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Transcript of Hearing

Date: September 18, 2020
Case: Depp, II -v- Heard

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Transcript of Hearing
Conducted on September 18, 2020

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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 18, 2020 15 10:15 a.m. ET 16 17 18 19 20 Job No.: 319581 21 Pages: 1 - 38 22 Reported By: Victoria Lynn Wilson, RMR, CRR	1 APPEARANCES 2 ON BEHALF OF THE PLAINTIFF: 3 BENJAMIN G. CHEW, ESQUIRE 4 BROWN RUDNICK, LLP 5 601 Thirteenth Street, NW 6 Suite 600 7 Washington, DC 20005 8 (202) 536-1700 9 10 ON BEHALF OF THE DEFENDANT: 11 J. BENJAMIN ROTTENBORN, ESQUIRE 12 WOODS ROGERS, PLC 13 10 South Jefferson Street 14 Suite 1400 15 Roanoke, VA 24011-1319 16 (540) 983-7600 17 18 19 20 21 22
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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	1 APPEARANCES CONTINUED 2 ON BEHALF OF THE DEFENDANT: 3 ELAINE CHARLSON BREDEHOFT, ESQUIRE 4 CHARLSON BREDEHOFT COHEN & BROWN, PC 5 11260 Roger Bacon Drive 6 Suite 201 7 Reston, VA 20190 8 (703) 318-6800 9 10 11 12 13 14 15 16 17 18 19 20 21 22

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<p style="text-align: right;">5</p> <p>1 PROCEEDINGS 2 (The court reporter was sworn.) 3 THE COURT: All right. Apparently there's 4 some matters resolved but many still remaining to 5 be resolved. Is that pretty much it. 6 MR. ROTTENBORN: Yes, your Honor. 7 Ben Rottenborn on behalf of Ms. Heard. 8 With me this morning is Elaine Bredehoft. 9 And I think, if there's one thing that 10 Mr. Chew and I can agree on today, it's that the 11 parties have met and conferred very extensively 12 over the past month or so about the issues. And 13 as your Honor knows, we've submitted some consent 14 orders to the Court that I think have clarified a 15 number of issues, and that these are just a few 16 issues that remain outstanding that I'll try to 17 take -- without repeating the brief, I'll try to 18 take just category by category. 19 THE COURT: All right. 20 MR. ROTTENBORN: I'll start, your Honor, 21 with -- and I'll try to reserve a minute or two 22 for rebuttal.</p>	<p style="text-align: right;">7</p> <p>1 this case in the press rather than in the 2 courtroom, in contravention of your Honor's wishes 3 and admonitions. 4 We know that he has texted potential 5 witnesses, and I'll get to that in a minute. We 6 know that he's threatened them with making their 7 life harder if they don't sign declarations that 8 say -- that he drafts, that say what he wants them 9 to say, using this case's caption, and then 10 leaking those declarations to the press without 11 producing them, without filing them in this case, 12 but telling the press that they are documents that 13 have been filed in this case. 14 And I'll be very clear that the statements 15 I'm making about Mr. Waldman's conduct are not 16 impugning at all to Mr. Chew today. I have no 17 basis to believe that Mr. Chew is involved in that 18 at all. 19 But what he is doing is talking to the 20 press -- oh, he's also leaked, on at least two 21 occasions, documents that were stamped 22 confidential under the protective order in this</p>
<p style="text-align: right;">6</p> <p>1 I'll start with the requests that are 2 identified on page 2 of our brief. These are 3 requests 3 and 6 from the fourth RFPs, and 4 requests 14 and 15 from the fifth RFPs. We've 5 modified these a little bit, as noted on page 2 of 6 our brief. 7 And, generally speaking, these seek 8 communications by Mr. Depp or by anyone acting on 9 his behalf with third-parties regarding the 10 allegations in this case. 11 We don't know, you know, the full scope of 12 people who may have talked on Mr. Depp's behalf. 13 Primarily, the basis for these requests are 14 communications by Mr. Waldman, Mr. Depp's 15 out-of-state pro hac vice counsel, who has not 16 appeared in this courtroom but he's, as your Honor 17 knows through our counterclaim and through prior 18 briefings in this case, he's been extensively 19 active on social media. 20 We believe he's orchestrated a social 21 media campaign designed to smear Ms. Heard, to 22 taint the jury pool, and generally to litigate</p>	<p style="text-align: right;">8</p> <p>1 case to the press. We've talked about that at a 2 prior hearing where it wasn't quite at issue, and 3 your Honor has invited the parties to make a 4 motion, if we like, which we intend to do at the 5 appropriate time. 6 But his communications with these 7 third-parties are highly relevant, both to 8 Mr. Depp's case and also to Ms. Heard's 9 counterclaims. If Mr. Waldman is asking witnesses 10 to change their testimony, if he's asking them to 11 change their accounts of what's happened, if he's 12 making threats against them if they don't testify 13 the way he wants them to or offering benefits if 14 they do, that's going straight to witness 15 credibility and witness bias and potential witness 16 tampering. 17 If he's violating the protective order by 18 leaking material, which he has; if he's trying to 19 influence the jury pool by orchestrating these 20 public campaigns against Ms. Heard, those are all 21 relevant to this case and to Mr. Depp's claims 22 against Ms. Heard, in particular, and her defenses</p>

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<p style="text-align: right;">9</p> <p>1 thereto. 2 They're also relevant to our 3 counterclaims. And as your Honor knows, simply 4 because there's a demurrer pending to those claims 5 isn't a basis to withhold discovery under. Rule 6 4:1D2, discovery shall continue after a demurrer 7 has been filed but before the Court rules on it 8 unless the Court stays that discovery. 9 With respect to Mr. Depp's claims, there 10 was about a year that passed between when the case 11 was filed and when the Court ruled on the demurrer 12 that was ultimately filed by Ms. Heard in this 13 case, and we never tried to stop discovery based 14 on that. So that's not a basis to withhold 15 discovery either. 16 But these communications that we're 17 seeking basically fall into three categories. One 18 is communications with the press, which there's 19 no -- there can't be any argument that those are 20 work product. Two is communications with social 21 media account holders where documents are being 22 leaked, or where there's being direction given, or</p>	<p style="text-align: right;">11</p> <p>1 text that Mr. Waldman sent to a third-party 2 witness in this case that we became aware of and 3 have produced. Her name is Laura Divenere. 4 And in this text, your Honor, he twists 5 the facts; he makes false claims about the facts; 6 and then he explicitly threatens the witness with 7 a subpoena if she doesn't speak to him. 8 Now, we've spoken with this particular 9 witness, who said that Mr. Waldman convinced her 10 in conversations that he would pursue perjury 11 charges potentially against her if she didn't 12 cooperate. We also know that he's told at least 13 one person that Ms. Heard's sister, who testified 14 in the U.K. trial, was going to be arrested for 15 perjury as soon as she touched down in the United 16 States. 17 That type of statement that's made to 18 third-parties is not attorney work product, and it 19 goes directly to the heart of this case, to 20 potential witness bias, to witness credibility. 21 And some of the witnesses that he's reaching out 22 to are people who haven't even been identified on</p>
<p style="text-align: right;">10</p> <p>1 a request is made to take a certain angle in this 2 case, or documents provided, like the 3 declarations. And your Honor has ordered the 4 final declarations that have been made in the case 5 and leaked to the press to be produced. 6 Now, there may be declarations out there; 7 there may be other evidence that hasn't been 8 leaked yet; and I don't believe that's yet covered 9 by an order. 10 And then finally is communications with 11 potential witnesses. Now, Mr. Depp will claim 12 that this is work product but, your Honor, 13 communications with witnesses isn't subject to a 14 blanket work product protection, particularly when 15 those communications and the documents generated 16 are designed for the press and they're designed to 17 litigate outside of this courtroom. That's not 18 attorney work product. 19 And if your Honor has in front of you the 20 text I sent to your law clerk last night, and I 21 apologize for the late notice but we wanted to get 22 it to the Court as soon as we could, this is a</p>	<p style="text-align: right;">12</p> <p>1 a witness list and we've become aware of through 2 social media, through leaks to the press. In one 3 case, a witness was subpoenaed and we never 4 received copies of that subpoena. 5 We've narrowed these requests as much as 6 we can, your Honor, but we just don't know what we 7 don't know. 8 We know that the Court has ordered 9 Mr. Depp to produce copies of declarations, like I 10 said, that have been leaked to the press, but we 11 have no way of knowing what else is out there. We 12 understand from this particular witness, 13 Ms. Divenere, that there were drafts of a 14 declaration that Mr. Waldman seemed to have 15 prepared that contain blatantly false facts. We 16 don't have those drafts. We believe that we're 17 entitled to those. A lot of the declarations have 18 the same language. 19 And Mr. Waldman, it's important to note, 20 has been Mr. Depp's attorney since well before 21 this case was filed, Mr. Depp's attorney since 22 the -- before the incident that led to the -- the</p>

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<p style="text-align: right;">13</p> <p>1 temporary domestic violence restraining order was 2 filed in the Eastern Columbia Building in 2016. 3 We understand that Mr. Waldman has been involved 4 in collecting surveillance tapes from that 5 incident, many of which now no longer exist. 6 So, all of his communications relating to 7 this, and communications of others -- it's not 8 limited just to this, but those are primarily what 9 the basis for these requests are, and we believe 10 that we're entitled to all of that. 11 Moving on, your Honor, to communications 12 relating to -- or I'm sorry -- financial documents 13 relating to damages or to the divorce in this 14 case, I want to be very clear. We have no 15 interest in relitigating divorce. Ms. Heard has 16 no interest in relitigating the divorce. But the 17 primary motive that has been offered by Mr. Depp 18 for Ms. Heard's reporting and seeking of the 19 temporary restraining order in California and her 20 publishing of the op-ed is that she's looking to 21 profit from it, that she has a financial motive in 22 this. That's included in the declaration that</p>	<p style="text-align: right;">15</p> <p>1 divorce and through her allegations. 2 And, so, all we want to do, your Honor, is 3 to get documents that are designed to prove that 4 Ms. Heard would have been entitled to a lot more. 5 We're not seeking to relitigate anything. And we 6 have -- we have tried our very best and gotten as 7 much as we possibly can from Ms. Heard's prior 8 divorce attorneys in this case, so we don't want 9 to burden Mr. Depp with getting something that we 10 can get, but the fact is we've gotten everything 11 we can and the financial information that we're 12 seeking from the fourth RFP number 14, from the 13 sixth RFPs 1 through 6 and 8 are -- are directly 14 relevant to disapproving that theory. 15 And at the trial, Mr. Depp is going to 16 tell the jury that Ms. Heard had -- potentially, 17 if he chooses to go down this road, that Ms. Heard 18 had an improper profit motive; she was trying to 19 profiteer off of this marriage. 20 The jury is going to have to decide who 21 they believe, Mr. Depp or Ms. Heard. And, so, it 22 is very relevant to our defense to be able to</p>
<p style="text-align: right;">14</p> <p>1 Mr. Depp filed in this case, and it was just 2 offered by Mr. Depp's business manager in the U.K. 3 trial over the summer. 4 We have the right to test that theory 5 and -- and to disapprove it. And the fact is, 6 your Honor, the -- the -- one of the key ways that 7 we can disapprove it is that Ms. Heard took far, 8 far less, talking tens of millions of dollars, at 9 a minimum, less, in our view, in the divorce than 10 she was entitled to. 11 California is a no-fault community 12 property state. There was no prenup that was 13 implicated here, so Ms. Heard would have been 14 entitled to half of all of Mr. Depp's income that 15 he made during their marriage, but she took far 16 less than that. 17 And, so, the documents requests that we 18 have, these were generated in realtime as the U.K. 19 trial was going on, as we were seeing what 20 Mr. Depp's theory in that case was, which was to 21 impugn Ms. Heard with the false motive of trying 22 to profit from the marriage and through the</p>	<p style="text-align: right;">16</p> <p>1 disapprove what we believe will be the proffered 2 motive. And we believe it will be the proffered 3 motive by Mr. Depp because he said it in his 4 declaration and it's been used in the U.K. trial, 5 as well. 6 Lastly is the seventh RFPs numbers 6 and 7 7, your Honor. These are seeking documents 8 relating to a meeting with Mr. Depp's business 9 manager in April of 2016, right around the 10 relevant time period. 11 Mr. Depp's primary response is that these 12 might seek privileged communications. Well, 13 that's the purpose of a privilege log, your Honor. 14 Obviously, we're not seeking legitimately 15 privileged communications, but that's not a basis 16 to withhold producing documents that are otherwise 17 relevant. 18 Now, there are some requests, your Honor, 19 the fifth RFP, 1; sixth RFP, 9 and 10; and the 20 sixth RFP, 12, that I believe Mr. Depp has -- has 21 now conceded that he will produce. We sent over a 22 consent order to Mr. Depp earlier in the week that</p>

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5 (17 to 20)

<p style="text-align: right;">17</p> <p>1 we would -- would have presented to the Court. 2 I've got -- not gotten a response to those, but it 3 seems that he will -- will concede that. 4 And then the only other two, your Honor, 5 are the fourth RFPs 1 and 2. These primarily seek 6 either transcripts or the actual recordings, audio 7 and video recordings, between Mr. Depp and 8 Ms. Heard. I believe that they've offered to 9 produce these. 10 They said in the U.K. trial, Mr. Depp did, 11 that there were 50 to 51 videos. They say in 12 their brief they've produced 12. We don't have a 13 record of any other than one partial clip on 14 there -- I think there are a partial clips of one 15 instance or one recording. 16 So maybe there's a disconnect there, but 17 we understand that they -- they will produce 18 these. But the only reason I raise this, your 19 Honor, is because they had initially claimed -- 20 not just initially, but the self-incrimination 21 privilege. They said that because California is a 22 two-party consent state, they weren't going to</p>	<p style="text-align: right;">19</p> <p>1 these motions to you, but we're trying as best we 2 can to get documents as quickly as we can, and 3 this seems to be a recurring theme where there's 4 just pushback, pushback, pushback, refusal to 5 produce, stand -- claims of privileges and other 6 bases not the produce, and then we file a motion 7 and -- and they agree to produce things. 8 So, we certainly would like for that -- 9 that order to be switched, and we're doing the 10 best we can. And I know that the parties have 11 made progress in -- in resolving many disputes, 12 but this is just illustrative of some of what 13 we're -- we're running into here. 14 So, with that, I'll save the last minute 15 or two for rebuttal, unless your Honor has any 16 questions. 17 THE COURT: Go ahead, Mr. Chew. 18 MR. CHEW: Thank you, your Honor. Ben 19 Chew for Johnny Depp. 20 First, with respect to the recordings and 21 transcripts, Mr. Depp has agreed to produce all of 22 the remaining recordings and transcripts by no</p>
<p style="text-align: right;">18</p> <p>1 produce these and -- you know, they served 2 responses on July 23rd claiming these privileges, 3 including attorney-client work product, which I 4 don't understand how communications between 5 Mr. Depp and Ms. Heard that are recorded could 6 possibly be that. 7 They've held out in the press since the 8 beginning of this case that they have all these 9 videos that somehow prove that Ms. Heard is not 10 telling the truth, but they haven't produced these 11 videos. 12 On August 12th, they claim the 13 self-incrimination privilege again in a meet and 14 confer. On August 14th, they reiterated that in a 15 brief to the Court. On August 28th, we met for 16 about two hours, and they stood on their 17 self-incrimination privilege, so we filed this 18 motion, and only in response to this motion do 19 they say, "Okay. Well, we're going to produce the 20 documents." 21 So I just raise that because I know your 22 Honor is fed up with both parties for bringing</p>	<p style="text-align: right;">20</p> <p>1 later than September 30th. 2 The initial hesitation was one in good 3 faith because, apparently, both parties were 4 instructed by their marriage counselor to tape 5 each other. They didn't always do so with the 6 approval of the other. 7 Mr. Rottenborn made an argument during one 8 of the meet-and-confers that these tapes are more 9 than three years old, so there is no criminal 10 potential issue. So we withdrew that objection 11 because that point was well taken. So that -- 12 that matter is off the table. 13 Second, with respect to communications 14 from Mr. Depp's Adams -- Adam Waldman, Mr. Depp's 15 counsel, I -- I would harken back to what 16 Mr. Rottenborn mentioned, which is if they're 17 going to make false claims against Mr. Waldman, 18 and they are false, they should do so in the form 19 of a motion rather than throwing brickbats at him 20 with no basis whatsoever. 21 The record is that the only -- the only 22 party who has violated your order, which was when</p>

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<p style="text-align: right;">21</p> <p>1 your Honor continued the trial in chambers several 2 months ago, was somebody on Ms. Heard's side 3 leaked that. That wasn't done by Mr. Waldman or 4 anyone else. So, I think that -- that's -- those 5 kind of ad hominem statements should be made -- 6 should be put to the test of a filing when they 7 would be subject to 8.01-271.1, rather than thrown 8 around in a motion hearing. 9 But let me clear up some -- some very 10 clear misstatements made by Ms. Heard's counsel, 11 perhaps -- obviously, made in good faith, but 12 they're mistaken. 13 Your Honor recalls that what this case is 14 really about is Ms. Heard's claim that on 15 May 21st, 2016, Mr. Depp committed violence 16 against her. Well, the two police officers who 17 came to the scene, whose testimony has already 18 been admitted for purposes of this trial and was 19 admitted in London, was that it never happened. 20 The woman, Melissa Seins, the officer, had 21 over seven years of experience under her belt, 22 100 cases of domestic abuse, and had been</p>	<p style="text-align: right;">23</p> <p>1 In fact, he didn't meet Mr. Depp until 2 October 2016, several months later, and he became 3 his lawyer shortly thereafter in the context of 4 some improprieties by Mister -- Mr. Depp's former 5 lawyer, who has since retired after being fired 6 from his law firm for that impropriety. 7 So, your Honor, the record is very clear 8 that Mr. Waldman has no firsthand knowledge of 9 what's actually at issue in this case. And it's 10 fascinating to me that Ms. Heard wants to talk 11 about everything except her false testimony. 12 So, your Honor, it is completely -- you 13 know, under Rule 4:1B1, to go after an attorney's 14 communications, which have no bearing whatsoever 15 on the merits of this case, is improper in light 16 of the -- the needs of this case, which are to 17 focus on the people who actually do have firsthand 18 knowledge. 19 So, your Honor, we respectfully submit 20 that the Court should deny the motion to compel as 21 to communications between Mr. Waldman. 22 We could ask -- we could have asked for</p>
<p style="text-align: right;">22</p> <p>1 specifically trained in this. She examined 2 Ms. Heard, found no injury whatsoever, no 3 problems, no indications of any struggle in the 4 apartment, all of which belies Ms. Heard's 5 repeatedly shifting testimony. She changed her 6 testimony, her direct testimony, four times in 7 London. 8 So, at any rate, the people who actually 9 were witnesses, that is the police officer, and 10 people like Isaac Barush, who lived in the condos, 11 and even the referenced Ms. Divenere who testified 12 in London that she saw Amber Heard for five days 13 after the alleged incident and she didn't have any 14 marks on her, just as the police officers 15 testified -- but let's back up with respect to 16 Mr. Waldman. 17 Not only did Mr. Waldman have no firsthand 18 knowledge of that incident or the phony May 27th 19 ex parte TRO that Ms. Heard walked into court in 20 Los Angeles when Mr. Depp was in -- safely in New 21 York and unable to testify, Mr. Waldman had not 22 even met Johnny Depp as of May of 2016.</p>	<p style="text-align: right;">24</p> <p>1 Ms. Kaplan's communications with the press when 2 she talked about the reasons that your Honor 3 continued the case. We could talk -- we could ask 4 for Ms. Bredehoff's communications when she was 5 hobnobbing with Ms. Heard in London for three 6 weeks at the trial. We could do all of that, but 7 that would be a waste of our client's money and a 8 waste of your time, and completely inappropriate. 9 It's a back door attempt to distract 10 everyone from the facts that are actually at issue 11 and to disqualify Mr. Waldman. 12 And it does bear noting, your Honor, that 13 at the time when Ms. Heard propounded these 14 requests, there was no -- there were no 15 counterclaims filed. So, when they -- when they 16 sent us these requests, it was only Mr. Depp's 17 claim. 18 Moving to the next issue, and this is one 19 that Mr. Depp was very concerned about addressing, 20 was your Honor ordered back on August 10th -- one 21 of his two orders ordered Mr. Depp to produce 22 documents relating to his damages claim. And</p>

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<p style="text-align: right;">25</p> <p>1 those documents were, in fact, due by August 21. 2 Well, one of the primary components of 3 Mr. Depp's damages claim, as your Honor is aware, 4 is that a few days, I think it was four days, 5 after Ms. Heard published her false op-ed in The 6 Washington Post in December 2018, Disney announced 7 that it was dropping Mr. Depp from The Pirates of 8 the Caribbean series, which is one of the most 9 lucrative for Disney and most successful in 10 history. So the only reason they could have done 11 that were these false allegations. 12 Now, Disney didn't write Mr. Depp a letter 13 and say, "Gee, we fired you because of what the 14 woman you were married to for 15 months said," it 15 just announced it. So, Mr. Depp did not have 16 documents within his possession, custody, and 17 control. But what he did do was that he 18 instructed his -- his manager and his accountant, 19 Edward White of Edward White & Company, a very 20 respectable accounting firm in Los Angeles, who 21 Mr. Heard has -- Ms. Heard has properly subpoenaed 22 and will testify -- they have compiled, and we</p>	<p style="text-align: right;">27</p> <p>1 damages claim which are set forth in the Bates 2 numbers EWC 1 through 52. Those are the detailed 3 P&L's, earnings statements, and summary of his 4 income for that period. 5 So, they don't need the tax returns. And 6 the rest of the financial documents sought are 7 irrelevant and overreach and, with the greatest 8 respect to Mr. Rottenborn, clearly an attempt to 9 relitigate a divorce settlement that was 10 negotiated by two of the finest divorce firms in 11 Los Angeles, and there's no reason for this Court 12 to relitigate that divorce. 13 And if Ms. Heard wanted to show that she 14 had no financial motives for falsely accusing 15 Mr. Depp of abuse, she could simply produce proof 16 of what she's repeatedly claimed, which is that 17 she gave all \$7 million to the ACLU and to the 18 Children's Hospital of Los Angeles, but she 19 refuses to do that. 20 In fact, she -- she -- her motion to quash 21 was preliminarily denied by Judge Bowick in Los 22 Angeles and, yet, still she persists. So, if she</p>
<p style="text-align: right;">26</p> <p>1 produced yesterday, detailed income statements of 2 Mr. Depp's three loan-out companies: Infinitum 3 Nihil, LRD, and Scaramanga Brothers. 4 Specifically, Mr. Depp produced from EWC 5 all detailed income statements from 2009 through 6 2015, and he produced detailed P&L's for those 7 three entities from 2016 through August 2020. 8 Moreover, we produced a summary of the 9 gross receipts for all of Mr. Depp's projects for 10 over a decade, spanning the period from 2009 to 11 2020. 12 And, again, your Honor, the reason that 13 this took so long was that Mr. Depp -- Mr. White 14 and his staff had to compile this information 15 which did not exist in Mr. Depp's custody. 16 So, getting to the other documents, they 17 say they want the tax returns from 2009 and 2010. 18 We respectfully submit that that doesn't overcome 19 the qualified privilege. Number one, his tax 20 returns for that period of time are not relevant. 21 And even if they were, Mr. Depp has now provided 22 more than sufficient alternatives relating to his</p>	<p style="text-align: right;">28</p> <p>1 was really not financially motivated, then she 2 could simply, with the click of a dial, show us 3 proof that she gave us -- gave the \$7 million to 4 those charities. She did not, we would 5 respectfully submit, or she would have produced it 6 and she wouldn't be fighting it tooth and nail. 7 To give your Honor some idea of these 8 additional documents they seek, all documents 9 relating to taxes paid and liabilities, that is a 10 level of detail -- I cannot describe the millions 11 of documents that go into -- to all of those 12 financial records, and it would be 13 catastrophically expensive and a waste of time, 14 everybody's time, to go through that. 15 Mr. Rottenborn also mentions that they 16 want Ms. Heard's final declaration of discharge 17 from the divorce. Well, Ms. Heard has those 18 documents in her possession. We didn't represent 19 Mr. Depp in the divorce. We don't have those 20 documents. 21 None of this -- the bottom line is, other 22 than the financial documents that your Honor</p>

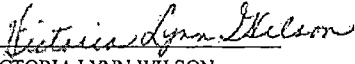
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<p style="text-align: right;">29</p> <p>1 ordered and have now been produced, which 2 Ms. Bredehoff or Mr. Rottenborn can test when they 3 depose Mr. White, these other requests are 4 completely an overreach and irrelevant. 5 And after they depose -- we have now a lot 6 of time before trial, eight months before trial. 7 If they depose Mr. White, which they will do, and 8 they find that -- that they need more financial 9 documents, that, your Honor, would seem to be the 10 time to consider doing that. 11 And I'm just checking my list now to make 12 sure that I've covered the other issues. 13 Yes, Mr. Rottenborn mentioned documents 14 relating to an April 21, 2016, meeting that 15 Mr. Depp had with Mr. White relating to his 16 financial conditions. 17 Again, your Honor, that goes far beyond 18 the scope of this case, which is centered on 19 whether Mr. Depp hit Ms. -- Ms. Heard on May 21, 20 2016, which he did not, and whether she's lying 21 about it, which she did. 22 What Mr. Depp discussed with Mr. White on</p>	<p style="text-align: right;">31</p> <p>1 MR. ROTTENBORN: Your Honor, if I may -- 2 THE COURT: Mr. Rottenborn, I think you've 3 got one minute left. 4 MR. ROTTENBORN: Thank you, your Honor. 5 Just briefly, if Mr. Waldman, and we 6 believe he has, if he's been communicating with -- 7 with Officers Haddon and Seins, if he's been 8 communicating with the Eastern Columbia 9 Building -- and when I say, "has been," I mean 10 from the time he got involved in 2016. If he has 11 communicated with these witnesses that they are 12 going to hold up at trial in a way that he's 13 communicated with Ms. Divenere, those 14 communications are highly, highly relevant to 15 witness credibility, witness bias, among many 16 other things. 17 And, so, to say that we're trying to take 18 focus away from the facts at issue, no; these go 19 right to the heart of the facts at issue in this 20 case. 21 I'll reiterate just briefly, your Honor, 22 no one from our side leaked anything to the press</p>
<p style="text-align: right;">30</p> <p>1 April 21, 2016, and all documents related to that, 2 go way beyond the scope. Again, Ms. Bredehoff or 3 Mr. Rottenborn can ask Mr. White about that at his 4 deposition, but this goes way beyond the scope of 5 what this case is really about. 6 And I get it. I get it why they're asking 7 for stuff that has nothing to do with anything, 8 but it goes way beyond. 9 And with respect to filing motions, we 10 haven't filed any repetitive motions. All the 11 motions are coming from their side. And we -- we 12 want to address that with the Court at calendar 13 control in the near future to propose a protocol 14 by which we can only bother you once or twice a 15 month and that we rotate that so that your Honor 16 doesn't have to deal with this every Friday 17 motions day and that we don't have to deal with 18 these repetitive motions. 19 I believe it would help focus the parties' 20 attention, make them more diligent in resolving 21 these matters. 22 Thank you, your Honor.</p>	<p style="text-align: right;">32</p> <p>1 after your Honor's continuance ruling. We've been 2 over this. It just simply never happened. 3 Mr. Chew persists in accusing us of that at every 4 hearing, but it did not happen. 5 On the financial statements, your Honor, 6 we got this information yesterday afternoon that 7 apparently is work product that Mr. White 8 generated. We're entitled to test that work 9 product with the underlying documents, including 10 tax returns, that were relied on. 11 Mr. Chew says that this is a tangential 12 issue to the case, but that begs the question why 13 did they offer this testimony from Mr. White in 14 the U.K. trial, in which Mr. White wrote a witness 15 statement saying that Ms. Heard got a windfall in 16 getting \$7 million from Mr. Depp when, in reality, 17 she should have owed over \$6 million because of 18 some kind of tax accounting or something like 19 that. 20 They put that at issue. They put the 21 finances in issue in Mr. Depp's declaration, and 22 that's why we want it, to disapprove their theory</p>

<p style="text-align: right;">33</p> <p>1 of motive. 2 That's all I have in rebuttal, your Honor, 3 unless you have any questions. Thank you. 4 THE COURT: Thank you. 5 I'm sure you all realize, but I'll mention 6 it anyway, this case isn't going to be tried the 7 way the one in England was tried. Declarations 8 are not just going to be filed and taken for that. 9 You have to lay foundation for things, such as 10 even someone's belief as a motive that someone 11 might have to do something. We're going to need 12 to have some factual basis to back up that 13 allegation before anyone needs to be concerned 14 with rebutting those type of thoughts that people 15 have. 16 As to Mr. Waldman, my problem with this is 17 that if the conduct is as bad as it's claimed to 18 be, it's hard for me to imagine why someone would 19 not have already filed a motion to have the 20 attorney disqualified or filed a bar complaint 21 against the attorney for tampering with witnesses 22 in an unlawful or improper way. I don't</p>	<p style="text-align: right;">35</p> <p>1 be required to provide all this information is 2 denied. Mr. Waldman is still currently counsel 3 for a party in the case. 4 As to the documents that I guess I've got 5 sort of categorized here as fourth RFP 14; sixth 6 RFPs 1 through 6 and 8; and seventh RFPs 1, 3, 5, 7 and 7, those are, basically, the information 8 related to the divorce case. Request is denied as 9 to those documents. It is denied under the 10 doctrine of it's enough is enough. You all have 11 been through the divorce already. We're not going 12 to retry that divorce in this case, and that's 13 what I deem this to be aimed at. 14 The fourth RFP 1 and 2, that is to be 15 produced by September 30th. 16 As to the tax documents, it's granted in 17 part and denied in part. The documents which show 18 the gross income are to be produced. The 19 supporting documents are not to be produced. You 20 all have got a lot of information on income, and 21 this is just one more area where I envision a 22 rehashing of previous other issues.</p>
<p style="text-align: right;">34</p> <p>1 understand that. 2 I'm told today that that's going to come 3 at some time. So I can only guess that there is 4 some strategic reason that it has not been filed 5 and that it's going to be filed at some strategic 6 time in the future. That doesn't seem quite right 7 to me. 8 At this point, if I were to grant the 9 motion and say Mr. Waldman's communications with 10 any potential witness are discoverable, then I 11 would have to do a reciprocal thing and, 12 basically, say that in this case, any time an 13 attorney talks to a witness of any type, we need 14 to have a transcript of it, file the transcript 15 with the Court so everybody can look at it and see 16 if there's any type of an influence, either overt 17 or covert, to try to influence the witness, and 18 then we try that at the trial of this case. 19 But that doesn't seem quite right either, 20 and it does seem to me that if I'm doing it for 21 one side, I'd have to do it for the other side. 22 And, so, the request as to Mr. Waldman to</p>	<p style="text-align: right;">36</p> <p>1 Your question is what's the amount of 2 income, and you can get that from the -- those 3 parts of the tax return is limited -- there's very 4 limited parts that would show the income. 5 As to the meeting with Mr. White, the 6 business manager, and is this the April meeting? 7 I'm not sure how that that is really related to 8 any issue that's going to be produced in our case, 9 but if after Mr. White is deposed, it appears that 10 there is some documents that are necessary, I'll 11 let you revisit that. 12 And I understand your argument that we 13 need the documents before we do the deposition, 14 and in this particular case, I don't find that to 15 be the case. 16 So, I think I have touched on everything. 17 If I missed a ruling on one of them, would you all 18 tell me. 19 MR. CHEW: No, I think that's it, your 20 Honor. And may we, once we have the benefit of 21 Ms. Wilson's transcript, which we will 22 respectfully order expedited, may we submit a</p>

Transcript of Hearing
Conducted on September 18, 2020

10 (37 to 40)

<p style="text-align: center;">37</p> <p>1 proposed order to chambers on Monday? 2 THE COURT: That will be fine. 3 MR. CHEW: Thank you, your Honor. 4 MR. ROTTENBORN: One brief question: With 5 respect to the kind of financial documents that 6 your Honor discussed, in the seventh RFP numbers 7 1, 3, and 5, Mr. Depp said in his brief on page 8 four that they do intend to produce those 9 documents. 10 THE COURT: Well, if they've said that 11 they intend to produce it, then we'll say that -- 12 we'll rely upon what people say. 13 MR. ROTTENBORN: Okay. 14 MR. CHEW: We certainly -- we certainly 15 will do everything we said, your Honor. 16 MR. ROTTENBORN: Thank you, your Honor. 17 THE COURT: Okay. That's it for today 18 then. Thank you all. 19 MR. ROTTENBORN: Thank you. 20 (Off the record at 10:50 a.m. ET.) 21 22</p>	
<p style="text-align: center;">38</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 18th 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>	