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# Transcript of Hearing

**Date:** August 21, 2020  
**Case:** Depp, II -v- Heard

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Transcript of Hearing  
Conducted on August 21, 2020

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| <p>1 VIRGINIA:<br/>2 IN THE CIRCUIT COURT OF FAIRFAX COUNTY<br/>3 -----x<br/>4 JOHNNY C. DEPP, II, :<br/>5 Plaintiff, :<br/>6 v. : Case No. CL-2019-0002911<br/>7 AMBER LAURA HEARD, :<br/>8 Defendant. :<br/>9 -----x<br/>10<br/>11 HEARING<br/>12 BEFORE THE HONORABLE BRUCE D. WHITE<br/>13 Conducted Virtually<br/>14 Friday, August 21, 2020<br/>15 12:03 p.m. EST<br/>16<br/>17<br/>18<br/>19<br/>20 Job No.: 315574<br/>21 Pages: 1 - 21<br/>22 Reported By: Victoria Lynn Wilson, RMR, CRR</p> | <p>1 APPEARANCES<br/>2 ON BEHALF OF THE PLAINTIFF:<br/>3 BENJAMIN G. CHEW, ESQUIRE<br/>4 BROWN RUDNICK, LLP<br/>5 601 Thirteenth Street, NW<br/>6 Suite 600<br/>7 Washington, DC 20005<br/>8 (202) 536-1700<br/>9<br/>10 ON BEHALF OF THE DEFENDANT:<br/>11 J. BENJAMIN ROTTENBORN, ESQUIRE<br/>12 WOODS ROGERS, PLC<br/>13 10 South Jefferson Street<br/>14 Suite 1400<br/>15 Roanoke, VA 24011-1319<br/>16 (540) 983-7600<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22</p> |
| <p>1 HEARING BEFORE THE HONORABLE BRUCE D. WHITE,<br/>2 conducted virtually.<br/>3<br/>4<br/>5<br/>6<br/>7<br/>8<br/>9 Pursuant to docketing, before Victoria Lynn<br/>10 Wilson, Registered Merit Reporter, Certified<br/>11 Realtime Reporter, E-Notary Public in and for the<br/>12 Commonwealth of Virginia.<br/>13<br/>14<br/>15<br/>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22</p>   | <p>1 APPEARANCES CONTINUED<br/>2 ON BEHALF OF THE DEFENDANT:<br/>3 ELAINE CHARLSON BREDEHOFT, ESQUIRE<br/>4 CHARLSON BREDEHOFT COHEN &amp; BROWN, PC<br/>5 11260 Roger Bacon Drive<br/>6 Suite 201<br/>7 Reston, VA 20190<br/>8 (703) 318-6800<br/>9<br/>10<br/>11<br/>12<br/>13<br/>14<br/>15<br/>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22</p>   |

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| <p>5</p> <p>1 PROCEEDINGS<br/>2 (The court reporter was sworn.)<br/>3 THE COURT: Good morning, everybody.<br/>4 MS. BREDEHOFT: Good morning, your Honor.<br/>5 THE COURT: I see we have a court<br/>6 reporter.<br/>7 MR. CHEW: Good morning, your Honor.<br/>8 THE COURT: Can I get the court reporter<br/>9 to raise her hand to be sworn.<br/>10 (The court reporter was sworn.)<br/>11 THE COURT: Thank you.<br/>12 All right. Before we get started, I guess<br/>13 I should express my disappointment to you and get<br/>14 it out there at the outset. I have, I guess, been<br/>15 too nice to everybody in regards to discovery<br/>16 matters and made myself too available and feel<br/>17 that that process is something I need to address.<br/>18 I'm not sure that you all always<br/>19 completely confer and give consideration to the<br/>20 other side's positions. Although I don't say it<br/>21 at the hearings, there are some requests that are<br/>22 made and some objections that are made that would</p>   | <p>7</p> <p>1 this before I came in in June, but unless we bring<br/>2 a motion to compel and unless we get an order, we<br/>3 do not get responses and we do not get documents,<br/>4 no matter how hard we try.<br/>5 And the uniqueness of this case, your<br/>6 Honor, is that our deponents, the vast majority --<br/>7 the plaintiffs have listed 42 individuals who have<br/>8 knowledge in this case. The vast majority of them<br/>9 are in California. We have started to set up<br/>10 these depositions because we have a trial in<br/>11 January. We have a number of depositions<br/>12 scheduled for September and early October.<br/>13 These are one-offs, your Honor. We can't<br/>14 expect them to show up at trial. This is our shot<br/>15 for trial testimony. If we don't get the<br/>16 responsive documents from them and have them in<br/>17 time to prepare for and take these depositions, we<br/>18 are going to be at a significant disadvantage.<br/>19 And that's why we're pushing forward on this.<br/>20 But we made a genuine effort to try to<br/>21 resolve all these. And your Honor will see the<br/>22 documents that I sent yesterday, even after we had</p> |
| <p>6</p> <p>1 fall into the category of being ridiculous, and<br/>2 that continues even through today, in my view.<br/>3 So what I want to know first is how much<br/>4 time did you all actually spend in a good faith<br/>5 meeting and conferring about the discovery issues<br/>6 that I've got on the docket right now. And part<br/>7 of the reason I mention that is that I understand<br/>8 that you all have already requested my available<br/>9 Fridays for essentially the next two months,<br/>10 meaning that there are more of these type of<br/>11 motions to come, in my estimation.<br/>12 So I don't know who wants to go first, but<br/>13 I'll hear from everybody.<br/>14 MS. BREDEHOFT: I'll be happy to go, your<br/>15 Honor. We spent almost two hours on the phone,<br/>16 Mr. Rottenborn and I spent, with the two<br/>17 California counsel -- the Virginia counsel were<br/>18 not present on behalf of plaintiff -- and we went<br/>19 through in great detail these requests.<br/>20 Our experience -- and I completely agree<br/>21 and share your Honor's frustration, but it<br/>22 appears, and I think Ben Rottenborn can speak to</p> | <p>8</p> <p>1 that extensive meet and confer, and it was<br/>2 extensive and very much in good faith --<br/>3 Mr. Rottenborn was with me for that -- then<br/>4 counsel for defendant -- or plaintiff claims in<br/>5 its opposition, "Oh, we've resolved all of these."<br/>6 So I sent a consent order saying, "That's<br/>7 great," because they didn't -- after we left the<br/>8 meeting on Wednesday night, they said, "Well, we<br/>9 still have to check with our counsel in Virginia."<br/>10 We said, "Okay. Get back to us." And then we get<br/>11 the opposition saying, "Well, we're agreed to<br/>12 these and these and these."<br/>13 So I sent a consent order saying, "Great.<br/>14 Let's get these off the judge's docket" -- and<br/>15 that's one of my attachments, too, your Honor --<br/>16 "So these I understand you're agreeing to now. Go<br/>17 ahead and let me know if you've got any edits.<br/>18 Let's get this in to the judge so they don't have<br/>19 to spend the time on this."<br/>20 He responds, Mr. Chew responds, by saying,<br/>21 "Look, since you wouldn't do the meet and confer<br/>22 before you filed the motion, I'm not going to</p>            |

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| <p>9</p> <p>1 agree to any consent order." He didn't complain<br/>2 about any of the conditions. He just wouldn't<br/>3 sign a consent order that agreed to produce these<br/>4 documents which we desperately need.<br/>5 So that's why we're here, your Honor.<br/>6 Now, as with requesting the Fridays, you<br/>7 know, part of that is to determine what needs to<br/>8 be here, but I think Mr. Chew will tell you in a<br/>9 moment, he's going to move to continue the trial,<br/>10 and that's one of the -- that's going to be,<br/>11 apparently, the next motion, and we have some<br/>12 issues there.<br/>13 We're also having a very hard time<br/>14 scheduling depositions and getting their<br/>15 cooperation in scheduling those depositions in<br/>16 California. And we have to have a huge lead time<br/>17 because they're foreign subpoenas. Then, under<br/>18 California law, we have to give them sufficient<br/>19 time from service before we can schedule.<br/>20 So we've been sending out proposed dates,<br/>21 your Honor, to them saying, "Here's a number of<br/>22 these people we want to depose. Here are our</p> | <p>11</p> <p>1 want to address the question you asked. There was<br/>2 no meet and confer before Ms. Heard filed her<br/>3 motion. The first request that came in came in by<br/>4 email at 2:42 p.m. on Wednesday, August 5.<br/>5 I responded to Mr. Nadelhaft and<br/>6 Ms. Bresnahan's office seven minutes later saying<br/>7 that I was booked in depositions Thursday and<br/>8 Friday but that I would be happy to talk to them<br/>9 early the next week. And instead of setting up<br/>10 the meet and confer for Monday, they went ahead<br/>11 and filed the motion without any meet and confer<br/>12 on August 7th.<br/>13 So, despite the fact that Ms. Heard made<br/>14 no effort to meet and confer or we -- we agreed to<br/>15 an after-the-fact meet and confer, and we had an<br/>16 after-the-fact meet and confer on Wednesday,<br/>17 August 12th -- I was in deposition that day,<br/>18 too -- so two of my colleagues had an after-the-<br/>19 fact meet and confer. And just as happened the<br/>20 last two times, when Ms. Heard moved to compel,<br/>21 although at least in those cases, there was at<br/>22 least a cursory attempt at meet and confer, there</p> |
| <p>10</p> <p>1 proposed dates. Let us know if these are<br/>2 available. If not, give us alternatives. If you<br/>3 represent any of these people, let us know so we<br/>4 don't have to issue subpoenas.<br/>5 Crickets. They just don't respond.<br/>6 Then a week or two later, they say, "Well,<br/>7 we'll do a meet and confer with you on this in<br/>8 another week." Well, by that time, that would<br/>9 have knocked out all of the September depositions<br/>10 because we wouldn't have had enough time to serve<br/>11 them after that. It's just a delay tactic.<br/>12 You know, what might make sense here, your<br/>13 Honor, and I hear your Honor's frustration and I<br/>14 share it, is perhaps we can have maybe some kind<br/>15 of a pretrial conference of sorts and just sort<br/>16 all this out so we don't have to be bringing in<br/>17 motions every Friday.<br/>18 THE COURT: Mr. Chew, your microphone is<br/>19 on -- you're on mute. Thank you.<br/>20 MR. CHEW: Can you hear me, your Honor?<br/>21 THE COURT: I can.<br/>22 MR. CHEW: Thank you, your Honor. I just</p>   | <p>12</p> <p>1 was no meet and confer at all, but we ended up<br/>2 agreeing to several of the requests.<br/>3 By the time Ms. Bredehoff came in with the<br/>4 proposed order, frankly, we needed to be<br/>5 responding to this hearing and to do some other<br/>6 things.<br/>7 But I regret that your Honor has been<br/>8 bothered by this. I have practiced law in Fairfax<br/>9 County not as long as Ms. Bresnahan but for<br/>10 32 years, and it's always been my understanding<br/>11 that you have a meet and confer before you file a<br/>12 motion. And I responded seven minutes after the<br/>13 very first request for a meet and confer and said<br/>14 I could do it the Monday.<br/>15 And that's been a source of frustration,<br/>16 but we are certainly willing to redouble our<br/>17 efforts to -- we haven't been filing any of these<br/>18 motions, but we're certainly more than willing to<br/>19 meet and confer and redouble our efforts to<br/>20 cooperate because we don't want to bother your<br/>21 Honor.<br/>22 I do have to push back on this notion of</p>  |

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| <p style="text-align: right;">13</p> <p>1 delay. We have bent over backwards, appropriately<br/>2 so, to comply with the Court's orders and make<br/>3 massive productions of documents on August 14th<br/>4 and again today, August 21. We made full<br/>5 compliance with the Court's order last Friday, and<br/>6 we intend to make full compliance with the Court's<br/>7 order this Friday, even though all of those<br/>8 documents were already in possession of<br/>9 Ms. Heard's counsel.<br/>10 Ms. Bresnahan attended the entire trial in<br/>11 London, and she participated in giving The Sun all<br/>12 the documents they could have wanted, even<br/>13 confidential documents from this case. That's<br/>14 fine. We produced them all to her. We've done<br/>15 everything the Court has required. And we will<br/>16 continue to do that, your Honor. But we would<br/>17 like -- we would like meet and confers before they<br/>18 file their umpteenth motion.<br/>19 THE COURT: Okay.<br/>20 MS. BREDEHOFT: Your Honor --<br/>21 THE COURT: Ms. Bredehoft.<br/>22 MS. BREDEHOFT: Thank you, your Honor.</p>                                     | <p style="text-align: right;">15</p> <p>1 we please hear from you on your availability for a<br/>2 call on Monday." That's in here. None of that<br/>3 was attached to Mr. Chew's opposition. He only<br/>4 put what he wanted your Honor to see. He didn't<br/>5 give the entire set.<br/>6 So, once we did not hear and did not hear,<br/>7 and this is a history, your Honor, of delay<br/>8 tactics. We've never even -- do anything quickly.<br/>9 So when we didn't hear from them by Friday, we<br/>10 prepared the motion to compel because your Honor's<br/>11 last Friday in August was this date, and we have<br/>12 depositions set for September 8th going on, you<br/>13 know, days, you know, all the way through the rest<br/>14 of that month and into October. And, so, we<br/>15 needed to get these documents, and if he wasn't<br/>16 going to do a meet and confer, which we perceived<br/>17 at that time, then we needed to file.<br/>18 Then he comes back on Monday and says,<br/>19 "Withdrawn," and that's when we responded, and<br/>20 that's on pages -- that's on pages nine, your<br/>21 Honor, nine and ten. We responded why we filed<br/>22 but said, "Look, we'll still do the meet and</p>                        |
| <p style="text-align: right;">14</p> <p>1 One of the documents that I submitted to Mister<br/>2 (indecipherable) yesterday was the emails<br/>3 respecting the meet and confer. And you'll see<br/>4 from that that we made a genuine effort to meet<br/>5 and confer, including Mr. Nadelhaft from my office<br/>6 sent a detailed -- detailed email setting out all<br/>7 the of the issues with each of the objections to<br/>8 the (no audio).<br/>9 THE COURT: Responded seven minutes later<br/>10 and you filed your motion without having a (no<br/>11 audio).<br/>12 MS. BREDEHOFT: Your Honor could look at<br/>13 page two of the emails respecting meet and confer<br/>14 that I submitted yesterday. You'll see that<br/>15 Mr. Chew did not say he was available on Monday.<br/>16 He said, "We're happy to discuss next week, but<br/>17 I've booked for the next two days." And<br/>18 Mr. Nadelhaft (indecipherable) responded very<br/>19 briefly as to that, saying, "How is 9:00 on<br/>20 Monday." And that's on page one of that.<br/>21 We hear nothing. So another full day goes<br/>22 by. Adam says again -- Nadelhaft says again, "Can</p> | <p style="text-align: right;">16</p> <p>1 confer. If you're ready to do the meet and<br/>2 confer, we'll take the date you've offered. I'm<br/>3 sending a calendar invite."<br/>4 Mr. Rottenborn and I were there available.<br/>5 We can resolve it and take it off the docket,<br/>6 that's great, but if we don't do this, your Honor,<br/>7 he's not going to respond. That's the problem<br/>8 we've had. And I think Mr. Rottenborn can address<br/>9 this much more than I have -- he's been in the<br/>10 case much longer -- but that's been a pattern.<br/>11 The reason we have to bring the motions is<br/>12 because we don't get any documents. We have four<br/>13 sets of requests for production that we issued,<br/>14 yes, as a result of being and in U.K. and hearing<br/>15 representations by counsel for Mr. Depp over there<br/>16 about what he possessed and what he wanted from<br/>17 Ms. Heard. That's what spawned these issues.<br/>18 We haven't received one document, not one.<br/>19 They were all due in different July time frames<br/>20 and early August. Not one document. And they're<br/>21 not going to give us any unless we come in and get<br/>22 an order. And that's untenable to us, but we have</p> |

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| <p>17</p> <p>1 no choice.</p> <p>2 THE COURT: All right. You're right; I've</p> <p>3 lost patience with both sides, frankly, and I</p> <p>4 don't find this to be a one-sided thing. And I</p> <p>5 don't want to -- since Mr. Rottenborn has been in</p> <p>6 the case, things have been better on that side. I</p> <p>7 agree with that. And, hopefully, all current</p> <p>8 counsel are going to be able to do this.</p> <p>9 But what I'm going to direct -- I'm not</p> <p>10 going to rule on anything today. I'm going to</p> <p>11 make you all meet again in either Zoom or Webex or</p> <p>12 some face-to-face type of remote proceeding to</p> <p>13 talk about what remains.</p> <p>14 I'm going to want an order on what's</p> <p>15 already been agreed to. And before we put this</p> <p>16 back on the docket, I want you to certify that you</p> <p>17 each have had that meeting in good faith and made</p> <p>18 attempts to resolve things. I want everybody to</p> <p>19 look at the scope of the discovery as to whether</p> <p>20 these are overbroad or not, as to whether you're</p> <p>21 asking for things you already have, asking for</p> <p>22 things that you have already given to other people</p> | <p>19</p> <p>1 we'll look at it and if we find something on</p> <p>2 Tuesday, we'll give it to you on Wednesday," well,</p> <p>3 that's fine, but it doesn't remove you of the</p> <p>4 obligation to try and get everything you can as</p> <p>5 soon as you can under the rules.</p> <p>6 MR. CHEW: Understood, your Honor.</p> <p>7 MS. BREDEHOFT: Thank you, your Honor.</p> <p>8 That's helpful, very helpful.</p> <p>9 THE COURT: Okay. Anything else that I</p> <p>10 can help you with on the discovery side in the</p> <p>11 context of what we've been talking about today?</p> <p>12 MR. CHEW: No. Thank you, your Honor. We</p> <p>13 understand your clear direction.</p> <p>14 MS. BREDEHOFT: Your Honor, there is</p> <p>15 something that's going to come up with your Honor</p> <p>16 that Mr. Chew brought to our attention yesterday</p> <p>17 and, I guess, the night before, that they are</p> <p>18 going to attempt to move to continue the trial.</p> <p>19 THE COURT: Well, when they do that, then</p> <p>20 I'll hear it when they do it. I'm not going to</p> <p>21 let you now argue against a motion he hasn't filed</p> <p>22 yet.</p> |
| <p>18</p> <p>1 on both sides of this equation.</p> <p>2 And what I want you to convey to your</p> <p>3 clients or your co-counsel or whatever you think</p> <p>4 needs to be conveyed is the attorneys' fees are in</p> <p>5 the picture. I've trying to avoid doing that on</p> <p>6 discovery. I don't like to do that on discovery,</p> <p>7 but that, apparently, is going to be the only</p> <p>8 thing I can do to change the way the case has been</p> <p>9 litigated so far.</p> <p>10 MS. BREDEHOFT: Your Honor, may I ask one</p> <p>11 question that I think has been an ongoing issue in</p> <p>12 this case that will help us in this and we will</p> <p>13 absolutely do exactly what your Honor has</p> <p>14 directed. The plaintiffs in this case have said</p> <p>15 we will produce on an ongoing rolling basis.</p> <p>16 That's in every single one of their responses.</p> <p>17 And then they --</p> <p>18 THE COURT: Say produce pursuant to the</p> <p>19 Virginia Rules, and the Virginia Rules have a</p> <p>20 requirement that you continue to supplement, but</p> <p>21 they don't say you can wait until you feel like it</p> <p>22 to roll things out. So simply saying, "I'll --</p>                 | <p>20</p> <p>1 MS. BREDEHOFT: Okay. That's fair, your</p> <p>2 Honor.</p> <p>3 THE COURT: Known you for a long time,</p> <p>4 Elaine.</p> <p>5 MS. BREDEHOFT: Yeah, your Honor. Thank</p> <p>6 you.</p> <p>7 THE COURT: All right. Okay. Make sure</p> <p>8 your clients understand what I said, and what I</p> <p>9 haven't said so much in that but is, I guess,</p> <p>10 implicit in it is the discovery is for the purpose</p> <p>11 of our trial, not for the purpose of the press or</p> <p>12 for the purpose of public opinion. Okay.</p> <p>13 MR. CHEW: Understood, your Honor. Thank</p> <p>14 you very much.</p> <p>15 MS. BREDEHOFT: Thank you.</p> <p>16 THE COURT: Thank you all.</p> <p>17 MS. BREDEHOFT: Good to see you.</p> <p>18 (Off the record at 12:19 p.m. ET.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>   |

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| <p>21</p> <p>1 CERTIFICATE OF SHORTHAND REPORTER-E-NOTARY PUBLIC</p> <p>2 I, Victoria Lynn Wilson, the officer</p> <p>3 before whom the foregoing proceedings were taken,</p> <p>4 do hereby certify that the foregoing transcript is</p> <p>5 a true and correct record of the proceedings; that</p> <p>6 said proceedings were taken by me stenographically</p> <p>7 and thereafter reduced to typewriting under my</p> <p>8 direction; and that I am neither counsel for,</p> <p>9 related to, nor employed by any of the parties to</p> <p>10 this case and have no interest, financial or</p> <p>11 otherwise, in its outcome.</p> <p>12 IN WITNESS WHEREOF, I have hereunto set my</p> <p>13 hand and affixed my notarial seal this 28th day of</p> <p>14 August 2020.</p> <p>15 My commission expires May 31, 2023.</p> <p>16</p> <p>17 <i>Victoria Lynn Wilson</i></p> <p>18 _____</p> <p>19 VICTORIA LYNN WILSON</p> <p>20 E-NOTARY PUBLIC IN AND FOR</p> <p>21 THE COMMONWEALTH OF VIRGINIA</p> <p>22</p> |  |
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