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V I R G I N I A :

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

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JOHN C. DEPP, II,)

Plaintiff,)

-vs-)

AMBER LAURA HEARD,)

Defendant.)

-----X

NO. CL-2019-0002911

Hearing

BEFORE THE HONORABLE BRUCE D. WHITE

Fairfax, Virginia

Friday, September 13, 2019

10:47 a.m.

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Hearing held at:

Fairfax County Circuit Court

4110 Chain Bridge Road

Courtroom 5J

Fairfax, Virginia 22030

(703) 691-7320

Pursuant to notice, before Theresa R.
Hollister, Certified Court Reporter and Notary
Public for the Commonwealth of Virginia.

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A P P E A R A N C E S

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P R O C E E D I N G S

(Court reporter duly sworn by the Court.)

THE COURT: All right. Can I get everybody to note your appearances for your record.

MR. ROTTENBORN: Good morning, Your Honor. My name is Ben Rottenborn, Woods Rogers Law Firm.

THE COURT: Good morning.

MR. ROTTENBORN: With me today -- well, I will introduce my co-counsel of record, Roberta Kaplan for Kaplan Hecker & Fink who has been admitted pro hac vice, Your Honor.

THE COURT: Good morning.

MR. ROTTENBORN: And John Quinn from the same firm, who has also been admitted pro hac vice.

And with Your Honor's lead, Ms. Kaplan will be doing the argument for the defendant today.

THE COURT: All right, good morning.

MS. KAPLAN: Good morning, Your Honor.

MR. CHEW: Good morning, Your Honor. May it please the court. Ben Chew of Brown Rudnick for plaintiff John Depp. With me today is Elliot

1 Weingarten, also of Brown Rudnick, and also my
2 co-counsel, Rob Gilmore of Stein Mitchell.

3 THE COURT: Good morning, everybody.
4 All right. Are we're ready to go?

5 MS. KAPLAN: We are, Your Honor.

6 Your Honor, good morning. Roberta Kaplan
7 for Amber Heard, also with me in the courtroom
8 today. I want to thank Your Honor in granting the
9 pro hac and letting us proceed here. I just want to
10 note at the outset that the state courts in Virginia
11 are a lot cleaner than the state courts in the state
12 of New York, Your Honor. And it's a pleasure to be
13 down here.

14 This is on our motion for protective
15 order in the case. I think the parties largely
16 agree on the standard, which was set by the Virginia
17 Supreme Court in the Shenandoah Publishing case.
18 That case very clearly distinguishes judicial
19 documents, pleadings, orders, et cetera, which
20 require a compelling reason to remain confidential,
21 to be under seal, from discovery materials which can
22 be confidential based on good cause to protect a

1 party from annoyance, embarrassment, oppression, et
2 cetera.

3 That standard was then elucidated further
4 in the Worrell (ph) case which talked about the fact
5 that discovery in cases, including in civil cases,
6 is presumptively confidential and is not open for
7 public consumption and public review.

8 I'll note, Your Honor, that both the
9 Shenandoah case and the Worrell case are the only
10 two cases here that actually deal with the specific
11 kind of information that is at issue, in part, which
12 are medical records. Both of those cases talked
13 about medical records. That was the issue. And in
14 both of those cases the court said that it was
15 appropriate for their to be a protective order.

16 Here, the records sought are medical
17 records and documents and information sufficient to
18 identify not only who's being deposed, but their
19 addresses, their other personal information. And
20 those people include friends of my client, family
21 members, et cetera, many of whom will be witnesses
22 in the case.

1 Ironically, Your Honor, I know this is
2 not on today, but ironically and I think it's a very
3 important point, Mr. Depp has objected completely to
4 producing the very same materials about himself on
5 grounds of privacy, which is the word he uses, which
6 he uses 23 times in his responses to our requests
7 for letters and that includes medical records from
8 him. We have a motion to compel on that, Your
9 Honor. I'm not seeking to argue that today.

10 In our view, Your Honor, the good cause
11 here is obvious. These parties obviously, Your
12 Honor, are famous celebrities. On top of that, Your
13 Honor, there is a group of Johnny Depp fans, I don't
14 know how to put it, who I think, I'm trying to be
15 respectful here, I think approach a level of
16 fanaticism that I've really never seen in any case.
17 And I've done some high profile cases, Your Honor.
18 I did the United States v. Windsor case in the
19 Supreme Court. More currently along, with
20 Mr. Rottenborn, suing under the KKK act about what
21 happened in Charlottesville. I'm not unfamiliar
22 with high profile cases. I've never seen anything

1 quite like this. If I could approach, Your Honor, I
2 want to hand you some documents.

3 Do we have a copy for the other side?
4 (Deputy handing.)

5 MS. KAPLAN: So what I've just handed
6 Your Honor is a tweet. There are literally
7 thousands of these out there already, but these
8 tweets talk about the deposition dates that were
9 noticed for my client's assistants. I don't know
10 how this got on Twitter. Obviously, the notice, the
11 dates for depositions should not be public. And we
12 certainly didn't put it out publicly anywhere.

13 And then the second document I gave you,
14 if you go down to about a third, two-thirds of the
15 way down the page, Your Honor where it says,
16 "Judymac wrote." This is a blog. What is the
17 document, a blog?

18 It's a website, Your Honor. There are
19 things, there's a statement in the middle of that
20 paragraph under "Judymac wrote," that says, "It's
21 interesting that they listed Raquel Pennington's
22 address as the Eastern Columbia building. They

1 probably don't have a current address, so they are
2 sending it to a last known address. I am also
3 surprised that they did not redact the addresses of
4 the other people."

5 Your Honor, this is the classic kind of
6 information that creates prejudice in the case.
7 Actually discussed in the Worrell decision. We
8 don't want people talking about witnesses,
9 deponents, when they are going to be deposed, what
10 their addresses are. It obviously has a very high
11 risk of creating an unclean record, which is what
12 Worrell court talked about.

13 And when it comes to medical records, I
14 don't even have to tell Your Honor, obviously those
15 are presumptively confidential. It's about the most
16 intimate of personal details in anyone's life and
17 that should not be subject, at this point, to
18 publication to the public. Obviously if we get to
19 trial in this matter, Your Honor, we're going to
20 have to deal with these issues. I'm not saying we
21 have to have a closed courtroom, obviously, but then
22 it will be subject to the rules of evidence, motions

1 in limine, et cetera.

2 The cases that Mr. Depp cites in
3 opposition here, Your Honor, are all about either
4 judicial documents, which have to meet a higher
5 standard, again putting filings under seal. He's
6 got one case in which there's a slip and a fall in a
7 grocery store and the court held there was no real
8 showing that the camera that was taking photos of
9 the grocery store was somehow proprietary or caused
10 commercial damage. Obviously the facts, given what
11 I've just shown you, are very, very different here.

12 Unless Your Honor has any other
13 questions, I have one more issue I'd like to raise,
14 but I would like to approach, Your Honor, if I may.

15 THE COURT: This is a different issue
16 than what was noticed for today?

17 MS. KAPLAN: No, it's the same issue. I
18 just want to approach to show Your Honor one other
19 piece of information.

20 THE COURT: Any objection to that?

21 MR. CHEW: May we see --

22 MS. KAPLAN: It's what I showed you

1 before.

2 MR. CHEW: Your Honor, may we see
3 whatever she is showing, Your Honor.

4 THE COURT: I think she's going to do
5 that. You can obviously approach when she
6 approaches, but if you want to see it before that,
7 you are welcome to do that.

8 MS. KAPLAN: I'm sorry, Your Honor, we're
9 collating them. I apologize.

10 I did show these to counsel before, but
11 obviously I will give them copies.

12 (Handing to counsel.)

13 (Deputy handing to the Judge.)

14 THE COURT: Thank you.

15 MR. CHEW: Thank you.

16 MS. KAPLAN: These are highly
17 confidential, Your Honor, so I just don't want
18 anyone else to see them.

19 So, Your Honor, what I've just shown you
20 are photos that are really just the tip of the
21 iceberg that we would produce in this case. There
22 are many, many more like them. If we were producing

1 them and there was a confidentiality order, we
2 would, of course, stamp them confidential. But it
3 gives Your Honor, I think, a good sense. And we
4 believe they should be confidential. Obviously
5 there has to be mutuality here and there should be
6 mutuality. But I wanted show them to, Your Honor,
7 because it should give Your Honor a very good sense
8 of the kind of information we're dealing with here.
9 We obviously think these photos are good for us,
10 help us prove our case, but we don't think that they
11 should be out on the Internet today, or they should
12 be out in press articles. If they're used at trial,
13 they are used subject to the restrictions and the
14 good form that courts use. And they are clearly the
15 kind of information that should be subject to a
16 confidentiality order. We assume, you know, that
17 everyone should do this in a proper, respectful way.
18 And, again, if there's a trial, we will deal with
19 those issues at trial.

20 If there's no other questions, Your
21 Honor, I don't have anything else to say.

22 THE COURT: All right. Thank you.

1 MR. CHEW: Good morning, again, Your
2 Honor.

3 THE COURT: Good morning.

4 MR. CHEW: I must say the defendant is
5 consistent. We respectfully submit that there is no
6 good cause to enter a protective order in this case.
7 There's been no showing of significant harm to
8 Ms. Heard. The photographs that were presented to
9 us before this hearing, in an inducement to try to
10 get us to drop our motion, don't relate to Ms. Heard
11 and don't go to any showing of embarrassment for
12 Ms. Heard. This isn't a trade secrets case, Your
13 Honor. This is, this is a personal case.

14 Defendant submitted to Your Honor, I
15 think on Wednesday, protective orders in other cases
16 in which Mr. Depp was involved, I assume for the
17 proposition that Mr. Depp normally agrees to
18 protective orders. If I could just take those one
19 by one.

20 The first case was Mr. Depp's case
21 against his former lawyer, Jake Bloom, which is set
22 for trial on December 2nd in Los Angeles County.

1 That case is one in which Mr. Depp sued based on an
2 oral contract, which he argued was violative of
3 Section 6147 of the California Business and
4 Professional Code. Judge Green granted our motion
5 for judgment on the pleadings on that issue and has
6 ruled that that was, in fact, an illegal contract,
7 properly voided by Mr. Depp. That issue is going to
8 trial on the issue of quantum meruit. In other
9 words, Mr. Bloom will have to disgorge the
10 \$32-1/2 million in fees that he took, minus whatever
11 he can prove by way of the value of his services.

12 Protective order made sense in those
13 circumstances because Mr. Bloom functioned as
14 Mr. Depp's attorney for 17 years. It was not only
15 Mr. Depp, but Mr. Depp is a very generous man. And
16 he, Mr. Bloom, did services not only for Mr. Depp,
17 but extended members of his family and friends.

18 The second case in which they showed you
19 a protective order was the TMG case. TMG was
20 Mr. Depp's former manager, run by two attorneys,
21 Joel and his brother, Rob Mandel, both of whom were
22 attorneys. They had the same arrangement, so there

1 were legal services performed by TMG. So protective
2 orders were appropriate in the case.

3 The third matter they raised was some
4 case back in 2009. That was before my time. I did
5 not represent Mr. Depp at that time, but, as best as
6 I can determine, we got a copy of the complaint in
7 that case. And, in that case, a Jane Doe plaintiff
8 alleged that one of Mr. Depp's bodyguards blocked
9 her entrance to a VIP section at an Iggy Pop
10 concert. And I believe it was she who requested the
11 protective order.

12 What they did not show, Your Honor, was
13 the fact that there was no protective order entered
14 in the divorce case between Ms. Heard and Mr. Depp.
15 I have the docket, if the court would like to see.
16 And I handed it to defendant's counsel. There was
17 no protective order in that case. And that was at
18 Ms. Heard's request. I spoke with Samantha Klein,
19 who was Mr. Depp's divorce attorney in that action,
20 and she said there was no protective order in the
21 underlying divorce case because Ms. Heard wanted the
22 publicity.

1 So there's a history here. And then when
2 the divorce decree was entered, Your Honor, in Los
3 Angeles County, there was the confidentiality
4 provision, I think section 10 or section 20, which
5 barred either side from discussing their
6 relationship, either pre or during the marriage.
7 Ms. Heard violated that from day one.

8 And then it culminated, as Your Honor is
9 aware, in the December 2018 op-ed, published in the
10 Washington, post, which is at issue in this case.

11 Then -- so there's been a consistent
12 pattern by Ms. Heard of disclosing the most
13 embarrassing information that she could possibly
14 disclose about Mr. Depp. And then, in this case,
15 Your Honor will remember that the prior set of
16 counsel that represented Ms. Heard, filed a motion
17 to dismiss alleging improper venue, which was a very
18 discrete issue that we argued here a couple of
19 months ago.

20 To her opposition, as Your Honor may
21 recall, she filed a completely gratuitous ad hominem
22 declaration, raking Mr. Depp over the coals. I

1 didn't count them, but I think there were 200 pages
2 of exhibits of the most intimate details, having
3 nothing to do with the issue of venue. She got out
4 everything, all the poison she could possibly
5 publish and hand out about Mr. Depp, she put into
6 that declaration.

7 So now she comes to the court and says,
8 Your Honor, now that I'm going to have to disclose
9 information, I want you to erect a wall of
10 protection. And, Your Honor, that's simply not
11 fair. She's used publicity as a sword in California
12 and here in Virginia. Now she wants to erect a
13 barrier of protection. That's not right. That's
14 not fair. As Your Honor knows and Your Honor has
15 pointed out to us, we have a trial date of February
16 3rd. Everything is going to be public at that
17 point. So any, any protection would be ephemeral at
18 best.

19 And, Your Honor, the photographs that
20 were, shown as an inducement to try to get us to
21 drop our motion, don't relate to Ms. Heard. They
22 relate to Mr. Depp. Mr. Depp has nothing to hide.

1 He has testified about his substance abuse. He owns
2 that. And it's absolutely -- I think it's
3 outrageous, Your Honor, that they tried to do that.
4 They didn't come here with materials relating to
5 Ms. Heard. There is no proffer whatsoever.

6 So going back to the legal standing, the
7 legal standard which Ms. Kaplan properly stated,
8 it's their burden to show good cause. They've shown
9 no good cause whatsoever. Possible embarrassment to
10 Mr. Depp. They don't speak for Mr. Depp. We speak
11 for Mr. Depp. And they've made no showing of
12 significant harm to Ms. Heard. They've shown what
13 they're going to do to Mr. Depp. Well, he can take
14 that. He's been taking it for years, Your Honor.

15 Two days after they publish this op-ed in
16 the Washington Post, he lost the Pirates of the
17 Caribbean franchise, Your Honor. That's the most
18 lucrative franchise in Hollywood history. It means
19 a lot to him. He dresses up as Captain Jack and he
20 goes to hospitals. It means a lot to him
21 personally. It means a lot to the children who look
22 up to him. Your Honor, all we're asking is

1 fairness. This is not an appropriate situation for
2 a protective order, Your Honor.

3 I do agree with Ms. Kaplan on one thing,
4 which is the redaction of personal identifiers. We
5 can do that. We should do that. There shouldn't be
6 addresses. There shouldn't be Social Security
7 numbers, but I don't think we need a protective
8 order for that, Your Honor. I think we can just
9 agree to redact all that information. We don't want
10 that information.

11 THE COURT: Tell me about your thoughts
12 on medical records.

13 MR. CHEW: Medical records, Your Honor, I
14 think that can be dealt with. We could make a
15 limited exception for that, Your Honor.

16 THE COURT: Okay. Are there any other
17 areas of limited exceptions that you think are
18 appropriate?

19 MR. CHEW: I think that would be it,
20 combined with redactions, Your Honor.

21 THE COURT: Okay.

22 MR. CHEW: Thank you.

1 THE COURT: Let me hear back from you
2 all.

3 MS. KAPLAN: Your Honor, I'll be very
4 brief. Let me start with the protective orders that
5 my friend mentioned. The point of those protective
6 orders, and I think my friend just made my point for
7 me, is that, in those cases, the degree of
8 sensitivity and confidentiality of the materials are
9 far less than we're talking about here. They're
10 business disputes, either with lawyers or managers
11 or a bodyguard, not Mr. Depp. We're not talking
12 about that here. We're talking about a very,
13 very --

14 THE COURT: But let me ask you this:
15 What difference does it make to me whether your
16 client or his client, in the past agreed to or
17 didn't agree to other protective orders? That's
18 their personal decisions based upon contact with
19 their counsel. It's not precedential.

20 MS. KAPLAN: No, no, no. I think the
21 point we're making, Your Honor, is that they're
22 routinely entered into in cases, as Your Honor

1 knows, particularly cases like this. Mr. Heard
2 [sic] has entered into them in cases far less
3 sensitive than this. And particularly, as Your
4 Honor noted already, when it comes to medical
5 records, the idea their medical records would be out
6 there for public consumption, before all the
7 discovery is in and we get to trial, is really,
8 would be way outside the bounds of any standard --

9 THE COURT: Well, I can help a little
10 bit. Medical records and the identifying
11 information, that's subject to the protective order.
12 That's out. Are there any other special areas that
13 you want me to address other than those?

14 MS. KAPLAN: May I consult with my
15 co-counsel for a second, Your Honor?

16 THE COURT: Sure.

17 MS. KAPLAN: And one more thing before I
18 get there. This text or tweet that I showed you
19 before, we didn't release these deposition dates.
20 We didn't go to the press and say --

21 THE COURT: Well, deposition notices are
22 routinely filed in court cases. They become a

1 matter of public record when they're filed.

2 MS. KAPLAN: Okay. Let me check on the
3 other.

4 (Pause.)

5 MS. KAPLAN: So here are the other
6 categories, Your Honor.

7 THE COURT: Okay.

8 MS. KAPLAN: She has a personal diary
9 that she kept during the course of their marriage.
10 Again, it has very intimate details about her and
11 their marriage, standard material that is subject to
12 a protective order.

13 THE COURT: Let me ask you to follow up
14 on that question. The personal diary was not
15 subject to a protective order in the course of the
16 divorce, but became subject to one at the time that
17 the final decree was entered? Is that correct or
18 incorrect?

19 MS. KAPLAN: No, I don't think anything
20 became subject to a protective order.

21 THE COURT: Oh, I thought you said that.
22 I must not have heard you right.

1 MS. KAPLAN: No, no, no. We can talk
2 about the divorce case, but it's a completely
3 separate proceeding with a completely different
4 scope, Your Honor. And so I'm not sure I
5 understand -- that's certainly not precedential.

6 THE COURT: The reason I'm asking you the
7 question is not about precedential or not. But if
8 it was not subject to a protective order at the time
9 of the divorce, I suspect it may have been out in
10 the ether at the time of the divorce.

11 MS. KAPLAN: Oh, no, Your Honor --

12 THE COURT: I don't know.

13 MS. KAPLAN: -- it was not subject -- it
14 was not out to the ether. There was no trial --

15 (Mr. Chew standing.)

16 THE COURT: Give her a chance to respond.

17 MS. KAPLAN: There was no trial in the
18 divorce. There was no discovery in the divorce.

19 None of those materials would have been public.

20 Did you even produce it to the other
21 side?

22 Never been produced to Mr. Depp or his

1 lawyers.

2 THE COURT: Okay.

3 MS. KAPLAN: So we have that. We have
4 financial information, personal financial
5 information of Ms. Heard, bank accounts,
6 transactions.

7 And then the final category, Your Honor,
8 would be actually photos that she took of herself
9 and of her body at various points in time, that,
10 again, are kind of classic confidential protected
11 kind of information, private photos -- again, never
12 publicized. No trial or discovery in the divorce --
13 that she took of herself, either to show injuries
14 that she had received or for other reasons. No one
15 wants their personal photos -- we live with this in
16 the age of the Internet today all the time. No one
17 wants their photos out there in the ether.

18 The only point I want to make, Your
19 Honor, is the "Johnny" photos that we have shown you
20 is not to show -- they can say whatever they want
21 about the -- it was to show Your Honor that we don't
22 think this case should be tried right now in the

1 public. We're going to be in a courtroom with rules
2 of evidence and standards that are orderly. We
3 surely -- we're happy to put in more evidence on the
4 danger, but if Your Honor were to see the full kind
5 of daily barrage that's out there, based on
6 materials that Mr. Depp and his counsel are leaking
7 about Ms. Heard, I think it would shock even your
8 conscience. We're happy to make that evidentiary
9 submission if you would like us to do so. We
10 honestly think that these materials are so
11 classically confidential, personal photos of your
12 body, a personal diary, medical records, financial
13 information about your assets and your bank
14 accounts, that we didn't need to go there, but we're
15 happy to do so if Your Honor would like us to.

16 THE COURT: Okay. Before you step back,
17 I certainly don't want the case tried in the public
18 either, but I think part of what Mr. Chew said was
19 that your side has already let that horse out of the
20 barn.

21 MS. KAPLAN: Well, Your Honor, let me
22 talk about the op-ed first of all. The op-ed said

1 nothing about Ms. Heard's relationship with
2 Mr. Depp. Nothing. It said that --

3 THE COURT: I think he referenced the
4 responsive pleadings to the venue motion.

5 MS. KAPLAN: The venue motion, I think, I
6 was not counsel then obviously, but my understanding
7 of it was, Your Honor, is that Mr. Depp, since
8 filing this case, which he's the plaintiff, has put
9 out in the press, really, a series of incredibly --
10 I mean, we'll prove that they're false -- but
11 incredibly prejudicial statements and falsehoods
12 about Ms. Depp [sic]. If you looked at the press
13 and if you looked at the tweets up to now, you would
14 think that Ms. Heard is guilty of beating up
15 numerous other romantic partners and has been
16 arrested for doing that. Not true. That Ms. Depp
17 cut off -- Ms. Heard, excuse me -- cut off
18 Mr. Depp's finger. He had an injury with a finger,
19 but the allegation out there is she somehow took a
20 machete or something and cut it off during a fight.
21 Not true.

22 To give you a sense of even what I've

1 received, Your Honor, and I'm a lawyer, so it's fair
2 game. I'm not complaining about this, but just
3 yesterday, I got a tweet from someone who has ten
4 followers on Twitter. Only follows 23 people. She
5 followed me 2 minutes before putting up this tweet.
6 And the tweet said, "I have lost all respect for you
7 Robby Kaplan. Shame on you for representing this
8 vile woman."

9 The degree of vitriol that Mr. Depp's
10 team with Mr. Waldman (ph), who is not here today,
11 who is effectively acting as a press agent for
12 Mr. Depp, has put out, including about me, and even
13 in the last 48 hours, about somehow the fact that
14 I'm associated with Time's Up should be a problem
15 for me in this case. It's so extreme that my sense
16 is that Ms. Heard felt like she had to set the
17 record straight.

18 But now we're in discovery, Your Honor.
19 Now there are going to be third parties, friends,
20 and witnesses and doctors who are involved. And to
21 put those people, before trial, into a public
22 carnival about who's right and who's wrong, without

1 that determination being made by a jury in this
2 courtroom, if we get there, subject to the rules of
3 evidence, I think would make a mockery of the
4 system, would make a mockery of discovery and is
5 exactly what the court was talking about in Worrell.
6 I can read you the relevant language. But the court
7 in Worrell said, "Several courts have recognized
8 that public access to the discovery process may have
9 a negative impact upon the administration of justice
10 and the functioning of this system."

11 I would respectfully say, Your Honor, in
12 this case, it already has. We need to stop it. We
13 need to act like responsible lawyers for our clients
14 and try this case in a court before a jury. And to
15 require Ms. Heard to produce information --
16 information that he's objecting to producing
17 completely -- from her doctors, her personal diary,
18 which we agree would be relevant, her personal
19 diary, photos that she took of her body, or her
20 financial records, in ways that never ever in cases
21 do parties have to produce in discovery and then
22 have it be exposed to the world, would be a grave

1 injustice, and I think, frankly, would so infect the
2 the jury in this case, it would be very hard to get
3 a fair trial for Ms. Heard or anyone else.

4 THE COURT: Okay. And I will give you a
5 chance to conclude after he's done.

6 MR. CHEW: Very briefly, Your Honor, and
7 I -- this is not any kind of criticism of Ms. Kaplan
8 because I think she's brand new to this case, but if
9 I could pass up to the deputy sheriff, this is the
10 civil docket in the divorce case. I'm not asking
11 the court to --

12 MS. KAPLAN: Do we have a copy?

13 MR. CHEW: I gave it to your partner at
14 the outset of the hearing.

15 THE COURT: I don't think it's contested
16 that there wasn't a protective order in that, is it?

17 MR. CHEW: There was no protective order.

18 THE COURT: If that's the purpose of you
19 handing me this --

20 MR. CHEW: It wasn't, Your Honor. I
21 apologize. The purpose of handing it to you was to
22 show that the case went right up to the eve of

1 trial. There was extensive discovery. Your Honor
2 was asking Ms. Kaplan about the diary. That would
3 have been produced in discovery. There were all
4 kinds of depositions. There was all kind of
5 discovery.

6 THE COURT: I guess it would or wouldn't
7 have been, since you weren't counsel in the case --

8 MR. CHEW: I was not.

9 THE COURT: -- unless you're speculating.

10 MR. CHEW: That is true, but it did go
11 right up to the point of trial. There were motions
12 in limine that were extensively filed. And, as Your
13 Honor will recall, attached to the declaration,
14 Ms. Heard's declaration in support of her motion to
15 dismiss, were any number of personal photographs of
16 Mr. Depp and Ms. Heard.

17 Finally, I would just note for the
18 record, and, again, Ms. Kaplan is new to this, but
19 Ms. Heard has admitted in public that she was
20 referring to Mr. Depp in the article, so I don't
21 think she can really walk that back, nor can she
22 walk back all of the disclosures she made during the

1 divorce proceeding when there was no protective
2 order in violation of the confidentiality provision
3 of the divorce decree. In the December 2018 op-ed,
4 which she has admitted referred to Mr. Depp and
5 everybody knew that as well, and then in the
6 declaration the horse has left the barn, Your Honor.

7 We're happy to agree to those limited
8 categories of exception, but it's not fair that she
9 has already put out all the venom into the media,
10 has cost Mr. Depp the most valuable movie franchise
11 in history. He's now not fighting for his career;
12 he's fighting for his reputation, Your Honor. And
13 it's not fair that she can now, long after the fact,
14 erect a barrier of protection. Thank you, Your
15 Honor.

16 THE COURT: Okay. I will give you the
17 last word. It was your motion.

18 MS. KAPLAN: Thank you, Your Honor.

19 Much of what my friend over here was
20 talking about is actually the merits of this case.
21 We understand that at issue in this case and we
22 actually have a motion for leave to file demurrer on

1 this, how a reasonable person would read Ms. Heard's
2 op-ed and whether it was in fact could be found to
3 be defamatory as a matter of law, frankly, much less
4 a matter of fact, is at the heart of this case.

5 THE COURT: Okay. But we're not dealing
6 with that today.

7 MS. KAPLAN: No, I understand. So --

8 THE COURT: I'm not sure why you're
9 sharing that with me.

10 MS. KAPLAN: Because my point is the
11 question is when we're trying that issue, if we're
12 going to get factually to that issue, we have to do
13 a lot of discovery. And to have that be tried
14 before we get to a trial, I don't think we need a
15 trial, but before we get to a trial, in the public
16 arena, is going to make it so much -- and it's not
17 only prejudice to my client, I think he can say
18 whatever he wants, I think it would be very
19 prejudicial to Mr. Depp. But I think even most
20 importantly, Your Honor, it would be prejudicial to
21 the administration of justice into having a fair
22 trial with a jury who is not infected by this kind

1 of craziness that is out there.

2 I can promise you -- one thing about the
3 protective order. We're not saying everything
4 should be protected. We're not -- want to produce
5 every single thing and have it be protected, but
6 things like diaries, medical records, photographs,
7 of that sort surely should be and almost always are
8 in every case.

9 I was not counsel for the divorce, Your
10 Honor. But what Ms. Heard has just informed me is
11 that the minute she filed for divorce, she sought
12 the divorce from Mr. Depp on grounds of abuse, the
13 very next day -- that day there were articles in the
14 paper all over that she was a gold digger, that she
15 was abusive, all the kinds of things that you are
16 seeing floating around this case now. There has
17 been efforts by both sides to go to try this case in
18 the press. That should stop, Your Honor, and it
19 will stop certainly on our side, and if you enter a
20 protective order on their side, at least with
21 respect to private, confidential information like
22 what her doctors said, what she said to her

1 psychiatrist, Your Honor, what she said in her
2 diaries, photos of herself, and what her assets are,
3 and where her bank accounts are, et cetera.

4 THE COURT: Okay. Thank you.

5 I'll add to the protective order that
6 would cover identifying information, personal
7 information, and medical records, also the personal
8 diary. There may be some parts of that might, at
9 some point, not be subject to that. But certainly
10 there will be, I suspect, a significant part of that
11 that would be subject to the protective order. So
12 we start with the premise that it's all under the
13 protective order.

14 I don't think -- I suspect that you all
15 don't have a problem in the manner you're going to
16 craft that order that takes care of this. I don't
17 think I have to do the minutia for you. If I'm
18 mistaken, you all let me know and we'll deal with
19 that, but I think you all are well experienced in
20 that sort of thing.

21 MR. CHEW: And, Your Honor, just for
22 point of clarification, should the motion be denied

1 in part and granted in part?

2 THE COURT: Yeah. Okay.

3 Anything else then before we wrap up for
4 the day? When can you all get that order to me?

5 MR. CHEW: We'll try to do that right
6 now, Your Honor.

7 THE COURT: Good.

8 MR. ROTTENBORN: So, Your Honor, just to
9 clarify, we can get that order to you as soon as
10 possible, but the order would include the medical
11 records, identifying information of both parties and
12 other witnesses or potential witnesses, Ms. Heard's
13 personal diary. And then would it include
14 confidential financial records --

15 THE COURT: No.

16 MR. ROTTENBORN: -- and photographs of
17 her body?

18 THE COURT: No.

19 MR. ROTTENBORN: Your Honor, can certain
20 aspects of the financial records be redacted, you
21 know, outside of the context of a global protective
22 order?

1 THE COURT: Social Security numbers,
2 addresses, those type of things, sure.

3 MR. ROTTENBORN: Bank account numbers?

4 THE COURT: If that's what you're talking
5 about, yeah.

6 Okay. If you all would just pass that
7 order up when you're done. Thank you.

8 MR. CHEW: Thank you, Your Honor.

9 THE COURT: Hope everybody has a good
10 weekend.

11 (The hearing was concluded at 11:19 a.m.)
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CERTIFICATE OF SHORTHAND REPORTER

I, Theresa R. Hollister, the court reporter before whom the foregoing hearing was taken, do hereby certify that the foregoing transcript is a true and correct record of the testimony given; that said testimony was taken by me stenographically and thereafter reduced to typewriting under my supervision; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

Theresa R. Hollister



Theresa R. Hollister
Court Reporter