.* College of Labor and Employment Lawyers. EEOC. New York, NY

Hughes, D.M. (March 2011). *The Victim of Interpersonal Violence and the Courtroom.* Judicial Commission on Women in the Courts invited Continuing Legal Education seminar. Brooklyn, NY

Hughes, D.M. (November 2010). *The Use of Psychological Experts in Cases of Domestic Violence.* Invited Continuing Legal Education seminar presented at the Kings County Criminal Bar Association, Brooklyn, NY

Hughes, D.M. (July 2010). *Ethics and Risk Management in the Practice of Psychotherapy.* Invited presentation at the Women's Mental Health Consortium Quarterly Meeting, New York, NY

Hughes, D.M. (January 21 and 22, 2010). *Understanding Domestic Violence.* Professional training in Advocating for Children in Cases of Domestic Violence by the New York Appellate Divisions and the New York State Office of Court Administration. New York City and White Plains.

Hughes, D.M. (2009). *The victim of interpersonal violence and the courtroom: Strategies for understanding.* Manhattan Integrated Domestic Violence Courts Continuing Legal Education Seminar (February 2009); Appellate Division Fundamental Training Series (May 2009 and January 2010); Queens County Family Court Continuing Legal Education Seminar (June 2009).

Hughes, D.M. (March 2008). *Collision course of children's wishes, best interests, and domestic violence.* Invited presentation and the Twelfth Annual Conference on Domestic Violence. Fordham Law School, New York, NY

Hughes, D.M. (March 2007). The *inconvenient truths of domestic violence.* Invited address at the Eleventh Annual Conference on Domestic Violence. Fordham Law School, New York, NY

Hughes, D.M. (June 2006). *Issues and dilemmas in interpersonal violence.* Invited presentation at STEPS to End Family Violence. New York, NY.

Hughes, D.M. (December 2001). *Relevance of domestic violence in the courtroom: Expert testimony in a duress case.* Chairperson of a mock trial continuing education seminar at the 17th Annual Meeting of the International Society of Traumatic Stress Studies, New Orleans, LA.

Hughes, D.M. (September 2001). *Psychological assessment in the aftermath of the World Trade Center disaster.* Emergency meeting of the New York Chapter of the International Society of Traumatic Stress Studies. New York, NY.

Hughes, D.M. (April 2001). Moving beyond domestic violence 101: Challenges and solutions. Invited presentation in J. Pearl and S. Herman (Chairs), *Violence and the Family: Current legal and mental health perspectives.* Association of the Bar of the City of New York, New York, NY.

Hughes, D.M. (June 2000). Psychological testing in forensic evaluations. Invited presentation in symposium, M. Dowd (Chair) *Psychological evidence in pleas negotiations and sentencing.* Association of the Bar of the City of New York, New York, NY.

ATTACHMENT 2

Testimony and Depositions

Amber Heard - UK testimony
John C. Depp – UK testimony
John C. Depp – Deposition – November 10, 11, and 12 2020
Amber Heard – Divorce Deposition – August 13, 2016

iO Tillet Wright – UK testimony
Whitney Henriquez – UK testimony
Melanie Inglessis – UK testimony
Josh Drew – UK testimony
Raquel Pennington – UK testimony
Laura Divenere – UK testimony

Raquel Pennington – Deposition – June 16, 2016
Josh Drew – Deposition – November 19, 2019
Isaac Baruch – Deposition – November 20, 2019
Ellen Barkin – Deposition – November 22, 2019
Liz Marz – Deposition – November 26, 2019
Lisa Beane – Deposition – December 13, 2019
Kristina Sexton – Deposition – December 18, 2019
Cornelius Harrell – Deposition – January 13, 2021
Laura Divenere – Deposition – January 15, 2021
Melanie Inglessis – Deposition – February 2, 2021

Legal Documents

Declaration of Amber Laura Heard (with exhibits) – Depp v Heard - April 10, 2019
Declaration of John C. Depp (with exhibits) – May 2019
Judgment and Decision - John Christopher Depp II Claimant v. News Group Newspapers Ltd. and Dan Wootton – November 11, 2020
Complaint – Depp v Heard – March 1, 2019
Answer and Grounds of Defense – Depp v Heard – August 10, 2020
Counterclaim (with exhibits) - Depp v Heard – August 10, 2020
Answer and Grounds of Defense to Counterclaim – Depp v Heard – January 22, 2021

Medical Records

Medical Records Amber Heard
Dr. David Kipper (including nurse's notes)
Dr. Connell Cowan
Dr. Laurel Anderson – Treatment Summary

Medical Records Johnny Depp
Dr. David Kipper (including nurse's notes)
Australia Medical Records

Audio

Boston Plane Incident – May 24, 2014
Knife – July 22, 2016 - CTRL00058195
Australia damage - March 2015
Headbutting - 20160722 144803

Video

JD in Kitchen Slamming Cabinets - Feb 10 2016
Columbia Building Surveillance Cameras

Photos

Contained in Exhibits to AH and JD Declarations
Property Damage -May 21, 2016
Various pictures of Amber Heard cuts and bruises

Text Messages

Contained in Exhibits to AH and JD Declarations
AH Texts with Paige Heard 3-22-13
Paul Bettany - Texts with JD
Australia Texts – JD asking for illicit substances

Documents

Diary entry – Amber Heard – July 27, 2015
Draft Emails - Amber to Herself - May 25, 2014
GQ – *Johnny Depp Will Not Get Burned* – November 2018
Rolling Stone - *Inside Trials of Johnny Depp*
DEPP00008254
DEPP00008255
DEPP00008257-8278
DEPP00008296-8310
DEPP00008355
DEPP00009043-9047

DEPP00009052
DEPP00009811-9812
DEPP00010149-10151
DEPP00010345-10346
DEPP00010514
DEPP00010588
DEPP00010777
DEPP00010921
DEPP00012977-12983
DEPP00014146-14149
DEPP00017813-17814
DEPP00018224

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of October 2021, I caused copies of the foregoing to be served via email (per written agreement between the Parties) on the following:

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Benjamin G. Chew

ATTACHMENT 4

Professional Experience

Kathryn Arnold has over 20 years of hands on experience in the film development, production, finance and distribution arenas. Having produced and/or directed over 6 feature films, Live streaming television, dozens of commercials, corporate videos and events, as well as working in both the studio and independent film environment in film and television, Ms. Arnold understands the inner workings of the entertainment industry, its hiring practices, business development, financing/distribution and the economic complexities and nuances involved in a world that very few understand. Working closely with each client, she brings the full benefit of this valuable experience to bear on the client's unique case.

Legal Experience & Services

Ms. Arnold has been retained as an expert witness and consultant on over 6 dozen cases, with plaintiffs and defendants, such as producers, production companies, studios, media companies, investors, actors, writers, directors, on-air personalities, spokespersons, production crew, and other entertainment related personnel.

She has provided expert testimony, reporting, consultation, financial forecasting and referrals for clients on cases regarding economic damage and lost wages from copyright infringement, breach of contract, film and television financing, sales and distribution, disfigurement, personal injury, wrongful death, and economic downturn. Ms. Arnold has prepared expert reports and provided deposition and trial testimony in matters before state and federal courts and in arbitration. Clients include Gibson, Dunn & Crutcher; Jackson Walker; Jenner & Block, Haynes & Boone; Shook, Hardy & Bacon, Dummit, Buchholz & Trapp; Hosp, Gilbert, Bergsten & Hough among others.

BIO

Kathryn Arnold's career has straddled the Studio system and Independent Film worlds, as well as Corporate Sponsorship Programs. Starting out as an assistant at ICM Talent Partners and then as a script reader for the William Morris Agency, Arnold learned the inner workings of the talent agency system and the processes of managing and packaging talent and scripted material for motion pictures and television. She then became an executive at The Maltese Companies, where she developed and produced television and feature projects financed by Wall Street ad agencies. She oversaw the production of "Pound Puppies", an animated feature produced with Kushner Locke,, and was an Associate Producer on "Manhunt Live", a reality-based crime show for ABC.

At The Guber-Peters Entertainment Co. Ms. Arnold was involved in the development of feature films and television shows, with the company that produced "Rain Man" and "Batman". She was the Assoc. Producer on "Pizza Man", written and directed by Jonathan Lawton of "Pretty Woman" fame, and procured the financing and co-produced "The Webers' Fifteen Minutes" with Jennifer Tilly and David Arquette.

Arnold then began her partnership with Louis Venosta. Venosta wrote and co-produced the Mel Gibson romantic comedy, "Bird on a Wire", as well as the Tri-Star release, "The Last Dragon". Their company Secondary Modern Motion Pictures was based at Universal studios where they developed projects for Venosta to write and produce. Arnold was directly involved in the writing of both studio and independent feature scripts with Venosta. They launched Venosta's directing career, with the highly acclaimed featurette "The Coriolis Effect" which won the 1994 Venice Film Festival in its category.

Arnold went on to produce "Nevada", starring Amy Brenneman, Gabrielle Anwar, Kirstie Alley and Angus Macfadyen, and as head of Production at Cineville Films, Inc, was the Executive Producer on "Façade", starring Eric Roberts and Angus Macfadyen, and "The Velocity of Gary" with Vincent D'Onofrio, Salma Hayek, Thomas Jane, and Ethan Hawke among many others.

She was instrumental in launching Cineville International's foreign sales division in Cannes of 1997, and handled financing, foreign and domestic sales, and acquisitions, in addition to packaging, development and production responsibilities for Cineville's slate of pictures. Her relationships with the banks included Union Bank, Imperial, Lou Horwitz Organization, Banque Paribas, Co-America among others.

Arnold then produced "Cowboys and Angels", starring Adam Trese, Mia Kirshner and Radha Mitchell, which won the Crystal Heart Award. The highlight of 2000 was writing and directing "Shining Stars": "The Official Story of Earth", "Wind & Fire", a documentary film based on the electric and legendary band, released on DVD and Television Internationally in 2001. Arnold went on to be a consultant and then Head of Production at Monte Cristo Entertainment, an international sales and production company, which has a library of over 50 films. At Monte Cristo, Arnold oversaw script development, talent packaging, co-production/financing agreements, and US and international distribution deals in conjunction with the Directors of the Company.

Interwoven throughout her film production career, Arnold has a history in corporate relations and licensing. Starting with the Corporate Relations Department with the Los Angeles Olympic Organizing Committee, Arnold and her department were responsible for the licensing and usage of the LAOOC logo on product, advertising and promotional materials. Their team worked with major sponsors such as Adidas, Coco Cola, and Southland Corporation among others overseeing image usage, product approval, product placement and promotional campaigns. Their department oversaw the licensing of over 300 products during her two-year tenure.

Arnold worked with Internet Studios, an online film sales company, and raised close to US $500,000 in a 6-week period for the Sundance Online Film Festival. She then went on to work with Infinnity, Inc, producing infomercials, corporate videos and marketing events for National Corporations. And woven in through that period, Arnold produced and production managed commercials for well-known brands such as Certs.

Arnold produced the live streaming show Secrets of the Red Carpet: Style From the Inside Out, on www.empowerme.tv/secrets, which reached the top of the Itunes charts and nominated for 2 Streamy Awards in its first season and maintained its top 5 status in Fashion and Arts during its tenure.

Currently Arnold consults with several investment/production companies on international sales, financing and packaging film and television projects. She has written a series of entertainment industry-related articles and have served as an entertainment media consultant to Bloomberg News, MSNBC, CCTV, NPR, and Associated Press International, NPR, The Market on the topics of entertainment standard and practices and business development.

Arnold graduated from UCLA with a BA in Economics, speaks French, and has lived in France, Italy and Mexico.

ATTACHMENT 5

FILED UNDER SEAL-
SUBJECT TO PROTECTIVE ORDER

DATE COMPLETED: July 5, 2018

S.S.#: XXX-XX-0781

CURRICULUM VITAE

EASTERN VIRGINIA MEDICAL SCHOOL

NAME:	David R. Spiegel, MD	**SPOUSE'S NAME:**	Lisa
OFFICE ADDRESS:	825 Fairfax Avenue	**HOME ADDRESS:**	4048 Tree Chop Circle
	Norfolk, VA 23507		Virginia Beach, VA 23455
PHONE:	757-446-5888	**PHONE:**	757-227-3257
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PREFERRED MAILING ADDRESS: (Check One) OFFICE:	x	**HOME:**	

DATE & PLACE OF BIRTH BIRTH: March 2, 1963: Mineola, NY

CURRENT CITIZENSHIP (country) USA

MILITARY SERVICE None

MILITARY RESERVES	**ACTIVE:**	No	**RETIRED**	No

CONFIDENTIAL

ETHNIC/RACIAL SELF-IDENTIFICATION:

Hispanic Origin:			
	Not of Hispanic Origin	Cuban	Mexican, Mexican American,
	Puerto Rican	Other	☑ Decline to Respond
Race: (Indicate all applicable race categories):			
American Indian or Alaska Native:			
	American Indian or Alaska Native	Enrolled or Principal Tribe _____	
Asian:			
Asian Indian	Chinese	Filipino	Japanese
	Pakistani	Vietnamese	Other Asian _____
Black or African American:	Black		
Native Hawaiian or other Pacific Islander:			
Guamanian or Chamorro	Native Hawaiian	Samoan	Other Pacific Islander _____
White:	☑ White		
Other:	Other: _____		
Decline to Respond			

	SCHOOL OR HOSPITAL	DATES OF ATTENDANCE	DEGREE	FIELD
UNDERGRADUATE DEGREE:	Duke University	1981 TO 1985	B.S.	Psychology
GRADUATE DEGREE:	SUNY-Downstate-Brooklyn	1985 TO 1989	M.D.	Medical
INTERNSHIP:	Dartmouth Hitchcock Med.	1989 TO 1990	PGY-I	Medical/Psych
RESIDENCY:	Dartmouth Hitchcock Med.	1990 TO 1991	PGY-II	Psychiatry
	Hershey-Penn State COM	1991 TO 1993	PGY-III/4	Psychiatry

HOSPITAL STAFF MEMBERSHIPS: Norfolk General/Leigh Memorial Hospitals

LICENSURE (No., STATE & YEAR): **0101049313, Virginia, 4/93**

COMPLETED REQUIREMENTS FOR BOARD CERTIF.: SPECIALTY: **Psychiatry** **YEAR** **1993**

BOARD CERTIFICATION: SPECIALTY: **Psychiatry/Re-Certification** **YEAR** **2000/2010**

SUBSPECIALTY: **Psychosomatic Medicine/Re-certification** **YEAR** **2008/2018**

ACADEMIC POSITIONS: (MOST CURRENT FIRST)

RANK	INSTITUTION	YEARS
Professor of Psychiatry	Eastern Virginia Medical School	July 2013 to Present
Associate Professor of Clin. Psychiatry	Eastern Virginia Medical School	July, 2007 to July 2013
Assistant Professor of Psychiatry	Eastern Virginia Medical School	June 2001 to July 2007

PROFESSIONAL & HOSPITAL POSITIONS: (MOST CURRENT FIRST)

RANK	INSTITUTION	YEARS
Vice Chairman: Department of Psychiatry and Behavioral Sciences	Eastern Virginia Medical School/	2018
Director-Consultation-Liaison Service	Eastern Virginia Medical School/Norfolk General Hospital	2004 to Present
Medical Director: Older Adult Behavioral Health Services	Chesapeake General Hospital	1996 to 2000
Attending Psychiatrist	Chesapeake General Hospital	1993 to 2001

TEACHING EXPERIENCE (Describe in detail: courses taught, professional level of students and periods of time involved in such teaching):

Drs. David R. Spiegel and Stephen I. Deutsch were co-Directors and taught a Seminar at the 2011 Annual Meeting of the American Psychiatric Association in Hawaii entitled "Practical Guide to the Performance of the Mental Status Examination."

Co-Director/Lecturer: Behavioral Sciences II: Psychopathology/Brain, Mind, Behavior Module; 2nd Year Medical Students (2012-present)

MEMBERSHIP ON E.V.M.S. COMMITTEES: (re: Department of Psychiatry and Behavioral Sciences)

- Member of EVMS Medical School Interviewing/Voting Committee (2013-present)
- Member of Residency Training Committee (2002 to Present)
- Member of Residency Curriculum Committee (2001 to Present)
- Member-EVMS/SNGH Inpatient Behavioral Health Committee (2004 to Present)
- Member-EVMS Faculty Senate (2007 to Present)

HONORS AND AWARDS:

- The Sir William Osler Award for Outstanding Physician (2018)
- Crystal Apple Award presented by the EVMS Student Government Association (2018)
- IMPACT Award-selected by the EVMS MD Class of 2018 (2018)
- Coastal Virginia Magazine, Top Doc (2014-2018)
- Member: AOA Medical Honor Society (2014-present)

- Instructor of the Year: EVMS Psychiatry Residents (2004, 2009, 2013, 2017)
- Resident's Choice Award: EVMS Psychiatry Residents (2007, 2018)

COMMUNITY SERVICES:

- Member of Physician's Advisory Committee-Beth Shalom Home of Eastern Virginia (2001-2006)
- Member: Quality Assurance Committee- Beth Shalom Home of Eastern Virginia (2001-2006)

MEMBERSHIP ON LOCAL AND NATIONAL COMMITTEES AND BOARDS: (Indicate offices held)

- President- Tidewater Academy of Psychiatry (2014-present)
- Member Executive Committee of Psychiatric Society of Virginia (2014-present)

MEMBERSHIP IN PROFESSIONAL SOCIETIES: (e.g. Medical Society of Va., AMA)

- Member-American Psychiatric Association (2001-present)
- Fellow-American Psychiatric Association (2017-present)
- Member-Academy of Consultation-Liaison Psychiatry (2008-present)
- Member- Psychiatric Society of Virginia (2001-present)
- Member - Medical Society of Virginia (2001-present)

BIBLIOGRAPHY:

McDaniel, W., Spiegel, D., and Kaur, A. "Topiramate Effect in Catatonia: Case Series" Journal of Neuropsychiatry and Clinical Neurosciences 2006, 18:234-238,

Babington P, and Spiegel D. "Treatment of Catatonia with Olanzapine and Amantadine," (Case Report) Psychosomatics. November-December 2007 48: 534-536.

Brown S, Spiegel D, Vyas B. "Mania in a Case of Hyperparathyroidism" (Case Report): Psychosomatics 2007, 48:2.

Camden J. and Spiegel D. "Case Study: Manic Behavior from Left Frontal Closed Head Injury in an Adult with Fetal Alcohol Syndrome,": Psychosomatics Set-Oct, 2007: 48:(5): 433-435.

Carroll, B et.al., (including Spiegel, D.). "Review of Adjunctive Glutamate Antagonist Therapy in the Treatment of Catatonic Syndromes": The Journal of Neuropsychiatry and Clinical Neurosciences. Fall, 2007: 19:(4).

Spiegel D and Leader M. "Psychosis Induced by the Interaction of Memantine and Amantadine: Lending Evidence to the Glutamatergic Theory of Schizophrenia" Clinical Schizophrenia & Related Psychoses. October, 2007: 1(3), 273-276.

Urbano M., Spiegel D., and Rai A. Frequency of Withdrawal Dyskinesia in Atypical Antipsychotic Medications. Journal of Clinical Psychopharmacology. 2007 Dec;27(6):705-7.

Foster M, and Spiegel D. "Use of Donepezil in Treating the Cognitive Impairments of Moderate Traumatic Brain Injury" (Letter to the Editor): The Journal of Neuropsychiatry and Clinical Neurosciences. 2008 20: 106.

Graham K., and Spiegel D. "Pseudobulbar Palsy and Affect in a Case of Progressive Multifocal Leukoencephalopathy," (Letter to the Editor): The Journal of Neuropsychiatry and Clinical Neurosciences. 2008; 20: 110-111.

Harvey, H., Hayashi J., and Spiegel D. "Adjunctive Usage of Beta Agonists in the Treatment of Panic Disorder and Chronic Obstructive Pulmonary Disease," (Letter to the Editor): Psychosomatics: November-December 2008.

Spiegel D., Babington P., Abcarian A., and DeFilipo C. The Differential Diagnosis of Excessive Daytime Sleepiness & Cognitive Deficits in a Patient with Delirium, Schizophrenia, & Possible Narcolepsy: A Case Report". Clinical Schizophrenia and Related Psychoses. October 2008: 255-258.

Spiegel D., Casella, D., Callender D., and Dhadwal N. Treatment of Akinetic Mutism with Intramuscular Olanzapine: A Case Series. The Journal of Neuropsychiatry and Clinical Neurosciences. 2008; 20: 93-95.

Spiegel D., Dhadwal N., and Gill F.: "I'm Sober, Doctor, Really": Best Biomarkers for Underreported Alcohol Use. Current Psychiatry. 7(9): 15-27.

Spiegel D, Laroia R. and Samuels D.: A Possible Case of Capgras Syndrome after a Right Anterior Cerebral Artery Cerebrovascular Accident Treated Successfully with Mirtazapine. The Journal of Neuropsychiatry and Clinical Neurosciences. J Neuropsychiatry Clin Neurosci. 2008 Fall;20(4):494.

Spiegel, D. and West, S.: Successful Treatment of Megaloblastic Mania with Cobalamin in a Patient with Pernicious Anemia. Clinical Schizophrenia and Related Psychosis. July 2008. 155-157.

Weiss G and Spiegel D. "Transient Amnestic Syndrome in the Setting of Recurrent Partial Elementary Seizures" (Letter to the Editor): The Journal of Neuropsychiatry and Clinical Neurosciences. 2008; 20: 115-116.

Spiegel D., Burgess J., and Laroia R., et al.: Disinhibition due to Disruption of the Orbitofrontal Circuit Treated Successfully with Carbamezapine: A Case Series. The Journal of Neuropsychiatry and Clinical Neurosciences. 21:3 Summer 2009.

Spiegel D. and Finklea L.: The Recognition and Treatment of Pathological Skin Picking: A Potential Neurobiological Underpinning of the Efficacy of Pharmacotherapy in Impulse Control Disorders. Psychiatry:2009. 6(2): 38-42.

Spiegel, D., Kim, J., Greene K., Conner, C. and Zamfir D.: "Apathy due to Cerebrovascular Accidents Successfully Treated with Methylphenidate: A Case Series". The Journal of Neuropsychiatry and Clinical Neurosciences. Spring 2009 21:2.

Spiegel, D., Lybeck B., and Angeles V.: A Possible Case of Peduncular Hallucinosis in a Patient with Parkinson's Disease Successfully Treated with Questiapine. The Journal of Neuropsychiatry and Clinical Neurosciences. Spring 2009 21:2

Spiegel D. and Ramdath N.: A Failed Case of Weaning from a Mechanical Ventilator with Lorazepam Successfully Accomplished by Ziprasidone. General Hospital Psychiatry. Volume 31, Issue 5, September-October 2009, Pages 494-496.

Spiegel D, Thomas C, Shah P, and Kent KD.: A Possible Case of Mixed Mania due to Neurosarcoidosis Treated Successfully with Methyprednisolone and Ziprasidone: Another Example of Frontal-Subcortical Disinhibition? Gen Hosp Psychiatry. 2010 May-Jun;32(3):342.e1-3. Epub 2009 Sep 11.

Urbano M., Spiegel D, Rai A., et al.: Gabapentin and tiagabine for social anxiety: a randomized, double-blind, crossover study of 8 adults. Prim Care Companion J Clin Psychiatry. 2009;11(3):123.

Archer RP, Simonds-Bisbee EC, Spiegel DR, Handel RW and Elkins D.: Validity of the Massachusetts Youth Screening Instrument-2 (MAYSI-2) Scales in Juvenile Justice Settings. Journal of Personality Assessment. 2010; 92(4): 337-348.

McDaniel WW and Spiegel DR.: Hyponatremia and Abnormal Ingestion of Water in Catatonia. Primary Psychiatry. 2010 April; 17(4): 29-34.

Spiegel DR, Bayne C, Wilcox L and Somova M. A Case of Mania due to Cryptococcal Meningitis, Successfully Treated with Adjunctive Olanzapine, in a Patient with Acquired Immunodeficiency Syndrome. General Hospital Psychiatry. 2011 May-Jun;33(3):301.e3-6. Epub 2010 Dec 22.

Spiegel D, Holtz L, and Chopra K.: A Case of Mania in a Patient with Systemic Lupus Erythematosus: Can Its Inflammatory Pathogenesis be Applied to Primary Mood Disorders? Psychiatry (Edgmont). 2010 Apr;7(4):31-6.

Spiegel D., Lapinnen E., and Gottlieb M.: A Presumed Case of Phantom Limb Pain Treated Successfully with Duloxetine and Pregabalin. General Hospital Psychiatry. 2010 Mar-Apr;32(2):228.e5-7.

Spiegel D and Radac D.: Alcohol Withdrawal: When to Choose an Adjunctive Anticonvulsants. Current Psychiatry. April, 2010; 9(4): 27-39.

Spiegel D., Turner K., Pennell K., et al.: The Successful Treatment of Mania due to Acquired Immunodeficiency Syndrome Using Ziprasidone: A Case Series. The Journal of Neuropsychiatry and Clinical Neurosciences. 22:1 Winter 2010.

Spiegel D. and Qureshi N.: The Successful Treatment of Disinhibition due to a Possible Case of Non-Human Immunodeficiency Virus Neurosyphilis: A Proposed Pathophysiological Explanation of the Symptoms and Treatment. General Hospital Psychiatry. 2010 Mar-Apr;32(2):221-4.

Spiegel D and Alexander G.: A Case of Nonfluent Aphasia Treated Successfully with Speech Therapy and Adjunctive Mixed Amphetamine Salts. The Journal of Neuropsychiatry and Clinical Neurosciences. 2011 Fall;23(1):E24.

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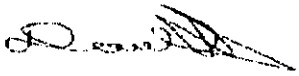
Present Funded Research and Training Grants and Contracts:

Principal Investigator	Title	Period of Grant (yrs.)	Total Amount of Award	Source of Funding
		1 year		
Ohkravi H. (Spiegel DR)	"Evaluation of EEG-based Neurometrics and Visual Paired Comparison Task Measure for the Evaluation of Cognitive Decline in Patient's at Risk for Alzheimer's Disease Task Measures"	1 year	$25,000	Norfolk Community Foundation
			$9,000	Neurotrack, Inc.

Previous Funded Research and Training Grants and Contracts:

Principal Investigator	Title	Period of Grant (yrs.)	Total Amount of Award	Source of Funding
Archer R. (Handel R, Spiegel D.)	Mental Health Functioning of Adolescents in Juvenile Detention Facilities: Linking Mental Health Services to Evaluation Results for Adolescents in the Juvenile Justice System	1 Year	$23,800	Norfolk Foundation
Urbano, M. (Spiegel, D.)	Treatment of Social Anxiety Disorder: Head to Head Trial of gabapentin and tiagabine	1 Year	$17, 000	Norfolk Foundation
Archer R. (Handel R. Spiegel D.)	Psychometric Properties of the Minnesota Multiphasic Personality Inventory Adolescent (MMPI-A) in a Mental Health Treatment Center.	1 Year	$23, 500	Norfolk Foundation



SIGNED

Date: 7/5/2018

Revised 8/18/20

ATTACHMENT 6

Documents Reviewed by David R. Spiegel, MD

Depositions

John C. Depp – November 10, 11, and 12 2020
Amber Heard – August 13, 2016
Raquel Pennington – June 16, 2016
Josh Drew – November 19, 2019
Isaac Baruch – November 20, 2019
Ellen Barkin – November 22, 2019
Liz Marz – November 26, 2019
Lisa Beane – December 13, 2019
Kristina Sexton – December 18, 2019
Cornelius Harrell – January 13, 2021
Laura Divenere – January 15, 2021
Melanie Inglessis – February 2, 2021

UK Trial Testimony

Amber Heard
John C. Depp
iO Tillet Wright
Whitney Henriquez
Melanie Inglessis
Josh Drew
Raquel Pennington
Laura Divenere

Medical Records

Medical Records Johnny Depp
- Dr. David Kipper (including nurse's notes)
- Australia Medical Records

Medical Records Amber Heard
- Dr. David Kipper (including nurse's notes)
- Dr. Connell Cowan
- Dr. Laurel Anderson – Treatment Summary

Audio

Boston Plane Incident – May 24, 2014
Knife – July 22, 2016 - CTRL00058195
Australia damage - March 2015

Headbutting - 20160722 144803

Video

JD in Kitchen Slamming Cabinets - Feb 10 2016
Columbia Building Surveillance Cameras

Photos

Contained in Exhibits to AH and JD Declarations
Property Damage -May 21, 2016
Various pictures of Amber Heard cuts and bruises
Various pictures of John C. Depp drug use and behavior

Legal Documents

Complaint – Depp v Heard – March 1, 2019
Answer and Grounds of Defense – Depp v Heard – August 10, 2020
Counterclaim (with exhibits) - Depp v Heard – August 10, 2020
Answer and Grounds of Defense to Counterclaim – Depp v Heard – January 22, 2021
Declaration of Amber Laura Heard (with exhibits) – Depp v Heard - April 10, 2019
Declaration of John C. Depp (with exhibits) – May 2019
Judgment and Decision - John Christopher Depp II Claimant v. News Group Newspapers Ltd. and Dan Wootton – November 11, 2020

Text Messages

Contained in Exhibits to AH and JD Declarations
AH Texts with Paige Heard 3-22-13
Paul Bettany - Texts with JD
Australia Texts – JD asking for illicit substances

Documents

Diary entry – Amber Heard – July 27, 2015
Draft Emails - Amber to Herself - May 25, 2014
GQ – *Johnny Depp Will Not Get Burned* – November 2018
Rolling Stone - *Inside Trials of Johnny Depp*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served this 16th day of February, 2021, by email, by agreement of the parties, addressed as follows:

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Counsel for Plaintiff/Counterclaim Defendant John C. Depp, II

Elaine Charlson Bredehoft (VSB No. 23766)

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EXHIBIT D

brownrudnick

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SAMUEL A. MONIZ
SMoniz@brownrudnick.com

June 24, 2021

VIA EMAIL

Elaine Charlson Bredehoft, Esq.
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RE: ***John C. Depp, II v. Amber Laura Heard***

Dear Ms. Bredehoft:

As you know, there are a number of pending discovery issues that we wish to discuss. As you also know, we have requested on at least four occasions to meet and confer with you telephonically about some of these matters, and on at least four separate occasions, you have declined to do so.

Please allow this letter to serve as a fifth and final attempt to confer, and to schedule a telephonic conference. We continue to hope that we can reach a reasonable agreement on each of the matters discussed herein without the need for motion practice. To that end, please provide a substantive response to this letter by no later than close of business on **Tuesday, June 29, 2021**, and provide some dates and times next week when you are available to confer by telephone.

If no response is received to this correspondence, or if you continue to refuse to speak with us by telephone on these matters, we will understand that you have no interest in seriously engaging in the meet and confer process, and will proceed to bring our motions without further efforts to confer.

Rule 4:10 Mental Examination of Ms. Heard

The strategic choices made by Ms. Heard and her counsel in this action have left us with no alternative but to seek an independent mental examination of Ms. Heard. *See* Va. R. S. Ct. 4:10. We would not ordinarily seek such an examination in the context of this action, and we have been reluctant to do so even now, although we note that Ms. Heard and her counsel have showed no such restraint, bringing a motion for an examination of Mr. Depp on November 1, 2019, which motion was (very properly) denied.

However, Ms. Heard has now unmistakably tendered her own mental condition as an issue in this action, as is clearly demonstrated by her expert disclosures in this action, in which she designated Dr. Dawn Hughes. Ms. Heard"s expert disclosures state that:

> "Dr. Hughes was asked to conduct a forensic psychological evaluation of Ms. Heard to assess for the dynamics and consequences of intimate partner violence that may

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have been present in her relationship with her now ex-husband, Mr. Depp, and to assess for any psychological consequences stemming from the defamatory statements to the media made by Mr. Depp through his attorney and agent, Adam Waldman." (See, Disclosures, p. 2.)

Ms. Heard's expert disclosures further state that Dr. Hughes' "opinions are based on her forensic psychological evaluation of Amber Heard," and that Dr. Hughes arrived at various conclusions relevant to the factual disputes in this action on the basis of this "forensic psychological evaluation of Ms. Heard," including that Ms. Heard presented "a symptom picture that is consistent with traumatic stress, particularly interpersonally related trauma," and that the tests administered by Ms. Heard's retained expert "revealed that Ms. Heard was in a very serious situation with Mr. Depp and at risk for serious, repetitive, and deadly intimate partner violence." (Disclosures, p. 8.)

As such, Ms. Heard—who is well represented by a large number of capable Virginia and California attorneys—has made an informed, strategic choice that unambiguously tenders her own mental condition as an issue in this action. Given Ms. Heard's obvious intention to present evidence of her own mental or psychological condition at trial, *including evidence based on a "forensic psychological evaluation" in which she voluntarily participated for her own strategic use in connection with this litigation*, Mr. Depp has no choice but to undertake appropriate discovery to investigate and refute this anticipated testimony at trial, which necessarily requires an independent evaluation of Ms. Heard's mental condition.

Please let us know whether you will stipulate to an independent mental examination, or whether motion practice will be required.

Mr. Depp's Fourth Interrogatories

Ms. Heard served blanket objections to Mr. Depp's Fourth Interrogatories, asserting that Mr. Depp has previously served more than 30 interrogatories. Ms. Heard's calculation is incorrect. We have reviewed the interrogatories previously served, and do not believe that any credible reading of them results in a count of more than 30. If you disagree, as you have repeatedly indicated that you do, then we believe it is incumbent on you to justify your objection by explaining how you arrived at a count higher than 30. We will be pleased to discuss this with you by telephone.

In any event, even if you were correct about the number of interrogatories served (which is not the case), it is clear that the parties may serve additional interrogatories beyond the presumptive limit of 30, with leave of the Court, for good cause, and if forced to bring a motion on these interrogatories, we would seek, as alternative relief in the unlikely event the Court agrees with your position, leave to serve additional interrogatories. *See*, Va. R. S. Ct. 4:8(g). Here, Ms. Heard served and filed a $100 million Counterclaim more than a year into this litigation, thereby altering the scope of the issues and rendering additional written discovery clearly appropriate. Under these circumstances, good cause for additional interrogatories is clearly established.

In short, one way or another, we are entitled to responses to these interrogatories, even if the Court ultimately agrees with your position on the number of interrogatories that has been served (which we believe to be unlikely).

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Mr. Depp's Seventh RFPs

Ms. Heard served blanket objections to all but two of Mr. Depp's Seventh RFPs. Ms. Heard's objections are facially inappropriate, and should be withdrawn.

RFP No. 1: this seeks communications regarding the Depp/Heard relationship within one week of any date on which Ms. Heard claims she suffered violent abuse. This request is narrowly focused on the abuse allegations that are of central importance to this litigation, and is tailored to seek documents putting any claims of abuse in context, and to determine whether Ms. Heard's contemporaneous communications regarding her relationship with Mr. Depp support or undercut her claims of abuse. To state what should be obvious, any communications by Ms. Heard regarding her relationship to Mr. Depp in close temporal proximity to incidents of alleged abuse are reasonably calculated to lead to admissible evidence regarding the truth or falsity of her abuse claims. Ms. Heard improperly stands on boilerplate objections, none of which offer a valid basis to resist this clearly appropriate discovery.

RFP Nos. 2-3: Ms. Heard responds that she has "previously produced documents responsive to this request." However, the requests specifically require the production of photographs and videos in native, and with all associated metadata. Ms. Heard's compliance with this request is not complete.

RFP No. 4: we will withdraw this request if you withdraw all comparable requests that you have served, specifically including Request No. 24 in Ms. Heard's Tenth RFPs, which is the subject, in part, of your pending motion to compel.

RFP Nos. 5-11: These requests seek underlying data, imaging, and/or inspection of Ms. Heard's devices for the purpose of evaluating whether the photographs and other "evidence" that Ms. Heard relies on to support her abuse claims has been subject to manipulation by Ms. Heard or other persons. Evaluating the underlying data is critical to making that assessment, especially since the veracity and authenticity of these photographs forms a core part of Ms. Heard's case.

We note that counsel for Ms. Heard routinely spends time during depositions marking these photographs as exhibits (even with witnesses who repeatedly testify that they have never seen these photographs before).

We also note that Ms. Heard's counsel has repeatedly commented during depositions about the metadata or time and date stamps purportedly reflected in the pictures. See, e.g., Transcript of Deposition of Tracey Jacobs at pages 109-125 ("And just to direct your attention, the metadata is from May 21st, 2016 at 9:24 p.m. Do you recognize this as Amber Heard?"); Deposition Transcript of Alejandro Romero at pages 60-61 ("I'm going to ask you to take a look at this metadata over here, and that's dated May 21, 2016, at 9:24:52, do you see that?"); Deposition Transcript of Melissa Saenz at 180 (" Officer Saenz, I'm going to ask you to take a look at Exhibit Number 24. The metadata here reflects May 21st, 2016 at 9:22:24 p.m.").

In short, Ms. Heard clearly intends to rely on photographic "evidence" to support her claims of abuse. The veracity and authenticity of those documents is in dispute, and Mr. Depp is entitled to undertake a reasonable investigation into whether there has been any tampering or manipulation with the underlying data so as to generate images that support Ms. Heard's narrative. These requests are calculated to accomplish that, and are clearly appropriate. Ms. Heard's objections should be withdrawn.

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RFP No. 12 seeks documents sufficient to show the dates and payments made by Ms. Heard to witnesses in this action. The request is further limited to payments made specifically in connection with litigation, in excess of $5,000. As such, the request is quite narrowly tailored to explore the issue of bias – and is, moreover, a significantly *narrower* version of requests that Ms. Heard has repeatedly served on Mr. Depp, one of which is the subject of your pending motion to compel. Ms. Heard has spent a great deal of time in this action arguing that such documents are relevant to show bias. Accordingly, we trust that your objections will be withdrawn and all responsive materials will be produced.

Ms. Heard's Compliance with May 12, 2021 Order

As we have indicated on several occasions, there appear to be significant gaps in Ms. Heard's Court-ordered production in response to Mr. Depp's recent motion to compel his Fourth RFPs. Among other gaps, Ms. Heard has not produced any additional documents related to her defense of advice of counsel outside a very narrow timeframe. In addition, Ms. Heard has not provided a privilege log. We also have not seen any communications with Ms. Butti.

We wish to discuss how you are construing the scope of the Order, and what documents are still being withheld on privilege grounds. We note that the Court's Order specifically states that Ms. Heard is required to produce documents and communications relating "in any way" to the Op-Ed, and is not limited as to time. To the extent that Ms. Heard has read any limitations into the scope of that Order, we are entitled to know what those limitations are, in advance of a potential motion to compel compliance.

Ms. Heard's Ongoing Privilege Objections to Eric George Deposition

On a related note, Ms. Heard continues to assert objections to the scope of questioning at the deposition of Eric George. Since Ms. Heard is the holder of the attorney-client privilege, Mr. George has a limited ability to offer a compromise position in the face of her continuing attempts to assert the privilege. You have been copied on all communications to and from Mr. George's counsel, and we presume that you have been coordinating (or at least have been involved in) Mr. George's response to our meet and confer efforts. Accordingly, we believe it may be productive to discuss this issue with you directly. Our position is framed by our recent Petition to Compel, which is already in your possession.

We look forward to receiving a timely, substantive response, and are hopeful that the parties can move forward to complete discovery in an amicable manner without the need for motion practice.

Very truly yours,

BROWN RUDNICK LLP

SAMUEL A. MONIZ

cc: All counsel via email

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EXHIBIT E

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From: Moniz, Samuel A.
To: Elaine Bredehoft; Chew, Benjamin G.; Adam Nadelhaft
Cc: Ben Rottenborn; Joshua Treece; Vasquez, Camille M.; Clarissa Pintado; David Murphy; Michelle Bredehoft; Presiado, Leo J.; Meyers, Jessica N.; Crawford, Andrew C.; cmariam@grsm.com; mdailey@grsm.com; Hazel Mae Pangan; Adam Nadelhaft; Calnan, Stephanie
Subject: RE: Potential Dates for a Meet and Confer and additional considerations
Date: Tuesday, June 29, 2021 2:47:29 PM

Elaine,

Your response is problematic in several respects.

Most importantly, this sudden inquiry regarding a Rule 4:10 examination of Mr. Depp is patently inappropriate, and strongly suggests an improper purpose to harass or retaliate against Mr. Depp, rather than to obtain any legitimate discovery. As you know, a mental or physical examination is only permitted under Rule 4:10 "[w]hen the mental or physical condition... of a party... is in controversy," and may be ordered "only" on a showing of "good cause." There is no credible argument that Mr. Depp's mental condition is "in controversy" within the meaning of Rule 4:10, merely as a consequence of having commenced this action. Indeed, your predecessor counsel (along with your current co-counsel) previously sought such an examination, and the Court rejected that request outright, denying Ms. Heard's motion for a Rule 4:10 examination on or about November 15, 2019. That ruling was clearly correct when made, and nothing has changed since then to justify a renewed request. In our view, any attempt to relitigate the Court's ruling on that issue would not merely be unwarranted – it would be sanctionable.

As you also know, we have not previously sought a Rule 4:10 examination of Ms. Heard. The only reason that we are doing so now is that Ms. Heard has recently placed her own mental condition directly at issue, by making the tactical decision to undergo a "forensic psychological evaluation" by her expert for use in this litigation. In doing so, Ms. Heard made clear that she believes her own mental condition to be directly relevant, and also revealed her intention to present evidence at trial of this "forensic psychological evaluation" of her own mental condition. In fact, Ms. Heard's expert disclosures make plain that she intends to use this "forensic psychological evaluation" to bolster various of her claims, including her claim that she suffered abuse during her relationship with Mr. Depp. Merely by way of example, Ms. Heard's expert disclosures state that her designated expert's evaluation of Ms. Heard resulted in the following conclusions: that "Amber Heard has identifiable psychological symptomatology and distress as a result of the defamatory statements"; that "the defamatory statements exacerbate Ms. Heard's Posttraumatic Stress Disorder (PTSD) by triggering painful and intrusive reminders" of alleged abuse; that "Ms. Heard was assessed to be a reliable historian"; that "[p]sychological testing revealed that [Ms. Heard] approached the evaluation in a forthright matter with no evidence of malingering or feigning psychological distress"; and that "Dr. Hughes' analysis revealed significant corroborating evidence that is consistent with Ms. Heard's report of intimate partner violence." (See, Disclosures, pp. 5-6.)

Given the content of Ms. Heard's recent expert disclosures and her obvious intention to present such evidence at trial, we have no alternative but to seek appropriate discovery to counter that anticipated testimony, which includes a Rule 4:10 examination.

In the alternative, we would be open to discussing a stipulation to prevent Ms. Heard from presenting such evidence at trial, which would likely obviate the need for an examination. But as long as Ms. Heard intends to try to present evidence at trial of a self-serving "forensic psychological evaluation" by her own expert, we are clearly entitled to take contrary discovery on that issue.

Finally, it is disappointing that twenty-seven days after I first requested a meet and confer in the email thread below on June 2, you are now suggesting that we need to wait another ten days before you will be prepared to participate in a phone call on these issues. Nonetheless, if you insist on that timing, we will do our best to accommodate your calendar, and can make ourselves available for a call on July 9th or 12th. Please let us know when would be a convenient time for you on either of those days. Thank you.

Sam

brownrudnick

Samuel A. Moniz
Associate

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From: Elaine Bredehoft <ebredehoft@charlsonbredehoft.com>
Sent: Tuesday, June 29, 2021 4:40 AM
To: Moniz, Samuel A. <SMoniz@brownrudnick.com>; Chew, Benjamin G. <BChew@brownrudnick.com>; Adam Nadelhaft <anadelhaft@cbcblaw.com>
Cc: Ben Rottenborn <brottenborn@woodsrogers.com>; Joshua Treece <jtreece@woodsrogers.com>; Vasquez, Camille M. <CVasquez@brownrudnick.com>; Clarissa Pintado <cpintado@cbcblaw.com>; David Murphy <dmurphy@cbcblaw.com>; Michelle Bredehoft <mbredehoft@charlsonbredehoft.com>; Presiado, Leo J. <LPresiado@brownrudnick.com>; Meyers, Jessica N. <JMeyers@brownrudnick.com>; Crawford, Andrew C. <ACrawford@brownrudnick.com>; cmariam@grsm.com; mdailey@grsm.com; Hazel Mae Pangan <hpangan@grsm.com>; Adam Nadelhaft <anadelhaft@cbcblaw.com>
Subject: Potential Dates for a Meet and Confer and additional considerations

Sam: You have raised a number of issues in your letter not previously raised, and which require some examination of earlier records and research. Given the motions practice we have had last Friday and this Friday, coupled with the brief due on July 7, combined with some significant deadlines in other cases

this week and next (including motions to dismiss, a TRO, opposition to Motion to Dismiss, and Demurrer) and three of our team on vacation, in order to fully examine and prepare for a meaningful meet and confer, we would not be in a position to schedule something until after July 8. I would appreciate your providing us with several dates and times for the meet and confer July 9 and the week of July 12.

While you are reviewing your calendars, please let me know if Mr. Depp will agree to a Rule 4:10 Examination, and also if you will agree to consent to additional Interrogatories and RFAs. These would necessarily be included in the meet and confer, so I wanted to raise them for you to consider in the meantime.

Thank you for your anticipated cooperation. Elaine

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From: Moniz, Samuel A. <SMoniz@brownrudnick.com>
Sent: Thursday, June 24, 2021 7:34 PM
To: Elaine Bredehoft <ebredehoft@charlsonbredehoft.com>; Chew, Benjamin G. <BChew@brownrudnick.com>; Adam Nadelhaft <anadelhaft@cbcblaw.com>
Cc: Ben Rottenborn <brottenborn@woodsrogers.com>; Joshua Treece <jtreece@woodsrogers.com>; Vasquez, Camille M. <CVasquez@brownrudnick.com>; Clarissa Pintado <cpintado@cbcblaw.com>; David Murphy <DMurphy@cbcblaw.com>; Michelle Bredehoft <mbredehoft@charlsonbredehoft.com>; Presiado, Leo J. <LPresiado@brownrudnick.com>; Meyers, Jessica N. <JMeyers@brownrudnick.com>; Crawford, Andrew C. <ACrawford@brownrudnick.com>; cmariam@grsm.com; mdailey@grsm.com; Hazel Mae Pangan <hpangan@grsm.com>
Subject: RE: Your raised discovery issues

Elaine:

Please refer to the letter sent earlier today for our substantive positions on the various discovery disputes that have arisen. We will look forward to your response.

In addition, two points in your email below warrant brief correction.

First, your suggestion that we objected to the "quality" and "experience" of your lawyers—which you asserted both in your most recent email and in a filing with the Court—is an obvious and rather troubling mischaracterization of the emails below. No "objection" to the "quality" or "experience" of your lawyers was stated. We merely noted our impression that the attorneys to whom you have delegated your meet and confers seemed to lack authority to offer anything other than a take-it-or-leave-it position. You have not disputed the accuracy of that impression, and certainly, I cannot recall a single concession that was offered on any of the items addressed in your two most recent motions.

Second, your suggestion that we are "finally admitting" that you met and conferred, again mischaracterizes our prior correspondence. We never denied that there had been a couple of phone calls several months ago during which some of the discovery was discussed, but those months-old phone calls—during which your team offered no concessions relevant to the motions you just filed, and never followed up on our invitation to propose narrowed requests—do not come close to satisfying your obligation to confer. That is particularly true given our repeated offers to further confer, and the patent lack of urgency for your recent motions.

Virginia requires a "reasonable effort" to meet and confer to "resolve the subject of the motion." Va. R. S. Ct. 4:15. You are free to argue that your conduct in rushing to file your two most recent motions while rejecting at least four separate requests to meet and confer in the preceding week was a "reasonable effort" on your part. We disagree.

Sam

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From: Elaine Bredehoft <ebredehoft@charlsonbredehoft.com>
Sent: Thursday, June 10, 2021 2:50 PM
To: Moniz, Samuel A. <SMoniz@brownrudnick.com>; Chew, Benjamin G.

<BChew@brownrudnick.com>; Adam Nadelhaft <anadelhaft@cbcblaw.com>
Cc: Ben Rottenborn <brottenborn@woodsrogers.com>; Joshua Treece <jtreece@woodsrogers.com>; Vasquez, Camille M. <CVasquez@brownrudnick.com>; Clarissa Pintado <cpintado@cbcblaw.com>; David Murphy <dmurphy@cbcblaw.com>; Michelle Bredehoft <mbredehoft@charlsonbredehoft.com>; Presiado, Leo J. <LPresiado@brownrudnick.com>; Meyers, Jessica N. <JMeyers@brownrudnick.com>; Crawford, Andrew C. <ACrawford@brownrudnick.com>; cmariam@grsm.com; mdailey@grsm.com; Hazel Mae Pangan <hpangan@grsm.com>
Subject: Your raised discovery issues

Sam:

Thank you for finally admitting we have held meet and confers, and that your objection is to the quality and experience of our lawyers, and you perceive the discussions as inadequate. Neither negates that we have complied with the requirements of a meet and confer, which we have thoroughly documented.

On the subject line - if you review emails with me over the past year, you will see that I regularly try to bring the subject line up to the most recent topics on a regular basis, so they identify the subject being discussed. It is good practice and I wish all attorneys would follow this process.

On your new discovery issues, I will again address each separately:

First, we did in fact review your responses to our Fourth Set of Interrogatories. You did not respond to a single one. We believe that your objection that Mr. Depp has served more than thirty interrogatories is simply incorrect. We are, however, prepared to consider your arguments in defense of that position in the course of our meet and confer.

I asked you earlier to count the previous Interrogatories, including parts and subparts, and let me know what your count was. You ignored my request. The only way a meet and confer would be productive is after you count them, and tell us the number you arrived at, if it is less than 30, we can discuss in a meet and confer how we each arrived at our numbers. If you are able to persuade us you have not issued more than 30, including parts and subparts, then we can discuss whether we intend to rely on other objections, or will respond.

Second, we similarly reviewed your responses to our last set of RFPs. You objected and failed to respond to 10 out of 12 requests. Again, we do not believe that any of your objections are well-taken, as these RFPs are all directed to core issues in this case, including and especially the authenticity and truthfulness of critical documents purportedly supporting Ms. Heard's claims of abuse.

Again, you fail to identify even one request, objection, or why you believe the objections are not well taken. A precursor to meet and confers is to identify the issues, so we can consider them, and if we do not agree, then schedule a meet and confer. Once you have done this, we will be happy to consider yours issues, and if we do not agree with you, schedule a meet and confer.

Third, at the hearing on Mr. Depp's recent motion to compel, and in its subsequent Order, the Court overruled all of Ms. Heard's objections to the discovery at issue, with the exception of three requests (Nos. 39-41). In the subsequent document production, however, Ms. Heard failed to produce categories of documents that are clearly called for in the motion. By way of example, Ms. Heard did not produce any new communications with Eric George, despite the Court's rejection of Ms. Heard's construction of scope of the waiver of the attorney-client privilege associated with her assertion of the defense of advice of counsel. In fact, with the exception of a couple of tax returns, the production you recently made appears to consist of documents that have nothing to do whatsoever with our recent motion.

I read, and re-read this paragraph. I have no idea what you think we have not produced. You reference "new communications with Eric George" – what exactly are those? Chief Judge Azcarate made clear the privilege was waived for the transaction. While we called it a limited waiver, we nonetheless had already produced all the emails and texts. What specifically do you think we possess that we have not produced?

Likewise on the others – what do you think we possess that we did not produce? You may have forgotten that you filed the exact same motion twice, from back in February, and you did not take into consideration our 98-page supplemental responses, and the million plus documents, both of which we produced after you filed your first motion. We produced some additional documents with our second supplemental responses that we believed may also be responsive. If you have a basis for believing we have withheld documents in our possession that should have been produced, please let us know what you think we have withheld and the basis for your belief, and we will address. If you do not, there is nothing to discuss.

I look forward to receiving a substantive, responsive email that addresses my specific points. Elaine

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From: Moniz, Samuel A. <SMoniz@brownrudnick.com>
Sent: Tuesday, June 08, 2021 12:59 AM
To: Elaine Bredehoft <ebredehoft@charlsonbredehoft.com>; Chew, Benjamin G. <BChew@brownrudnick.com>; Adam Nadelhaft <anadelhaft@cbcblaw.com>
Cc: Ben Rottenborn <brottenborn@woodsrogers.com>; Joshua Treece <jtreece@woodsrogers.com>; Vasquez, Camille M. <CVasquez@brownrudnick.com>; Clarissa Pintado <cpintado@cbcblaw.com>; David Murphy <DMurphy@cbcblaw.com>; Michelle Bredehoft <mbredehoft@charlsonbredehoft.com>; Presiado, Leo J. <LPresiado@brownrudnick.com>; Meyers, Jessica N. <JMeyers@brownrudnick.com>; Crawford, Andrew C. <ACrawford@brownrudnick.com>; cmariam@grsm.com; mdailey@grsm.com; Hazel Mae Pangan <hpangan@grsm.com>
Subject: RE: Depp v. Heard

Elaine,

I am in receipt of your emails to me and to Ben Chew earlier today.

First, I take issue with the repeated insinuations of bad faith in your emails over the past several days. It is noteworthy that you have even gone so far as to edit the subject line of your responsive email below so that it reads "exposing your true motivations for the emails requesting a meet and confer." To say that this is a bizarre response to a commonplace request for a meet and confer is an understatement. I am not sure why you now seem to feel the need to litter your professional correspondence with such accusatory language (or what you think this hyperaggressive language accomplishes), but your insinuations are baseless, pointless, and, quite frankly, offensive. The needlessly aggressive tone and content of your emails is all the more puzzling and inappropriate because you have, in fact, failed to adequately meet and confer regarding your proposed motions, as

detailed more fully below.

It is our hope that counsel for the parties will be able to engage in a cooperative, productive, and respectful conversation by phone, and that we can work together to at least narrow the discovery issues to be resolved by the Court. To that end, I invite you (now for the third time) to let us know your availability this week to meet and confer by telephone. We will do our best to accommodate your schedule.

In the meantime, please allow the below to briefly address some of our disagreements and the contentions in your prior correspondence.

Ms. Heard's "Corrected" Tenth RFPs

We respectfully disagree that you have adequately met and conferred with respect to the Tenth RFPs. A meet and confer was briefly conducted with David Murphy from your office on or about February 3, 2021, which primarily focused on completely different requests, and a second brief conversation was held with your California co-counsel, Hazel Pangan, later in February. I do not consider either of these conversations sufficient to satisfy your obligation to meet and confer. During our meet and confer on February 3, Mr. Murphy briefly discussed our general objections to the Tenth RFPs, but, to the best of my recollection did not delve into the specifics of the requests in any meaningful way, and made no serious effort to explore a compromise on any request.

Similarly, although we briefly discussed the Tenth RFPs with Ms. Pangan (among numerous other issues), there was no meaningful discussion of any potential compromise. As Ms. Pangan's subsequent email on February 19, 2021 concedes, we specifically "offered to meet and confer on any proposed narrowing of the requests." Ms. Pangan apparently did not have authority to offer any meaningful concessions without checking with you – and I do not believe you ever proposed any narrowing of these requests or otherwise followed up (if I have overlooked a substantive proposal from your office, please forward it to me so that I may review it).

That also raises another issue on these meet and confers – quite frequently, we find ourselves talking to attorneys who seem to lack any authority to negotiate anything that does not amount to a complete surrender of our position. Mr. Murphy and Ms. Pangan are undoubtedly both fine attorneys, but I have consistently come away from our conversations with the impression that all decisions on your team, no matter how trivial, are required to be run through you – in which case a meet and confer with anyone else seems to be an exercise in futility, because no one seems to have authority to compromise.

In short, we do not believe that there has ever been a serious engagement on your part in connection with the substance of the Tenth RFPs. That lack of engagement is all the more troubling, considering the patently overbroad and harassing scope of many of the requests. By way of example, the Tenth RFPs include the following requests:

- "All agreements, payments, and communications with anyone providing any type of computer, internet or social media services of any kind to You or on

Your behalf, including directed at, to or on behalf of others, from January 1, 2016 through the present."

- "All communications of any kind with or relating to Twitter, Instagram, Facebook, LinkedIn, and any internet service provider...."

Incredibly, your requests even seek attorney time records and invoices from this litigation:

- "All detailed time and billing records, underlying receipts supporting each expense, and all invoices prepared and billed, from any person or entity providing legal services to you in connection with this Action..."

And, you have asked for a very wide range of documents from multiple other litigations involving Mr. Depp, including litigations with his former attorneys that raise substantial privilege concerns. The overbroad and irrelevant nature of these requests is apparent on their face. Yet we have never received any proposals from you to narrow the scope, or to meaningfully respond to our substantive objections.

Nonetheless, we believe that a compromise on some of these requests ought to be possible, particularly if you are prepared to moderate your positions even slightly. For instance, we may be able to reach agreement on a reasonable subset of documents from other litigations that can be produced, provided that there is a clear nexus between such documents and the issues in this action (See, Request No. 5). If you can articulate an explanation of the relevance of Request Nos. 1-4 (which you have never explained), we are prepared to further discuss those, and may be able to reach agreement to produce responsive documents (if any). Similarly, an accommodation should be achievable on Request No. 20. And, we remain willing to discuss potential narrowed versions of the remaining requests.

Ms. Heard's Eleventh RFPs

We are unclear what your specific concerns are with respect to these RFPs. However, to the extent that you are basing your contention that we have sufficiently met and conferred in a brief conversation with your California counsel, I will note the same concern I already noted above—that other than you, no one your team seems to have the authority to make concessions or meaningfully negotiate.

However, we may be willing to reach agreement to supplement our responses to a number of these requests, provided that we can reach some clarity on their scope (see, e.g., Request Nos. 1-14).

Ms. Heard's Twelfth RFPs

You and I specifically discussed the Twelfth RFPs in March. During that call, you specifically represented that you would undertake to modify or rethink certain requests. For instance, you commented that you agreed that some of the interrogatories/RFAs your predecessor counsel had served may have been inappropriate or tangential to the issues, and agreed to consider revisiting

requests such as RFP No. 7 ("Please produce all documents supporting, refuting, or otherwise relating to any of Your responses to Ms. Heard's First Set of Interrogatories"). Similarly, you indicated you would consider the arguments we made during the call that requests related to Mr. Depp's charitable donations were irrelevant.

I do not believe you ever followed up on these points. If you believe that I have missed a substantive communication from your office in which you did so, please forward it to me so that I can consider it.

On a side note, I refer you to the following comment in your email to me below:

> "you are correct that I indicated that with respect to some of the Requests FOR ADMISSIONS, I would re-evaluate in light of how the other motions turned out, as many may be mooted. You conveniently left out the words "for Admissions" in your email."

When drafting your email this morning you apparently forgot that you had also indicated that you would revisit the RFPs.

Tracey Jacobs

Your arguments regarding the Tracey Jacobs deposition are unfounded and, once again, have not been preceded by an appropriate meet and confer regarding the substantive relief you are apparently seeking in your anticipated motion.

Your concern over the purported inability to authenticate Ms. Jacobs' emails is easily remedied without motion practice. Indeed, there are a number of ways in which you have the ability to authenticate Ms. Jacobs' emails. To state the obvious, Ms. Jacobs was not sending emails to herself; she was emailing other persons, such as Edward White and Joel Mandel, both of whom you have already subpoenaed for deposition. You can authenticate those emails through other witnesses on your deposition list. It is unclear why you believe you need a motion to authenticate these documents, but we can certainly further discuss the issue with you.

We have previously addressed your other complaints about the timing of the Tracey Jacobs document production on several occasions, and have explained that the documents were produced promptly once they were identified as potentially relevant to this action (although it is not clear that they are even responsive to your requests).

Mr. Depp's anticipated motions

Finally, with respect to our own anticipated motions, please allow the below to briefly summarize our concerns.

First, we did in fact review your responses to our Fourth Set of Interrogatories. You did not respond to a single one. We believe that your objection that Mr. Depp has served more than thirty

interrogatories is simply incorrect. We are, however, prepared to consider your arguments in defense of that position in the course of our meet and confer.

Second, we similarly reviewed your responses to our last set of RFPs. You objected and failed to respond to 10 out of 12 requests. Again, we do not believe that any of your objections are well-taken, as these RFPs are all directed to core issues in this case, including and especially the authenticity and truthfulness of critical documents purportedly supporting Ms. Heard's claims of abuse.

Third, at the hearing on Mr. Depp's recent motion to compel, and in its subsequent Order, the Court overruled all of Ms. Heard's objections to the discovery at issue, with the exception of three requests (Nos. 39-41). In the subsequent document production, however, Ms. Heard failed to produce categories of documents that are clearly called for in the motion. By way of example, Ms. Heard did not produce any new communications with Eric George, despite the Court's rejection of Ms. Heard's construction of scope of the waiver of the attorney-client privilege associated with her assertion of the defense of advice of counsel. In fact, with the exception of a couple of tax returns, the production you recently made appears to consist of documents that have nothing to do whatsoever with our recent motion.

We look forward to your providing a date and time to further meet and confer regarding these issues.

Sam

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From: Elaine Bredehoft <ebredehoft@charlsonbredehoft.com>
Sent: Monday, June 7, 2021 11:20 AM
To: Moniz, Samuel A. <SMoniz@brownrudnick.com>; Chew, Benjamin G. <BChew@brownrudnick.com>; Adam Nadelhaft <anadelhaft@cbcblaw.com>
Cc: Ben Rottenborn <brottenborn@woodsrogers.com>; Joshua Treece <jtreece@woodsrogers.com>; Vasquez, Camille M. <CVasquez@brownrudnick.com>; Clarissa Pintado <cpintado@cbcblaw.com>; David Murphy <dmurphy@cbcblaw.com>; Michelle Bredehoft <mbredehoft@charlsonbredehoft.com>; Presiado, Leo J. <LPresiado@brownrudnick.com>; Meyers, Jessica N. <JMeyers@brownrudnick.com>; Crawford, Andrew C. <ACrawford@brownrudnick.com>; cmariam@grsm.com; mdailey@grsm.com; Hazel Mae Pangan <hpangan@grsm.com>
Subject: Depp v. Heard - Exposing your true motivations for the emails requesting a meet and confer

Sam: I am disappointed that your email confirms my suspicion that the sole purpose of the earlier email and this one was to quickly "create" a discovery issue or two to rush to file motions to attempt to prevent us from filing the motions we have had in the queue for several months, awaiting the reassignment of the case to Chief Judge Azcarate and then the ruling on the stay of discovery, which you opposed.

I am going to address each of your points below separately:

- "Ms. Heard served blanket objections to our last set of interrogatories";

It is obvious you never even looked at our Objections to your Fourth Set of Interrogatories before writing this email. The primary objections, upon which we relied and stood, were that Depp has already exceeded the permissible number of Interrogatories under Rule 4:8(g) of the Rules of the Virginia Supreme Court. If you contend you have not exceeded the permissible number, including parts and subparts, please tell me what your count reveals, and how you arrived at that count. Then we may have something to discuss, although I think the counting is pretty clear.

- "Ms. Heard served blanket objections to the majority of our last set of RFPs"; and

Note this is the exact phrase you used for your first point, suggesting this was written as hastily and without ever looking at the Objections and responses. Moreover, what does it even mean? We both have general objections and specific objections to discovery. Which ones of yours do you consider to be valid? Which do you consider to be blanket? This is hardly a description warranting a meet and confer. If you have specific Requests that you believe we have incorrectly objected to, please let us know, we will review, and if we disagree, we will be happy to discuss in a meet and confer.

- "Ms. Heard appears not to have produced all (or any) documents that were ordered to be produced following the last motion to compel, despite requesting an extra thirty days for that production."

This one is the most outrageous of all the statements. First, your admission that "Ms. Heard **appears not to have produced all (or any) documents"** says it all. You never even looked at our Second Supplemental responses, or the documents produced, or you would have known this statement is false. Apparently, however, you conveyed this false statement to Ben Chew, resulting in his claiming that we were "in contempt of court." We take accusations of this nature very seriously and especially when it is obvious on the face of your email that you never, ever, even reviewed our responses, or the earlier responses, or the **IN EXCESS OF ONE MILLION DOCUMENTS we produced that are responsive to these RFPs.** This is while you claim we have not produced "any" documents. We even provided the bate stamp numbers, which you have refused to provide to us in any of your discovery pleadings.

Take the time to review our responses, both the Supplemental and Second Supplemental and be sure to review ALL the documents we provided. If, after you have taken the time to review these, you still believe we have not produced responsive documents in our possession, please let me know which Requests and why you believe this. We will review and consider, and if we disagree, we will be happy to schedule a meet and confer.

"During our meet and confer three months ago, you specifically indicated that you intended to reassess a number of your requests, and would undertake to consider whether some of them could be narrowed to address our concerns. We never heard back from you."

I have already addressed this in my email to Ben, and cited record evidence contradicting you. However, you are correct that I indicated that with respect to some of the Requests **FOR ADMISSIONS,** I would re-evaluate in light of how the other motions turned out, as many may be mooted. You conveniently left out the words "for Admissions" in your email. We do not intend to bring any motions to compel on the Requests for Admissions because we believe the other motions need to be resolved first, and may resolve the issues with many of the Requests for Admissions.

"However, we have in fact assessed some of our responses and believe that compromise should be possible on at least some of the requests at issue, warranting further discussion before the Court is

burdened with motion practice."

Excellent! Then you should be able to provide us by COB tomorrow with your response to the Tracey Jacobs issues and the 10th RFPs you are now withdrawing your objections to, when you will be able to provide the documents, and enter into Consent Orders reflecting these new positions by you, and for the 11th RFPs and 12th RFPs by Friday, with a Consent Order by next Tuesday. I am glad you are willing to now resolve some of these, after literally months of us trying, without any success.

In the future, I would ask that you take the time to look at the documents and pleadings we have sent you, before making allegations and accusations that are demonstrably false and would have been obvious to you if you had simply taken the time to review them before writing and sending emails of this nature.

Thank you for your anticipated consideration in the future. Elaine

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From: Moniz, Samuel A. <SMoniz@brownrudnick.com>
Sent: Friday, June 04, 2021 1:12 PM
To: Elaine Bredehoft <ebredehoft@charlsonbredehoft.com>; Chew, Benjamin G. <BChew@brownrudnick.com>; Adam Nadelhaft <anadelhaft@cbcblaw.com>
Cc: Ben Rottenborn <brottenborn@woodsrogers.com>; Joshua Treece <jtreece@woodsrogers.com>; Vasquez, Camille M. <CVasquez@brownrudnick.com>; Clarissa Pintado <cpintado@cbcblaw.com>; David Murphy <DMurphy@cbcblaw.com>; Michelle Bredehoft <mbredehoft@charlsonbredehoft.com>; Presiado, Leo J. <LPresiado@brownrudnick.com>; Meyers, Jessica N. <JMeyers@brownrudnick.com>; Crawford, Andrew C. <ACrawford@brownrudnick.com>;

FILED UNDER SEAL-
SUBJECT TO PROTECTIVE ORDER

Suda, Casey <CSuda@brownrudnick.com>
Subject: RE: Depp v. Heard

Elaine,

I am quite puzzled at your characterization of a standard request for a meet and confer as "harassment." If you were concerned that a phone call with us would cause undue delay, you could have responded promptly, set the meet and confer for this week, and had it over done with by now. Instead, your below email suggests that a deliberate decision has been made—and not for the first time—to simply ignore our request to meet and confer, and proceed full steam ahead with your motions, without making any genuine effort to determine if a compromise is possible.

We will certainly be pleased to send you a more detailed summary of our concerns with Ms. Heard's discovery responses in advance of a meet and confer. In brief, however, our concerns cannot possibly come as a surprise:

- Ms. Heard served blanket objections to our last set of interrogatories;
- Ms. Heard served blanket objections to the majority of our last set of RFPs; and
- Ms. Heard appears not to have produced all (or any) documents that were ordered to be produced following the last motion to compel, despite requesting an extra thirty days for that production.

As for your representation that the meet and confer process on your proposed motions was completed three months ago, we respectfully disagree. During our meet and confer three months ago, you specifically indicated that you intended to reassess a number of your requests, and would undertake to consider whether some of them could be narrowed to address our concerns. We never heard back from you.

However, we have in fact assessed some of our responses and believe that compromise should be possible on at least some of the requests at issue, warranting further discussion before the Court is burdened with motion practice.

Again, we invite you to provide your availability next week to meet and confer. Thank you.

Best,
Sam

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FILED UNDER SEAL-
SUBJECT TO PROTECTIVE ORDER

F: 949-486-3671
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From: Elaine Bredehoft <ebredehoft@charlsonbredehoft.com>
Sent: Friday, June 4, 2021 8:57 AM
To: Chew, Benjamin G. <BChew@brownrudnick.com>; Adam Nadelhaft <anadelhaft@cbcblaw.com>
Cc: Ben Rottenborn <brottenborn@woodsrogers.com>; Joshua Treece <jtreece@woodsrogers.com>; Vasquez, Camille M. <CVasquez@brownrudnick.com>; Moniz, Samuel A. <SMoniz@brownrudnick.com>; Clarissa Pintado <cpintado@cbcblaw.com>; David Murphy <dmurphy@cbcblaw.com>; Michelle Bredehoft <mbredehoft@charlsonbredehoft.com>
Subject: RE: Depp v. Heard

Ben: Your series of email today suggest you are having a really tough day. I have a hearing this afternoon, but I will collect all the evidence of our prior meet and confers on these issues, and respond in detail to your incorrect statements when I have the opportunity.

As to Sam's email, he sent out many, many emails to many people in a short period of time, apparently at your direction, demanding many things from everyone. No one on your team has made even the slightest attempt to convey what you believe is deficient or "in contempt of Court," or what any of your issues are. Sam's email does not list EVEN ONE specific allegedly deficient response. I genuinely believe the email by Sam, followed by yours below, are sent solely for the purpose of harassment and delay, after securing the ruling from the Court not to stay discovery, and knowing we have 6 motions in the queue -- which we have patiently waited to place on the docket, until the Court was able to hear the motions. You succeeded in preventing the stay, so now our motions - covered in meet and confers more than three months ago – are ripe for resolution.

I suggest you review your emails, time records and notes before further claiming we have not held genuine meet and confers on our 6 discovery topics and confirmed they were ripe for bringing motions. If you believe you have informed us of any specific alleged deficiency in our discovery, please send me the communications. If you confirm you have not – please do so, and then we

can follow the process of trying to resolve the issues, and schedule a meet and confer.

Elaine

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From: Chew, Benjamin G. <BChew@brownrudnick.com>
Sent: Friday, June 04, 2021 11:09 AM
To: Elaine Bredehoft <ebredehoft@charlsonbredehoft.com>; Adam Nadelhaft <anadelhaft@cbcblaw.com>
Cc: Ben Rottenborn <brottenborn@woodsrogers.com>; Joshua Treece <jtreece@woodsrogers.com>; Vasquez, Camille M. <CVasquez@brownrudnick.com>; Moniz, Samuel A. <SMoniz@brownrudnick.com>
Subject: Depp v. Heard

Elaine,

You failed to respond to our request for a meet and confer- please see below- and Defendant is in contempt of the Court's most recent Order compelling her further production of documents.

You misstated the status of discovery to the Court, and if you file a motion today without properly meeting and conferring- something which Chief Judge White found to be the case previously- we will immediately seek sanctions:

This is getting tired and is a terrible example to the junior attorneys.

Ben

Sent from my iPhone

Begin forwarded message:

From: "Vasquez, Camille M." <CVasquez@brownrudnick.com>
Date: June 4, 2021 at 11:00:16 AM EDT
To: "Chew, Benjamin G." <BChew@brownrudnick.com>
Subject: Fwd: Depp v. Heard

Begin forwarded message:

From: "Moniz, Samuel A." <SMoniz@brownrudnick.com>
Date: June 2, 2021 at 11:03:50 AM PDT
To: Elaine Bredehoft <ebredehoft@charlsonbredehoft.com>, Adam Nadelhaft <anadelhaft@cbcblaw.com>, mbredehoft@cbcblaw.com, brottenborn@woodsrogers.com, jtreece@woodsrogers.com
Cc: "Chew, Benjamin G." <BChew@brownrudnick.com>, "Vasquez, Camille M." <CVasquez@brownrudnick.com>, "Meyers, Jessica N." <JMeyers@brownrudnick.com>, "Suda, Casey" <CSuda@brownrudnick.com>
Subject: Depp v. Heard

Elaine,

We would like to set up a call in the next week or so to discuss a number of pending issues, including the sufficiency/completeness of Ms. Heard's Court-ordered production this past Friday; Ms. Heard's responses to Mr. Depp's Seventh Requests for Production; Ms. Heard's responses to Mr. Depp's Fourth Set of Interrogatories; and Ms. Heard's ongoing privilege objections with respect to her communications with Eric George.

We also understand that you have a number of discovery motions planned, and would like to meet and confer with you regarding those as well, in an effort to avoid motion practice, or at least narrow the issues to be resolved by the Court.

Please let us know some convenient times this week or next week for a call. Thank you.

Best,
Sam

brownrudnick

Samuel A. Moniz
Associate

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www.brownrudnick.com

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