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Transcript of Hearing

Date: December 20, 2019

Case: Depp, II -v- Heard

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Transcript of Hearing
Conducted on December 20, 2019

<p>1 VIRGINIA: 2 IN THE CIRCUIT COURT OF FAIRFAX COUNTY 3 -----X 4 JOHNNY C. DEPP, II,) 5 Plaintiff,) 6 -vs-) NO. CL-2019-0002911 7 AMBER LAURA HEARD,) 8 Defendant.) 9 -----X 10 Hearing 11 BEFORE THE HONORABLE BRUCE D. WHITE 12 Fairfax, Virginia 13 Friday, December 20, 2019 14 10:41 a.m. 15 Job No.: 278504 16 Pages: 1 - 29 17 Reported by: Theresa R. Hollister, CCR 18 19 20 21 22</p>	<p>1 APPEARANCES 2 ON BEHALF OF PLAINTIFF: 3 BENJAMIN G. CHEW, ESQUIRE 4 CAMILLE VASQUEZ, ESQUIRE 5 BROWN RUDNICK, LLP 6 601 Thirteenth Street, Northwest 7 Suite 600 8 Washington, D.C. 20005 9 (202) 536-1700 10 11 ON BEHALF OF DEFENDANT: 12 J. BENJAMIN ROTTENBORN, ESQUIRE 13 WOODS ROGERS, PLC 14 10 South Jefferson Street, Suite 1400 15 Roanoke, Virginia 24011-1319 16 (540) 983-7600 17 ROBERTA A. KAPLAN, ESQUIRE 18 JOHN C. QUINN, ESQUIRE 19 KAPLAN HECKER & FINK, LLP 20 350 Fifth Avenue, Suite 7110 21 New York, New York 10118 22 (212) 763-0884</p>
<p>1 Hearing held at: 2 3 Fairfax County Circuit Court 4 4110 Chain Bridge Road 5 Courtroom 5B 6 Fairfax, Virginia 22030 7 (703) 691-7320 8 9 Pursuant to notice, before Theresa R. 10 Hollister, Certified Court Reporter and Notary 11 Public for the Commonwealth of Virginia. 12 13 14 15 16 17 18 19 20 21 22</p>	<p>1 PROCEEDINGS 2 (Court reporter duly sworn by the court.) 3 THE COURT: Can we get you to note your 4 appearances for the record, please. 5 MR. CHEW: Good morning, Your Honor. May 6 it please the court. Ben Chew and Camille Vasquez 7 for Plaintiff Johnny Depp. 8 THE COURT: Good morning. 9 MR. ROTTENBORN: Good morning, Your 10 Honor. Ben Rottenborn for the defendant, Amber 11 Heard. And with me today are Robbie Kaplan and John 12 Quinn from Kaplan Hecker. 13 THE COURT: Okay. You can go ahead when 14 you are ready. 15 MR. ROTTENBORN: Thank you, Your Honor. 16 I'll reserve approximately 3 minutes for rebuttal, 17 if that's okay. 18 THE COURT: Sure. 19 MR. ROTTENBORN: What Mr. Depp is asking 20 the court to do in this case is make an 21 unprecedented and unwarranted expansion of Virginia 22 defamation law. I know the court is well aware of</p>

<p style="text-align: right;">5</p> <p>1 the article at issue. This is a 2018 op-ed in the 2 Washington Post, in which Amber Heard expresses her 3 opinions and her observations about society's 4 treatment of women who speak out about domestic 5 abuse, and then her opinions of how she believes 6 society should change and potential Congressional 7 action that should result. It is important to note 8 that in this op-ed, Your Honor, she doesn't 9 republish, she doesn't rebroadcast, and she doesn't 10 restate any of the allegations of domestic abuse 11 that she made against Mr. Depp in May of 2016 in her 12 declaration that she signed in support of her 13 domestic violence restraining order in California 14 state court.</p> <p>15 Of course, those statements in the 2016 16 declaration, aren't actionable for a variety of 17 reasons. Number one, the statute of limitations is 18 long past. Number two, they're judicially immune. 19 And so what Mr. Depp seeks to do through this case 20 is essentially the ultimate do-over. He seeks to 21 litigate the truth or falsity of those 2016 22 statements by citing to this 2018 op-ed. And to</p>	<p style="text-align: right;">7</p> <p>1 uniform that merely referencing an earlier writing, 2 which may or may not be defamatory, doesn't 3 constitute an actionable republication. That's the 4 Go Forth [sic] case, which is the 1966 Fourth 5 Circuit case that first stated that proposition. 6 That language that a mere reference to an earlier 7 writing does not constitute republication has been 8 cited approvingly by the Virginia circuit court in 9 at least one case, the Higgs case, from 1983. And 10 it's also cited in the Philadelphia Newspapers case, 11 a case from the Third Circuit, the Salyer case, a 12 case from the Federal District Court in Kentucky, 13 all standing for the proposition that referencing an 14 article doesn't republish it, even if that earlier 15 article could be defamatory.</p> <p>16 Here, the op-ed doesn't even contain a 17 mere reference, as the courts have found, to the 18 2016 domestic violence restraining order 19 application. To get to its republication theory, 20 what the plaintiff has to do is say, well, it 21 impliedly references the 2016 accusations and, 22 therefore, it republishes them. So it is even</p>
<p style="text-align: right;">6</p> <p>1 take this op-ed and to turn it into defamation by 2 implication or republication, which are the two 3 theories on which he proceeds, because, of course, 4 Mr. Depp isn't mentioned in the article, that would 5 expand Virginia defamation law far beyond what the 6 Supreme Court has permitted. And Mr. Depp makes 7 clear in his complaint that relitigating the 2016 8 accusations is his intent. He says on page -- 9 paragraph 23, he said that those 2016 accusations 10 were a poorly-executed lie that nevertheless has 11 endured for 3 years. In paragraph 17, he refers to 12 this newly available evidence that he claims proves 13 that some of the 2016 accusations were false.</p> <p>14 So I will start with defamation by 15 republication, Your Honor. In his complaint and in 16 his brief, Mr. Depp argues that somehow the 2018 17 op-ed republished the 2016 allegations. I know the 18 court has read, we've discussed at multiple hearings 19 these 2016 allegations, and this op-ed is not that. 20 The case law is uniform. There's not a lot of case 21 law that we've found on this issue, but the case law 22 that we have found that we cited in our brief is</p>	<p style="text-align: right;">8</p> <p>1 further removed from what could be possibly 2 actionable defamation than the cases that have found 3 that merely referencing an article isn't defamation. 4 So defamation by republication is a theory that we 5 believe is dead on arrival for the, for the 6 plaintiff here.</p> <p>7 So that takes us to defamation by 8 implication. The Virginia Supreme Court has said 9 since the Carwile case in the '50s that defamation 10 by implication, while it's a viable theory, the 11 alleged implication that's defamatory must be drawn 12 from the actual words that are used, and that the 13 plaintiff cannot extend the meaning of those words 14 that are used. That's the language from the Carwile 15 case. The, the, the instruction that the 16 implication must be drawn from the words actually 17 used is from the Webb case in 2014 from the Virginia 18 Supreme Court.</p> <p>19 So defamation must exist in the plain and 20 natural [sic] meaning of the words. And it's 21 appropriate here to look at the words that are 22 actually used. And I know that the court is well</p>

<p style="text-align: right;">9</p> <p>1 aware of them. I won't go through each and every 2 point, but the alleged defamatory statements here, 3 Your Honor, fall into a couple of different 4 categories. The first are opinions that express 5 Amber's suggestive beliefs, which the court has 6 found time and again are not actionable. Examples 7 of opinions in the alleged statements here are her 8 opinion that she faced our culture's wrath and that 9 that has to change, that she had a rare vantage 10 point of seeing how institutions treat men, protect 11 men accused of abuse, that she felt as though she 12 were on trial. Those are, those are her subjective 13 beliefs that depend on her perspective of things. 14 And so those aren't actionable. 15 The second category are expressions of 16 fact that have nothing to do with Johnny Depp, 17 statements like she was getting death threats 18 following the publicity that surrounded her 2016 19 allegations, statements that she was pursued by 20 camera drones and paparazzi. Those are statements 21 of fact that are not, cannot possibly be defamatory 22 to Mr. Depp because they have nothing to do with</p>	<p style="text-align: right;">11</p> <p>1 tellingly, in paragraph 56, the complaint refers to 2 the media firestorm concerning Ms. Heard's domestic 3 abuse allegations against Mr. Depp. Those are the 4 words taken from the complaint. And the fact is, it 5 is literally true that Ms. Heard did become a public 6 figure representing domestic abuse when she went 7 into that California courtroom in 2016. It's 8 admitted as true in the complaint. 9 And, importantly, that is true whether or 10 not the underlying allegations of abuse are true, 11 whether or not the underlying facts that were 12 alleged in that 26 declaration are true. And, of 13 course, our position is that they were, but that's 14 not a relevant inquiry for the court at the demurrer 15 stage. The statement that she became a public 16 figure representing domestic abuse is literally 17 true. So that can be the starting point and the 18 ending point of the court's analysis here. Case 19 closed. There is no defamation. 20 Now, I understand that Mr. Depp is going 21 to get up here and say that people understood Amber 22 to be talking about Johnny when she made that</p>
<p style="text-align: right;">10</p> <p>1 him. 2 So that really takes us to, I think, the 3 heart of this, which is the only statement that the 4 plaintiff could even conceivably argue relates to 5 Mr. Depp is her statement when she says, "Then two 6 years ago, I became a public figure representing 7 domestic abuse." But that's not actionable for a 8 few reasons, Your Honor. Number one, it's literally 9 true and it's admitted as true in the complaint. 10 Amber Heard did, in fact, become a public figure 11 representing domestic abuse in 2016, when she went 12 into court and filed the declaration in support of 13 the TRO. The complaint repeatedly references this. 14 The complaint talks about in paragraphs 2, 3, 5, 22, 15 23, 33, 50 the DVRO applications that she made in 16 2016. 17 The complaint also repeatedly reference 18 the publicity that surrounded that. The complaint 19 references a "People" magazine story that was coming 20 out, detailing the accusations. 21 In paragraph 40, the complaint talks 22 about Ms. Heard appearing in public. And most</p>	<p style="text-align: right;">12</p> <p>1 comment. But even if that were the case, Your 2 Honor, the statement that Amber Heard became a 3 public figure representing domestic abuse cannot be 4 read as an assertion that he did, in fact, abuse her 5 without changing the meaning of the words "use," 6 which the Supreme Court in Carwile and numerous 7 cases following has explicitly said you can't do. 8 So Mr. Depp can't escape the black letter law in 9 Virginia saying you can't import meaning to the 10 words actually used. 11 Now, it's important also, I think, to 12 look at the Chapin case, the Fourth Circuit case 13 applying Virginia law, which, in citing Carwile, it 14 says the inquiry itself that's caused by an article, 15 no matter how embarrassing or unpleasant to its 16 subject is not defamation or accusation. 17 So if the op-ed caused more people to 18 inquire about, I wonder what happened in Amber 19 Heard's life -- and it's important to remember that 20 this op-ed discusses biographical facts of her life, 21 both before and after Mr. Depp, along with her 22 opinion of society. So there's nothing about this</p>

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1 op-ed that's directly precisely toward her marriage
2 to Mr. Depp. But if the op-ed caused people to log
3 onto Google and to find out about those 2016
4 accusations or if they caused people to remember
5 them, that's not actionable.
6 If this article and this statement is
7 defamation by implication, Your Honor, then
8 Ms. Heard would be forever silenced from referring
9 to the TRO that she got, ever silenced from
10 referring to the divorce that she had, which flowed
11 from the TRO. And that is just not the law in
12 Virginia. She did not say that Mr. Depp abused her,
13 and that inference cannot be drawn from the words
14 used. The only inference that can be drawn is that
15 she did, in fact, become a public figure.
16 The only discussion of what happened two
17 years ago was a discussion about publicity that took
18 place two years ago and what happened as a result of
19 that publicity.
20 Now I'd like to briefly address the
21 Pendleton case, Your Honor, because I think Mr. Depp
22 is going to use that case to support his claim.

14

1 That case was very different, because, in that case,
2 as Your Honor is aware, it involved a tragic death
3 of an elementary school student from a peanut
4 allergy. And the only implication that can be drawn
5 from the school's statements in the press, which
6 immediately followed that death where the school
7 said, well, you have to remember it's important to
8 let the school know if your child has a peanut -- or
9 has an allergy, and it's important to provide an
10 EpiPen and a treatment plan. The only sole and
11 unmistakable, the language the court used, sole and
12 unmistakable inference that could be drawn were that
13 the parents were responsible for that.
14 Here, the words that Ms. Heard used do
15 not solely and unmistakably discuss or accuse
16 Mr. Depp of abuse. Now, they do solely and
17 unmistakably say that she became a public figure and
18 that she became a public figure representing
19 domestic abuse. But that is not -- that is very
20 different from saying that Mr. Depp engaged in
21 domestic abuse.
22 And I think it's telling, Your Honor, if

15

1 you look at page 13 of their brief, they have
2 engaged in some verbal gymnastics here. They
3 substitute the word "represent" for the word
4 "experience." And they say that -- they describe
5 the alleged defamatory statement as whether
6 Ms. Heard experienced domestic abuse. But that's
7 not what the words say and that's not what can be
8 drawn or reasonably inferred from the word
9 "represent" under Supreme Court precedent. The
10 truth or falsity of whether or not she became a
11 public figure does not depend on the truth or
12 falsity of whether or not Depp abused her.
13 And to get back to the Pendleton case,
14 the Pendleton case, the articles in the Pendleton
15 case were concerning the fact of the child's tragic
16 death. The op-ed here was not concerning the fact
17 of abuse. It was concerning, as I've mentioned,
18 Ms. Heard's opinions and her personal experiences
19 throughout her life.
20 So I will touch briefly, Your Honor, on
21 the plea in bar, just the statute of limitations,
22 the only thing that we're bringing to court's

16

1 attention today. What they're trying to do here is
2 to bootstrap the 2016 domestic violence restraining
3 order allegations into the 2018 claim and relitigate
4 otherwise time-barred statements that are also
5 judicially immune. The court is permitted to
6 consider this argument on a plea in bar because it's
7 a purely legal matter that's, to the extent there
8 are facts, that all those are contained, the dates
9 contained in the complaint.
10 So, in conclusion, Your Honor, the court,
11 as Your Honor knows, has a gatekeeping function of
12 making sure these nonactionable statements don't
13 proceed. This is true even if these statements
14 might trigger scrutiny of Mr. Depp. And I will
15 leave the court with the idea that if a columnist, a
16 paid columnist, had written this article and had
17 replaced the word "I" with the word "Amber Heard"
18 and written about Amber Heard in the third person,
19 but used the exact same words, we wouldn't be here
20 today, because there is absolutely nothing
21 defamatory about it. And the fact that Amber Heard
22 was the one that wrote it, does not change that.

<p style="text-align: right;">17</p> <p>1 So with that, I will save the rest of my 2 argument for rebuttal. 3 THE COURT: Thank you. 4 MR. ROTTENBORN: Thank you. 5 MR. CHEW: Good morning again, Your 6 Honor. We'll be very brief. Just a few salient 7 points. 8 The court should overrule the demurrer 9 and plea in bar. As Your Honor is well aware, it's 10 black letter law in Virginia that a defamatory 11 charge can be made by inference, implication, or 12 insinuation. Quote, Making room for a defamation 13 action based on a statement expressing a defamatory 14 meaning not apparent on its face, unquote. 15 Pendleton versus Newsome 290 Va. 162, citing Webb 16 and Carwile. 17 The Supreme Court of Virginia ruled that, 18 to be actionable and defamatory, quote, it is not 19 necessary that the defamatory charge be in direct 20 terms, but it may be made indirectly. And it 21 matters not how artful and disguised the modes in 22 which the meaning is concealed, if it, in fact, is</p>	<p style="text-align: right;">19</p> <p>1 directly at plaintiff and no other person, unquote, 2 290 Va. at 172 and 173. And that's precisely what 3 we have here. And, again, Ms. Heard's counsel does 4 a nice job trying to distinguish that case on the 5 facts, which he has to do, but it's right on point. 6 Ms. Heard states in the op-ed, "Two years 7 ago, I became a public figure representing domestic 8 abuse and I felt the full force of our culture's 9 wrath for women who speak out." Two years ago, of 10 course, Your Honor, is the precise time frame when 11 Ms. Heard publicly and falsely accused Mr. Depp of 12 abuse and obtained her ex parte TRO while Mr. Depp 13 was in New York. 14 Domestic abuse plainly refers to abuse by 15 Mr. Depp, Ms. Heard's spouse at the time. Moreover, 16 this statement colors Ms. Heard's statement that 17 she, quote, had the rare vantage point of seeing in 18 realtime how institutions protect men accused of 19 abuse, unquote. So Ms. Heard had to be referring to 20 Mr. Depp, who was her only male spouse, not her 21 prior female spouse, Tasha van Ree, who Ms. Heard 22 was arrested for abusing, not vice versa. So just</p>
<p style="text-align: right;">18</p> <p>1 defamatory, unquote. Carwile, 196 Va. at 7. 2 And in assessing whether an article, such 3 as the op-ed at issue here is defamatory, Ms. Heard 4 concedes at page 6 of her opening brief, and it was 5 mentioned in a prior oral argument this morning, 6 context is key, unquote. Indeed, the case law that 7 both sides have cited make it clear that Virginia 8 courts analyze writing as a whole, rather than parse 9 individual statements and look at them in isolation 10 as Mr. Rottenborn artfully has attempted to do 11 today. 12 And Mr. Rottenborn is correct, Pendleton 13 is instructive. It's right on point. It's the 14 same, very similar case. There was a media frenzy 15 involving the tragic death of this student from a 16 peanut allergy. The articles are -- implicitly 17 criticize the mother. They didn't mention her. On 18 reconsideration, the trial court sustained the 19 demurrer on the grounds that the mother wasn't 20 mentioned. But in reversing the trial court, the 21 Supreme Court of Virginia stated that even though 22 she wasn't named, the allegations were, quote, Aimed</p>	<p style="text-align: right;">20</p> <p>1 as in Pendleton, it unmistakably referred to 2 Mr. Depp. 3 And, Your Honor, Mr. Depp is not 4 speculating about this. You don't have to take his 5 or my word for it. The Washington Post itself, 6 which was the vehicle through which Ms. Heard 7 purposely chose to publish this, said, quote, Though 8 Heard did not name Depp or any specific allegations, 9 her piece was widely interpreted as being in 10 reference to him because of the media coverage of 11 their tense split, unquote. That's Exhibit 4 to our 12 opposition brief, the Washington Post article. 13 THE COURT: Isn't a demurrer based solely 14 on what's in the complaint? 15 MR. CHEW: That's true. But the court, 16 as Your Honor knows far better than I, the court is 17 to take inferences in favor of the plaintiff. Here 18 I think we'll be able to prove very clearly at trial 19 from the Washington Post itself, that everybody 20 understood. 21 THE COURT: Right. But that's not what 22 we're doing today. Today is just does the complaint</p>

Transcript of Hearing
Conducted on December 20, 2019

<p style="text-align: right;">21</p> <p>1 state a cause of action. And I don't think I should 2 be going outside the four corners of the document. 3 MR. CHEW: Understood, Your Honor. Then 4 I will move on and not discuss the exhibits to our 5 opposition, which, which make that point. 6 Notably, Your Honor, Ms. Heard admitted 7 making a conscious decision to republish the false 8 allegations of abuse. Quote, I wrote the op-ed in 9 Los Angeles, California, and submitted it to the 10 Washington Post, through my contact at the ACLU, who 11 is based in New York." And this is the declaration 12 of Amber Heard, dated April 10th -- 13 THE COURT: Why am I using a declaration 14 to determine whether or not the complaint states a 15 cause of action? I sort of noted mentally that they 16 appeared to have abandoned the argument that she 17 didn't write the header to this. And I assume 18 that's because it's on page 7 of the complaint, that 19 it's in the complaint that she wrote it. So I think 20 we're strictly limited to what's in the complaint. 21 MR. CHEW: I would respectfully submit, 22 Your Honor, that it's relevant to the plea in bar</p>	<p style="text-align: right;">23</p> <p>1 So I think, on the record, I think the court should 2 deny the plea in bar, and, at best, they've created 3 an issue of fact to be resolved at trial on that. 4 But very briefly, I'll just -- so that handles the 5 plea in bar, at least with respect to our 6 presentation. 7 But the final point I would make on 8 demurrer is that as set forth on pages 12 through 14 9 of our opposition the statements are actionable 10 because they contain a false factual predicate. The 11 Supreme Court of Virginia has held that, whereas 12 here, opinions are, quote, Laden with factual 13 content, it is appropriate for a jury to determine 14 whether such opinions are defamatory, end quote, 15 Richmond Newspapers, Inc versus Lipscomb, 234, Va. 16 277, 298 note 8, 1987 case. 17 And that's all we have, Your Honor. I 18 think we clearly -- Mr. Depp has clearly stated a 19 cause of action for defamation. And it's Mr. Depp's 20 burden to prove that at trial, but, clearly, I think 21 the court, in its gatekeeper function, can and 22 should rule that the demurrer should be overruled</p>
<p style="text-align: right;">22</p> <p>1 point, because Mr. Rottenborn has said that -- has 2 referred to this being a mere referencing to the 3 prior allegations. And it goes to the point that 4 this is her conscious decision not only to write 5 this and publish this, but to do so in the 6 Washington Post. 7 THE COURT: Okay. Well, let me sort of 8 address that, I guess. If this is an evidentiary 9 plea in bar, then we would actually take evidence 10 with witnesses under oath, subject to 11 cross-examination. 12 MR. CHEW: That's correct. And I think 13 both the Weaver case and the Aramo (ph) case both 14 stand for the proposition that in such a case it is 15 a question of fact for which there would need to be 16 a jury. So I don't think it's appropriate for the 17 court to rule on the plea in bar in argument, but, 18 to the extent it does, I think it's very clear that 19 this op-ed was published on December 18th, 2018, and 20 that we filed the complaint on March 1, 2019, well 21 within the one-year statute of limitations. 22 Actually, it's within 3 months of the publication.</p>	<p style="text-align: right;">24</p> <p>1 along with the plea in bar. Thank you, Your Honor. 2 THE COURT: Thank you. 3 Go ahead. 4 MR. ROTTENBORN: Thank you, Your Honor. 5 Just a very quick note about the plea in bar. There 6 were three grounds for the plea in bar. We 7 recognize that two of them would require evidence 8 and putting witnesses on the stand, and so while we 9 will -- and in our praecipe we reserve the right to 10 bring those plea in bar issues, whether at trial or 11 seek the court's leave to hear them before trial on 12 the issue that she didn't write the headline in the 13 online piece and the Virginia anti-SLAPP portion of 14 the plea in bar. For the purposes of today's 15 hearing, we're only asking the court to decide the 16 plea in bar related to the statute of limitations. 17 THE COURT: All right. 18 MR. ROTTENBORN: On Pendleton, Your 19 Honor, respectfully, I believe that Mr. Depp is 20 trying to twist the holding of that court and apply 21 that court's holding with respect to a rash of media 22 articles dealing with the factual cause of a child's</p>

Transcript of Hearing
Conducted on December 20, 2019

<p style="text-align: right;">25</p> <p>1 death into the context of an op-ed that has nothing 2 to do and does not address whether or not abuse 3 occurred. We believe that's inappropriate. The 4 allegations in the op-ed or the discussion of the 5 op-ed were not aimed at Mr. Depp. And in Pendleton 6 where the sole -- it was solely -- sole and 7 unmistakable to any reader that the parents of that 8 child were the target because they didn't tell the 9 school and didn't provide an EpiPen, that is very 10 different from here, where it's not sole and 11 unmistakable to any reader -- there's nothing that's 12 sole and unmistakable to any reader, other than the 13 fact that Ms. Heard did, in fact, become a public 14 figure in the midst of what plaintiff has described 15 in its complaint as a media firestorm, to use 16 plaintiff's words. And so this is very different 17 from Pendleton and it would expand the Supreme 18 Court's holding in Pendleton to a much different 19 scenario to an opinion piece like this. 20 To briefly and finally address Mr. Chew's 21 point about the factual predicate, he says there's a 22 false factual predicate. There was no false factual</p>	<p style="text-align: right;">27</p> <p>1 through them in a little bit more detail, as I look 2 at my notes and that sort of thing, before I make a 3 ruling on the case. So we've got the holidays. Our 4 trial date has been moved, so we don't have a great 5 urgency on that and I don't think you have to 6 expedite it over Christmas, but when do you all 7 think you can get that to me? 8 Madam Court Reporter, what's your 9 situation? 10 THE REPORTER: I will defer to the 11 attorneys. 12 THE COURT: You'll do whatever they want. 13 MR. CHEW: Your Honor, we are blessed 14 with a very talented court reporter and she has 15 worked with great alacrity. We don't want to ruin 16 her holidays, but she had indicated that she might 17 be able to get it to us to fairly quickly, as she 18 always has. 19 The only thing I'd like to ask, by way of 20 clarification, to the extent that the court decides 21 to overrule the demurrer and plea in bar, we would 22 ask that defendant be ordered to file an answer</p>
<p style="text-align: right;">26</p> <p>1 predicate accusing Mr. Depp of abuse here. The only 2 factual predicate that is in this op-ed is that 3 Ms. Heard did, in fact, become a public figure two 4 years ago. And, again, it's admitted in their 5 complaint and it is literally true. And everything 6 else in that, in that piece, is an opinion from 7 Ms. Heard. 8 In short, Your Honor, this article is all 9 about the backlash that she faced from her 2016 TRO, 10 as well as other experiences, how society should 11 change. It is not about their marriage or about any 12 allegations of abuse. And we respectfully request 13 the court sustain the demurrer and the plea in bar 14 and dismiss this case with prejudice. 15 THE COURT: Okay. Thank you. 16 I appreciate the briefing, as well as the 17 oral argument, and, in particular, the briefing and 18 argument related to the Pendleton case. What I'm 19 going to ask you all to do, because I do value the 20 arguments you've made, is if you could have your 21 court reporter transcribe the arguments and get 22 those to me in chambers, I want to be able to go</p>	<p style="text-align: right;">28</p> <p>1 within 21 days. Thank you. 2 THE COURT: What I will ask you all, 3 also, to do, if you could both forward to me your 4 proposed orders. And if each side would exchange 5 those ahead of time, so that you can note your 6 objection on the order, that you don't know whether 7 it's going to be one I enter or not, but assuming 8 that I am going to rule one way or the other, if you 9 would note your objections, so we don't have to 10 recirculate it for the exceptions. 11 MR. CHEW: Absolutely, Your Honor. 12 THE COURT: Thank you, all. 13 MR. ROTTENBORN: Thank you, Your Honor. 14 MR. CHEW: Thank you, Your Honor. 15 (The hearing was concluded at 11:06 a.m.) 16 17 18 19 20 21 22</p>

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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