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CLERK, CIRCUIT COURT  
FAIRFAX, VA

# Transcript of Hearing

**Date:** September 11, 2020

**Case:** Depp, II -v- Heard

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

Transcript of Hearing  
Conducted on September 11, 2020

<p>1 VIRGINIA: 2 IN THE CIRCUIT COURT OF FAIRFAX COUNTY 3 -----x 4 JOHNNY C. DEPP, II, : 5 Plaintiff, : 6 v. : Case No. CL-2019-0002911 7 AMBER LAURA HEARD, : 8 Defendant. : 9 -----x 10 11 HEARING 12 BEFORE THE HONORABLE BRUCE D. WHITE 13 Conducted Virtually 14 Friday, September 11, 2020 15 10:10 a.m. EST 16 17 18 19 20 Job No.: 320773 21 Pages: 1 - 18 22 Reported By: Victoria Lynn Wilson, RMR, CRR</p>	<p>1 APPEARANCES 2 ON BEHALF OF THE PLAINTIFF: 3 BENJAMIN G. CHEW, ESQUIRE 4 ANDREW CRAWFORD, ESQUIRE 5 BROWN RUDNICK, LLP 6 601 Thirteenth Street, NW 7 Suite 600 8 Washington, DC 20005 9 (202) 536-1700 10 11 ON BEHALF OF THE DEFENDANT: 12 ELAINE CHARLSON BREDEHOFT, ESQUIRE 13 CHARLSON BREDEHOFT COHEN &amp; BROWN, PC 14 11260 Roger Bacon Drive 15 Suite 201 16 Reston, VA 20190 17 (703) 318-6800 18 19 ALSO PRESENT: 20 AMBER LAURA HEARD 21 22</p>
<p>1 HEARING BEFORE THE HONORABLE BRUCE D. WHITE, 2 conducted virtually. 3 4 5 6 7 8 9 Pursuant to docketing, before Victoria Lynn 10 Wilson, Registered Merit Reporter, Certified 11 Realtime Reporter, E-Notary Public in and for the 12 Commonwealth of Virginia. 13 14 15 16 17 18 19 20 21 22</p>	<p>1 PROCEEDINGS 2 (The court reporter was sworn.) 3 THE COURT: All right. Could I get 4 everyone to note your appearances for our court 5 reporter, please. 6 MR. CHEW: Yes, your Honor. Good morning 7 again. It's Ben Chew and Andrew Crawford for 8 Plaintiff Johnny Depp. 9 MS. BREDEHOFT: Good morning, your Honor. 10 Elaine Bredehopt for Defendant Amber Heard and 11 with me is Ms. Heard. 12 THE COURT: All right. Good morning to 13 everybody. 14 This matter was placed on the docket 15 pursuant to Plaintiff's motion for a continuance. 16 And I had actually planned to contact you all 17 myself to talk about scheduling, and that's 18 because I know some things probably about the 19 docket that you all may not be aware of. 20 Right now, we're in a situation where the 21 Virginia Supreme Court has not authorized us to 22 conduct any jury trials, and there are only four</p>

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<p style="text-align: right;">5</p> <p>1 jurisdictions in Virginia that have been 2 authorized so far to conduct jury trials. 3 We submitted a plan to the Supreme Court 4 back on August 3rd setting up in great detail the 5 way that we propose to have jury trials in our 6 COVID era to be safe for the parties, the 7 witnesses, and the jurors, most particularly. 8 Part of that plan entails us using at 9 least three courtrooms for every jury trial. We 10 would have a courtroom where the case is tried, a 11 separate courtroom for the jury to do their 12 deliberations, and then another courtroom where 13 the public might view the proceedings to the 14 extent they might be interested in that. 15 The plan would be that we would commence 16 doing jury trials six weeks after our plan is 17 approved by the Supreme Court. 18 I do not have any direct word with the 19 Chief Justice of the Supreme Court as to why only 20 four jurisdictions have been approved at this 21 time, but they selected four jurisdictions that 22 were representative of the various jurisdictions</p>	<p style="text-align: right;">7</p> <p>1 44 people who had been incarcerated long term in 2 Fairfax waiting for jury trials. 3 So, if we were given the go-ahead today, 4 which I have no indication that that's going to 5 happen and sincerely doubt that that would happen, 6 that would mean, to get through the people who are 7 incarcerated, doing them according to the plan 8 that we have submitted, it would be the 1st of May 9 before we got all of the backlog of those criminal 10 jury trials taken care of. And, obviously, those 11 incarcerated defendants have a priority over 12 everyone else on the docket. 13 So, what I was going to do is contact you 14 all and let you all know where this stands because 15 what we have sort of been doing is rolling through 16 the continuances a month or so in advance in 17 continuing the civil cases off the docket and 18 setting those on dates -- some of them are set, 19 you know, in February, March on dates that are 20 unrealistic at this point, it seems, to be tried. 21 But what it means for you all is that 22 there's really no chance that we're going to have</p>
<p style="text-align: right;">6</p> <p>1 throughout the commonwealth. And it's my guess 2 that they did that so that they could have those 3 four courts be trial courts and then give us 4 feedback to the other courts in the commonwealth 5 on things that work and don't work in doing jury 6 trials in this current situation. 7 So, not having received authority to have 8 jury trials as of today, if we were to be given 9 authority to conduct jury trials this afternoon, 10 hypothetically, we really couldn't start our jury 11 trials until about October the 26th. 12 The plan would be that the first week or 13 two, we would have one jury trial a week and 14 expand that to two jury trials a week, assuming 15 that those first couple jury trials went by 16 successfully. 17 The plan would have to address first 18 getting jury trials for those people who have been 19 incarcerated on felony charges and waiting for 20 trial. 21 My count is not up to date as to today, 22 but as of a couple of weeks ago, there were</p>	<p style="text-align: right;">8</p> <p>1 the ability to do a civil jury trial on 2 January 11th, let alone one that would last three 3 weeks. 4 The anticipation is that even when the 5 jury trials start up, we're going to have to 6 summons three to four times the number of 7 prospective jurors that we have had to bring in in 8 the past. We expect in the current situation that 9 jury selection under those circumstances is going 10 to take two or three times longer than it takes 11 now, so that a three-week trial scheduled now 12 might really be a four-week trial. 13 So, as opposed to hearing a motion to 14 continue the case and then granting or denying a 15 party's continuance, I simply tell you that the 16 Court, on its own motion, is going to have to 17 continue the case under the trial date of 18 January 11th, and the question for us really is 19 with the inconvenience that that causes the 20 parties that is beyond the control of the Court, 21 what is the appropriate time frame that we should 22 be looking for to accommodate the parties'</p>

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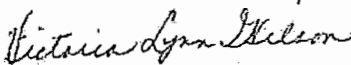
<p>9</p> <p>1 schedules as best we can and still get the case 2 heard as expeditiously as we can under these 3 unusual circumstances. 4 So, that's where we stand right now. And 5 I'm happy to hear from all of you as to your 6 thoughts, and you may need to talk to your clients 7 about your thoughts before we come up with a new 8 date. 9 MR. CHEW: Your Honor, this is Ben Chew 10 for Mr. Depp. Thank you for providing us that 11 information. 12 My first reaction would be, understanding 13 that it would be the most optimistic time frame, 14 May of 2021 would work both for Mr. Depp and for 15 Ms. Heard, at least with respect to the shooting 16 of the parties' respective movies. 17 It's a little bit of an unusual situation, 18 your Honor, in the sense that Warner Brothers just 19 happens to be the studio that is producing both 20 Fantastic Beasts 3 and Aquaman 2. We have been in 21 touch with senior management in the legal 22 department of Warner Brothers, as your Honor may</p>	<p>11</p> <p>1 that there was any cavalier treatment by Mr. Depp. 2 He takes this extremely seriously. 3 He is under contract with Warner Brothers, 4 and it's the studio that directs him. So he was 5 in a Hobson's choice. And as your Honor may have 6 seen, that production starts September 17th in 7 London and involves no fewer than 750 people. 8 So -- 9 THE COURT: Let me interrupt you because 10 it really doesn't matter because I'm not 11 continuing it on Mr. Depp's request. 12 MR. CHEW: Understood. 13 THE COURT: It's due to the necessity that 14 the Court has. It's not his -- his request to 15 continue is not granted. I'm not even hearing his 16 continuance request. This is something that we 17 have no control over here in the court that 18 requires that the case be continued. 19 MR. CHEW: Understood, your Honor. And I 20 apologize for the non sequitur. I just wanted to 21 dispel any notion that there was any cavalier 22 attitude because that was suggested in Ms. Heard's</p>
<p>10</p> <p>1 have seen, and Mr. Wayne Smith is a senior 2 executive vice president of legal at Warner 3 Brothers, has stated in his letter of 4 September 8th as to Aquaman 2, that film will not 5 start production any earlier than May 31, 2021. 6 Mr. Smith and his colleague, Mr. Eckerly, 7 have also stated that Mr. Depp's film, in which 8 he's starring, he's the lead wizard, will be 9 running from -- they require his presence from 10 September 17th through mid February. 11 So, with respect to those two films, May 12 would be clear. And I did want to address one 13 thing that had come up in the papers. Mr. Depp 14 was in no way cavalier about the trial date. He 15 takes this Court and its orders and its rulings 16 quite seriously. 17 We first received notice of the shooting 18 of Fantastic Beasts on August 19th, and that was 19 the letter from Mr. Erkeley that we submitted in 20 support of our motion for trial continuance, which 21 we filed only two days later. 22 So, I wanted to dispel any notion that --</p>	<p>12</p> <p>1 papers. But I apologize if that was irrelevant. 2 THE COURT: Well, that's all right. 3 MS. BREDEHOFT: Your Honor, may I ask a 4 question? What would be the earliest that the 5 Court believes that we could have our trial in 6 light of what your Honor has described and our 7 circumstances? 8 THE COURT: I wish I had a definitive 9 answer for you. 10 MS. BREDEHOFT: Right. 11 THE COURT: And the answer is I really 12 don't. But we would get -- I think the beginning 13 of May is as soon as we could possibly do it. 14 MS. BREDEHOFT: All right. Then we would 15 like to -- we would like to schedule -- 16 THE COURT: Then that -- serious problems 17 perhaps for Ms. Heard if she needs to be filming 18 on May the 31st and there's some type of a delay 19 that comes up. Trials often take longer than we 20 expect them to. 21 MS. BREDEHOFT: We appreciate that, your 22 Honor, but from our perspective, time is of the</p>

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<p style="text-align: right;">13</p> <p>1 essence. And we totally understand and appreciate 2 the necessity by the Court and do not object to 3 any -- any indications by the Court for the safety 4 of court and juries, et cetera. 5 We would like to schedule it as quickly as 6 possible. There's -- you know, there's a lot of 7 irreparable damage being done, and I recognize 8 your Honor doesn't want to go through all that, so 9 the sooner the better. And if truly the soonest 10 the Court believes we can genuinely schedule it, 11 we would like to schedule it then for the 12 beginning of May. 13 As I have argued in my papers, I don't 14 believe work schedules are a reason for scheduling 15 differently in the court. So, that would be what 16 I would want. 17 I do have a further matter I'd like to 18 raise, your Honor, but I'm good with this first. 19 THE COURT: All right. 20 MS. BREDEHOFT: And I understand 21 Mr. Depp's counsel is saying the same, so if we 22 could schedule it, let's do it today so we don't</p>	<p style="text-align: right;">15</p> <p>1 interrupt you because you know my practice is not 2 to take things for argument that have not been 3 noticed ahead of time. And what's been noticed is 4 a motion to continue the trial date. And to the 5 extent that you all are unable to agree about 6 discovery matters, which appears to still be the 7 case despite my admonitions, then I suppose that's 8 something that I'll have to deal with on a Friday 9 motions docket. But I'm not going to make the 10 people who have a hearing set for 11:30 have to 11 wait while I hear a matter that wasn't properly 12 noticed for today. 13 MS. BREDEHOFT: Thank you, your Honor. 14 MR. CHEW: Thank you, your Honor. 15 MS. BREDEHOFT: There's one more item, 16 your Honor. This is just housekeeping. We have 17 three consent orders that we had submitted to your 18 Honor. One was the briefing schedule on the 19 counterclaims; one was attorney's fees procedures; 20 and one was a part of our -- on the motion to 21 compel, the further meet and confer. 22 And the reason I just bring it up, your</p>
<p style="text-align: right;">14</p> <p>1 lose the dates. 2 MR. CHEW: Your Honor, we agree with 3 Ms. Bredehoff. We would not object to a 4 scheduling in May of 2021. 5 THE COURT: All right. May 3rd is a 6 Monday. If you all want to take that date and no 7 one thinks they need to consult any further with 8 clients or witnesses, we can go to May 3rd. 9 MR. CHEW: Thank you, your Honor. 10 MS. BREDEHOFT: Your Honor, there is 11 another part of this motion that -- that I think 12 needs to be discussed today. We had noticed 13 Mr. Depp's deposition for October 5th. We gave 14 him two months' notice. 15 THE COURT: Is there a motion to compel 16 the deposition that's on the docket today, 17 Ms. Bredehoff? 18 MS. BREDEHOFT: Well, your Honor, instead, 19 it's their motion for continuance that effectively 20 is asking to continue both the deposition and the 21 trial for five months. We oppose -- 22 THE COURT: All right. Let me just</p>	<p style="text-align: right;">16</p> <p>1 Honor, is because Mr. Chew noticed without 2 consulting with us, noticed the -- 3 THE COURT: Ms. Bredehoff, I'm going to 4 interrupt you again. You have again attempted to 5 argue something that is not on the docket today. 6 MS. BREDEHOFT: Thank you, your Honor. 7 THE COURT: Customarily, for a scheduling 8 for a briefing, and I know you know this because 9 you've been doing this a long time, you go to 10 calendar control and you get a briefing schedule. 11 You don't just send the judge an order and say, 12 "Judge, here's what we've agreed to. We're going 13 to set our own schedule." So I'm not going to 14 deal with that other issue today and you all 15 can -- 16 MS. BREDEHOFT: I appreciate that, your 17 Honor. Thank you very much. And so just for 18 clarification, the motion to continue is denied. 19 The Court has its own sua sponte -- 20 THE COURT: Motion to continue was not 21 heard, Ms. Bredehoff, and I don't want someone 22 trying to spin this with the press to get some</p>

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5 (17 to 20)

<p style="text-align: right;">17</p> <p>1 type of an advantage that someone's motion was 2 granted or not granted. That's why I did this 3 before you even began to argue. 4 MS. BREDEHOFT: Thank you, your Honor. 5 THE COURT: I'm taking that out of it. 6 This is the Court's motion. The Court has granted 7 a continuance on its own motion. 8 MS. BREDEHOFT: Thank you very much, your 9 Honor. We appreciate that. 10 THE COURT: Okay. 11 MS. BREDEHOFT: Thank you all. 12 MR. CHEW: Thank you, your Honor. 13 THE COURT: Thank you. 14 (Off the record at 10:26 a.m. ET.) 15 16 17 18 19 20 21 22</p>	
<p style="text-align: right;">18</p> <p>1 CERTIFICATE OF SHORTHAND REPORTER-E-NOTARY PUBLIC 2 I, Victoria Lynn Wilson, the officer 3 before whom the foregoing proceedings were taken, 4 do hereby certify that the foregoing transcript is 5 a true and correct record of the proceedings; that 6 said proceedings were taken by me stenographically 7 and thereafter reduced to typewriting under my 8 direction; and that I am neither counsel for, 9 related to, nor employed by any of the parties to 10 this case and have no interest, financial or 11 otherwise, in its outcome. 12 IN WITNESS WHEREOF, I have hereunto set my 13 hand and affixed my notarial seal this 12th day of 14 September 2020. 15 My commission expires May 31, 2023. 16 17  18 19 VICTORIA LYNN WILSON 20 E-NOTARY PUBLIC IN AND FOR 21 THE COMMONWEALTH OF VIRGINIA 22</p>	