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CLERK, CIRCUIT COURT
FAIRFAX, VA

Transcript of Hearing

Date: December 10, 2021

Case: Depp, II -v- Heard

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

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Transcript of Hearing
Conducted on December 10, 2021

1 (1 to 4)

<p>1 VIRGINIA: 2 IN THE CIRCUIT COURT OF FAIRFAX COUNTY 3 -----x 4 JOHN C. DEPP, II, : 5 Plaintiff, : 6 v. : Case No. 7 AMBER LAURA HEARD, : CL-2019-0002911 8 Defendant. : 9 -----x 10 HEARING 11 Before the Honorable PENNEY AZCARATE 12 Fairfax, Virginia 13 Friday, December 10, 2021 14 12:29 p.m. 15 16 17 18 19 20 Job No.: 418613 21 Pages: 1 - 75 22 Reported by: Carol A. Lowe, RPR</p>	<p>1 A P P E A R A N C E S 2 ON BEHALF OF THE PLAINTIFF: 3 BENJAMIN G. CHEW, ESQUIRE 4 BROWN RUDNICK 5 601 Thirteenth Street, Northwest 6 Suite 600 7 Washington, D.C. 20005 8 (202) 536-1700 9 10 ON BEHALF OF THE DEFENDANT: 11 ADAM S. NADELHAFT, ESQUIRE 12 DAVID E. MURPHY, ESQUIRE 13 CHARLSON, BREDEHOFT, COHEN & BROWN 14 11260 Roger Bacon Drive 15 Suite 201 16 Reston, Virginia 20190 17 (703) 318-6800 18 19 20 21 22</p>
<p>1 Hearing held at: 2 3 4 CIRCUIT COURT OF FAIRFAX COUNTY 5 4110 Chain Bridge Road 6 Courtroom 5J 7 Fairfax, Virginia 22030 8 (703) 691-7320 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p>	<p>1 P R O C E E D I N G S 2 (The court reporter was sworn.) 3 THE COURT: All right. So we're here 4 for the Depp v. Heard matter. I thought I would 5 have -- go all the way to the holiday without 6 seeing this case again, but you guys didn't give 7 me that gift; but you're here. 8 So I know you did take care of one of 9 the matters; right? We had four matters at issue. 10 And the first one was resolved; right? 11 MR. NADELHAFT: Correct, Your Honor. 12 THE COURT: All right. So you're at 25 13 percent. Okay. I'll take that. All right. So 14 let's go with the next three. And this comes -- 15 who would like to argue first? 16 MR. NADELHAFT: And with your permission 17 I can remove my mask? 18 THE COURT: Yeah. Right. If you're 19 vaccinated, you can remove your mask. 20 MR. NADELHAFT: Yes. 21 THE COURT: Yeah, that's fine. Thank 22 you, sir.</p>

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2 (5 to 8)

<p style="text-align: center;">5</p> <p>1 MR. NADELHAFT: Good afternoon, Your 2 Honor. Adam Nadelhaft and David Murphy on behalf 3 of Amber Heard. I can't believe this is the first 4 time I'm before you. So -- 5 THE COURT: All right. 6 MR. NADELHAFT: -- it's nice to see you 7 in person. 8 THE COURT: Yes, sir. 9 MR. NADELHAFT: And, Your Honor, with 10 the Court's approval, Mr. Murphy and I will be 11 splitting the -- the arguments. 12 THE COURT: Okay. 13 MR. NADELHAFT: I'm going to be talking 14 about Mr. Depp's charitable donations that we 15 wanted to -- 16 THE COURT: Okay. 17 MR. NADELHAFT: -- that we're moving to 18 compel. And Mr. Murphy will be arguing regarding 19 the -- the remainder of those. 20 THE COURT: All right. Just as long as 21 you understand you have 15 minutes total; combined 22 together.</p>	<p style="text-align: center;">7</p> <p>1 MR. NADELHAFT: Okay. 2 THE COURT: So you don't have to 3 regurgitate that. 4 MR. NADELHAFT: Sure. 5 THE COURT: But whatever you'd like to 6 add to it, that -- that would be great. 7 MR. NADELHAFT: Okay. Great. And so 8 I'm going to start off with the -- our motion to 9 compel Mr. Depp's charitable donations. And in 10 particular it's RFP nine of the 12th requests for 11 production where Ms. Heard requested documents 12 sufficient to -- to reflect Mr. Depp's charitable 13 donations of either money or time from 2010 to the 14 present. 15 To be clear, we're not asking for all 16 documents. We're just asking for documents 17 sufficient to reflect his charitable donations. 18 So I don't think this is a burdensome request. 19 THE COURT: No. No. I don't think 20 burdensome is the question. Relevance is the 21 question. 22 MR. NADELHAFT: Right. So there --</p>
<p style="text-align: center;">6</p> <p>1 MR. NADELHAFT: Okay. 2 THE COURT: All right? 3 MR. NADELHAFT: And I guess another -- 4 and this -- another question I wanted to ask you 5 was would you like to do this issue by issue, like 6 we do charitable donations -- 7 THE COURT: That -- 8 MR. NADELHAFT: -- and then -- 9 THE COURT: -- that -- that would be a 10 great idea. 11 MR. NADELHAFT: Yeah. 12 THE COURT: We can do it that way. 13 MR. NADELHAFT: So that -- that's what 14 we were thinking too. We thought -- 15 THE COURT: Sure. 16 MR. NADELHAFT: -- that that would be 17 the best way. 18 THE COURT: That's fine as long as you 19 keep track of your time. 20 MR. NADELHAFT: Okay. 21 THE COURT: And I have read everything, 22 everything you guys have sent me. Okay?</p>	<p style="text-align: center;">8</p> <p>1 well, there's a couple -- there's a few -- there's 2 a few issues here. 3 One, Mr. Depp, as you know, as you've 4 heard, has made a big deal out of Ms. Heard's 5 donations to the -- and pledges to the ACLU and -- 6 and LA Children's Hospital. 7 And I'm sure Mr. Chew is going to come 8 up here and say she's depriving children, sick 9 children, of -- of money and -- and time; but 10 that's not true. And it's -- it's not even part 11 of the complaint, but he's gotten discovery on 12 that. 13 What we're seeking is we don't want them 14 to make that -- that argument and then to say, Mr. 15 Depp -- and -- and talk about his donations to the 16 LA Children's Hospital and to the ACLU. And -- 17 and I can pass up, but he -- I mean, Mr. Depp has 18 made it public that he's made contributions to 19 the -- 20 THE COURT: Right. But I just want to 21 make it -- you're -- you're saying because they're 22 getting it, we should get it?</p>

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<p>9</p> <p>1 MR. NADELHAFT: No, no, no. No, I'm 2 not -- we're not -- we're not doing tit for tat. 3 It's also -- it's also he's -- his reputation is 4 also at issue. 5 So when we see -- if we see that he's 6 increased his donations after certain events like 7 if he's had a drug or alcohol issue and his 8 donations go up, he's trying to improve his 9 reputation, we should be able to get information 10 sufficient to see what donations he's made, where 11 he's made it to and -- and be able to see if -- 12 was he doing this to improve his reputation. 13 He's -- he's put his reputation at 14 issue. And -- and part of improving your -- part 15 of your reputation is your donations to the 16 public. 17 The other issue that we've really found 18 here that shows that it's relevant is that we went 19 to them and said, okay, let's just say we'll do 20 the LA -- donations to the LA Children's Hospital, 21 donations to the ACLU and Mr. Depp will agree that 22 he will not testify as to his charitable</p>	<p>11</p> <p>1 could -- we could live -- we could live with that. 2 That way it ties a loop around any 3 donations made to the ACLU or Children's Hospital 4 to which Mr. Depp has tried to take credit for, at 5 least to the Children's Hospital. And then we're 6 not left to wonder will he testify, you know, at 7 trial about donations down the road. And we don't 8 need a motion to compel. 9 They've said they're not -- they've said 10 in their papers they're not intending to have him 11 testify. Let's have an order that says he can't. 12 And if -- if you're not going to -- if -- if 13 you're not going to -- if you're not going to 14 order that his -- he should produce the documents, 15 then an order at least saying that he will not 16 testify at trial as to his donations would be 17 sufficient. 18 THE COURT: All right. I understand. I 19 don't know -- I don't know if you could do a clear 20 order stating that he wouldn't testify, because a 21 lot of things happen at trial. You never know. 22 It's very fluid. But, I mean, it could be</p>
<p>10</p> <p>1 contributions at trial. 2 They would not agree to that. They 3 wouldn't agree that Mr. Depp won't be -- won't 4 testify. They said it's -- they don't want to 5 give trial strategy. Well, if he's going to 6 testify as to his donations, he's admitted -- he's 7 admitted its relevance. 8 THE COURT: I -- I assume you'd object 9 to relevance if he starts -- 10 MR. NADELHAFT: Well -- 11 THE COURT: -- testifying to his 12 donations. 13 MR. NADELHAFT: -- sure; but now it's in 14 front of the -- now it's -- now it's -- and that 15 would be in front of the jury. We'd also have to 16 make a motion in limine. 17 If -- if we can get an -- I mean, if we 18 can have an order now that would say Mr. -- Mr. 19 Depp will not be able to testify as to his -- or 20 will agree not to testify to his charitable 21 donations, we can -- we can -- along with the ACLU 22 and -- and the Children's Hospital donations, we</p>	<p>12</p> <p>1 where -- 2 MR. NADELHAFT: Well, we could -- 3 THE COURT: -- we could approach -- 4 MR. NADELHAFT: Obviously we -- 5 THE COURT: -- the bench before you get 6 into that issue. I mean, we could -- 7 MR. NADELHAFT: Well, how are we -- 8 THE COURT: -- do something like that. 9 MR. NADELHAFT: How we are going to know 10 when he's going to do that? And then if he goes 11 into that and it somehow is -- he does get to 12 testify, then now we have no documents at all to 13 be able to challenge him on it. 14 I mean, it -- he -- he can't have it 15 both ways. He can't make it -- it may be 16 relevant, I may be able to testify to it; but it's 17 not relevant for -- for discovery purposes. 18 THE COURT: Okay. 19 MR. NADELHAFT: And, again, we're 20 just -- we're seeking documents sufficient to show 21 his -- his donations to the -- at least to the 22 ACLU and -- and Children's Hospital, if not all of</p>

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<p style="text-align: right;">13</p> <p>1 it, and to show -- again, if he's increasing 2 his -- if he's increasing his donations after he 3 has an incident, a public incident, that goes to 4 his reputation. 5 And we can see why he was -- and then we 6 can see why he was making those donations, who he 7 was making it to. And, again, he's also taking 8 credit for the -- you know, the ACLU and the -- or 9 at least the Children's Hospital donations. 10 So it's a -- it's a relatively limited 11 request. It's either -- if -- if he's -- can't -- 12 if he -- if we can't get this discovery, then Mr. 13 Depp should be ordered that he cannot -- that that 14 cannot be something that he testifies to at trial 15 which he has somewhat agreed to but now -- but 16 won't -- won't commit to it into a consent order. 17 THE COURT: All right. Thank you, sir. 18 MR. NADELHAFT: Thank you. 19 THE COURT: All right. Yes, sir. 20 Mr. Chew. 21 MR. CHEW: Good afternoon, Your Honor. 22 May it please the Court, Ben Chew for Johnny Depp.</p>	<p style="text-align: right;">15</p> <p>1 We had to pull teeth to prove that was 2 false. Ms. Heard objected to our subpoena to the 3 Children's Hospital of Los Angeles. When she lost 4 that and was sanctioned by the judge, Judge 5 Bowick, in Los Angeles she took it to the Court of 6 Appeals -- imagine taking a discovery issue to the 7 Court of Appeals -- which rejected it in record 8 time. 9 And those records show that Ms. Heard, 10 in fact, gave zero to the Children's Hospital of 11 Los Angeles except for the \$100,000 that Mr. Depp 12 gave in the wrongful impression that Ms. Heard was 13 serious when she pledged her 3.5 million dollars 14 to the Children's Hospital of Los Angeles. 15 So when Ms. Heard's counsel keeps 16 telling you that this isn't true, they know it's 17 false. In fact, we had an emergency hearing 18 before Chief Judge White to deal with 19 Ms. Bredehoff marking those documents produced by 20 the Children's Hospital of Los Angeles. The 21 Children's Hospital of Los Angeles did not mark 22 them as confidential, but Ms. Bredehoff did so</p>
<p style="text-align: right;">14</p> <p>1 Your Honor, this -- this is a motion to 2 compel. It's not a motion in limine. And we 3 respectfully submit that the Court should deny 4 as -- the motion to compel as to this category of 5 documents because they're irrelevant and not 6 reasonably calculated to lead to the -- to 7 admissible evidence. 8 Unlike Ms. Heard, Mr. Depp has not put 9 his charitable donations at issue. Ms. Heard did 10 so by stating quote, I played no role -- strike 11 that. 12 Ms. Heard did so by stating, quote, 13 money played no role for me personally and never 14 has except to the extent I could donate it to 15 charity, unquote. 16 What a joke. She hoodwinked the judge 17 in England who apparently believed her sworn 18 statement, her first sworn witness statement, that 19 she donated all seven million dollars of her 20 divorce settlement to Mr. Depp. And -- and the 21 judge cited that as a basis for concluding that 22 Ms. Heard -- Ms. Heard was not a gold digger.</p>	<p style="text-align: right;">16</p> <p>1 retroactively. 2 We had an emergency motion. Chief Judge 3 White found in chambers that there was no basis 4 for those to be marked confidential. 5 Ms. Bredehoff said, ah-ha, but there's no 6 emergency here. And -- and Chief Judge White 7 said, the emergency is your bad faith. So that 8 was the bad faith. 9 So why they keep saying that this was 10 not true -- they know it's true. Mr. Depp has not 11 made his charitable donations an issue. And this 12 is not a hearing on a motion in limine. If they 13 want to do that, they can do that. Thank you, 14 Your Honor. 15 THE COURT: All right. Thank you. All 16 right. Anything further on that issue? 17 MR. NADELHAFT: Real -- real quickly, 18 Your Honor. Respectfully, Ms. Heard did not make 19 this an issue. It's not -- and it's, one, not 20 part of Mr. Depp's complaint. It was never 21 mentioned in her -- it was never mentioned in her 22 op-ed. She never mentioned charities or</p>

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<p>17</p> <p>1 charitable donations. She never mentioned that at 2 all in anything in the complaint. 3 In terms of taking a -- a discovery 4 order to the appellate court, Mr. Depp has done 5 that in our -- in our requests to try to get 6 documents from Mr. Depp's counsel, Mr. Waldman. 7 He's taken it to the D.C. Court of Appeals. They 8 tried to have a stay. And that was denied 9 quickly. 10 All of Mr. -- all of Mr. Chew's 11 arguments were about Ms. Heard's pledges and 12 donations. We're -- we're simply seeking -- we're 13 simply seeking at a minimum whatever Mr. Depp 14 donated to the ACLU and LA Children's -- LA 15 Children's Hospital. 16 And -- and if -- and -- and that -- and 17 at a minimum we would be seeking that. I have 18 said before why we believe it is relevant, his 19 donations, and how it could go to his reputation. 20 I do think that it is relevant. 21 And, again, if Mr. Depp is going to 22 testify to that, which he's still not saying he</p>	<p>19</p> <p>1 MR. MURPHY: -- first, Your Honor -- 2 THE COURT: Okay. 3 MR. MURPHY: -- because I think that's 4 sort of a discrete issue. 5 THE COURT: Okay. 6 MR. MURPHY: I'll cover the -- as Your 7 Honor probably picked up, the fourth, fifth and 8 13th defenses are the main issue. 9 THE COURT: Right. 10 MR. MURPHY: The other ones I'll just 11 cover very briefly. These are Mr. Depp's 12 affirmative defenses. They -- many of them 13 contain factual statements. He has, as Your Honor 14 saw in our chart -- and that's a distillation 15 of two pages of objections to each one of these. 16 Only producing documents subject to 17 those with every objection available in Virginia 18 discovery leaves us completely in the dark. So 19 for that reason RFPs 20 through 21 and 24 through 20 30, that motion to compel should be granted. 21 I want to focus most of my time on this 22 issue on the -- what I -- I'm referring to as Mr.</p>
<p>18</p> <p>1 won't, then it needs to be -- then it needs to be 2 relevant for discovery purposes. 3 He's right. It's not a motion in 4 limine. But why not -- I mean, why have us go 5 through all this if he's -- if he won't commit 6 that it is -- you know, he can't have it both 7 ways. He can't say that it's relevant, it may be 8 relevant; but it's not relevant for discovery. So 9 unless you have any other questions... 10 THE COURT: No, that's fine, sir. 11 MR. NADELHAFT: Thank you, Your Honor. 12 THE COURT: As to charitable donations 13 the Court just does not find relevance in this 14 matter to compel that. So I'm going to deny the 15 motion to compel as to that issue. 16 All right. I believe the next issue is 17 documents related to defenses and denials. 18 MR. MURPHY: Correct. 19 THE COURT: Okay. 20 MR. MURPHY: We'll focus on the 21 defenses -- 22 THE COURT: In the counterclaim.</p>	<p>20</p> <p>1 Depp's allegedly privileged defenses. These are 2 the fourth, fifth and 13th. 3 And in particular the fifth defense, 4 it's incredibly confusing. It makes no sense that 5 he reserves the right to later assert these -- 6 these statements if the Court issues a final 7 order; which to me means after trial which -- 8 which makes no sense. 9 This is a classic sword and shield 10 issue. The Virginia Supreme Court has ruled 11 multiple times it's prohibited. Depp cannot argue 12 on the one hand at trial that, you know -- or 13 testify that he did not give Mr. Waldman the 14 authority to make these statements while refusing 15 to produce a single document to contest that. 16 This is the Walton case and a myriad of 17 other Supreme Court cases that we did not cite in 18 the brief just to not belabor the point. 19 Depp even argued in his own opposition 20 to the supplemental plea in bar that this is a 21 hotly disputed fact that would still need to be 22 litigated. I can't think of a more clean</p>

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<p style="text-align: right;">21</p> <p>1 statement to admit relevance of -- of this -- this 2 discovery and these documents. That's literally 3 what Mr. Depp said. Not -- even though that 4 statement had nothing to do with the brief he put 5 it in, he still chose to make that statement. 6 In the opposition Mr. Depp points out 7 that it's an undisputed fact that the statements 8 were made by Adam Waldman, not Mr. Depp. But Ms. 9 Heard's argument is that when Mr. Waldman made 10 these defamatory statements he was Mr. Depp's 11 agent. He, therefore, was Mr. Depp. How can they 12 assert that defense and then deny discovery on 13 that defense? 14 He claims he's not intending to rely on 15 privileged communications with Waldman at trial, 16 but the issue is he doesn't get to selectively 17 assert privilege if -- when he feels like it and 18 define that scope without even us knowing what 19 that scope is. 20 He then admits it's true, literally the 21 word in the brief, that Depp contends the Waldman 22 statements are not attributable to him, but it</p>	<p style="text-align: right;">23</p> <p>1 simultaneously denying any documents related to 2 that? 3 So for those reasons, Your Honor, we 4 first request that Mr. Depp produce any and all 5 documents supporting his defense and all of his 6 objections be overruled. And in the alternative 7 if Mr. Depp doesn't want to do that, he can 8 withdraw the defenses. But the point is he cannot 9 have it both ways by using this as a sword and a 10 shield. 11 THE COURT: All right. 12 MR. MURPHY: I'll reserve any further 13 time for rebuttal on that point, Your Honor. 14 THE COURT: That's fine. Thank you. 15 MR. CHEW: Thank you again, Your Honor. 16 The Court should deny the motion to compel as to 17 the second category. Ms. Heard seeks all docs -- 18 all documents, quote, supporting, refuting or 19 otherwise relating to, unquote, Mr. Depp's 20 affirmative defenses to Ms. Heard's remaining 21 counterclaims. 22 This is hopelessly overbroad and</p>
<p style="text-align: right;">22</p> <p>1 does not follow he has waived the privilege. 2 That's precisely what follows when you make 3 defenses such as this. Any privilege on these 4 communications has now been waived. 5 Under Virginia Supreme Court, for 6 example, the Baumann v. Capozio case, this waiver 7 is an intentional abandonment of a known legal 8 right, advantage or privilege. And essential 9 elements include knowledge of the facts, 10 exercising the intent to relinquish that right. 11 I can't think of a more dictionary 12 definition of doing that than asserting an 13 affirmative defense through counsel. So this 14 is -- and -- and these tactics, again, are 15 precisely what the Virginia Supreme Court has 16 prohibited. 17 Finally, Mr. Depp argues it's 18 Ms. Heard's burden to establish Mr. Waldman was 19 acting at the behest of Depp. First, it's Mr. 20 Depp's burden to prove his own affirmative 21 defenses. And, second, how can Heard prove her 22 allegations of -- of agency if Depp is</p>	<p style="text-align: right;">24</p> <p>1 violates Rule 4:9(b)(1) which requires a party 2 seeking discovery to, quote, describe each item 3 and category with reasonable particularity; all 4 documents otherwise relating to the affirmative 5 defenses. That's impossible. 6 With respect to the subcategory of 7 documents which calls for attorney-client 8 privilege communications relating to Mr. Depp's 9 fourth and fifth affirmative defenses to the 10 counterclaims, if I could just read simply the 11 fourth affirmative defense which is, the 12 statements forming the basis of the counterclaims 13 were not made by the counterclaim defendant. 14 That's merely a statement of undisputed 15 fact. I think Ms. Heard is trying to read 16 something more into it than is there. It is a 17 statement that he did not make. I mean, it's 18 undisputed that Mr. Depp did not make the 19 statement at issue. 20 Ms. -- Ms. Heard countersued Mr. Depp on 21 three statements by one of his attorneys, Adam R. 22 Waldman, Esq., not Mr. Depp. That's not a waiver</p>

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<p style="text-align: right;">25</p> <p>1 of attorney-client privilege; nor is Mr. Depp's 2 fifth affirmative defense which begins, just in 3 case there was any doubt, quote, counterclaim 4 defendant does not waive and specifically asserts 5 the attorney-client privilege as to all 6 communications between counterclaim defendant and 7 his attorney, Mr. Waldman. So there's no 8 ambiguity. Mr. Depp is not waiving any 9 attorney-client privilege with Mr. Waldman. 10 Mr. Depp's fifth affirmative defense is 11 merely a reservation of rights to assert 12 hypothetical defenses in the future relating to 13 the scope of Mr. Waldman's authority in the event 14 that the Court were to rule somehow and cabin this 15 issue. 16 To be very clear, Mr. Depp is not 17 intending to rely upon any privileged 18 communication with Mr. Waldman, period, full stop. 19 Ms. Heard has not cited any authority for the 20 proposition that Mr. Depp must surrender his 21 attorney-client privilege in these circumstances; 22 which, by the way, are entirely of her own making.</p>	<p style="text-align: right;">27</p> <p>1 They tried to notice Mr. Waldman through 2 me. They served a notice of -- of deposition of 3 Mr. Waldman to me. Chief Judge White quashed that 4 and sanctioned them for it. They apparently sent 5 a process server to D.C. when Mr. Waldman 6 apparently was out of town and did not respond to 7 that subpoena. 8 Mr. Depp filed -- we filed on behalf of 9 Mr. Depp objections to that, a motion to quash. 10 The court in D.C., in fact, denied that motion to 11 quash; but we made emphatically clear in that 12 motion, in those objections that we are not 13 waiving attorney-client privilege. And they're 14 trying to get around that. But we respectfully 15 submit the motion should be denied. 16 THE COURT: All right. And just to make 17 sure, Mr. Chew, that you are providing other 18 documents if you find documents that are 19 relevant -- 20 MR. CHEW: Oh, absolutely, Your Honor. 21 In fact, Mr. Waldman has already produced -- I 22 can't give you the number, but he has already</p>
<p style="text-align: right;">26</p> <p>1 Ms. Heard made the strategic decision to 2 sue Mr. Depp and only Mr. Depp for statements that 3 were made by his attorney, Adam Waldman. She 4 decided not to sue Mr. Waldman for whatever 5 reason. Had she truly believed those statements 6 by Mr. Waldman to be defamatory, she would have 7 sued him either in this case or some other case. 8 The Court should not and we respectfully 9 submit cannot punish Mr. Depp for Ms. -- the 10 consequences of Ms. Heard's strategic choice in 11 filing a counterclaim for which she cannot meet 12 her burden. This falls under the category of her 13 problem. 14 Mr. Depp -- I respectfully submit 15 there's no authority standing for the proposition 16 that Mr. Depp has to waive attorney-client 17 privilege especially where, as here -- where he is 18 not intending to rely on any privileged -- rely on 19 any privileged communication with Mr. Waldman. 20 And that's precisely what he has said in the 21 District of Columbia proceedings to which 22 Mr. Nadelhaft referenced earlier.</p>	<p style="text-align: right;">28</p> <p>1 produced over a hundred pages of documents 2 responsive to Ms. Heard's -- 3 THE COURT: Okay. 4 MR. CHEW: -- subpoena. 5 THE COURT: Okay. 6 MR. CHEW: But it's a little complicated 7 because his attorney belatedly filed objections on 8 his behalf. I'm not clear whether Mr. Waldman may 9 have waived those. That hasn't been adjudicated 10 yet. 11 THE COURT: Okay. 12 MR. CHEW: They say he has. 13 What is clear and what the court 14 acknowledged in denying Mr. Depp's motion to quash 15 is that Mr. Depp timely objected. In fact, their 16 position is that the only objections that 17 Mr. Heard -- Mr. Heard. Mr. Depp is entitled 18 to -- he'll kill me for that one. 19 The only objections that Mr. Depp is 20 qualified to assert were his timely filed 21 attorney-client objections. So even Ms. Heard 22 acknowledges that he's got the attorney-client</p>

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<p style="text-align: right;">29</p> <p>1 objection. We respectfully submit that our 2 objections can go beyond that. And we have some, 3 but that hasn't been adjudicated either. Thank 4 you, Your Honor. 5 THE COURT: All right. Thank you. All 6 right. Yes, sir. 7 MR. MURPHY: I'll be very brief, Your 8 Honor. 9 THE COURT: That's fine. 10 MR. MURPHY: We're not here to argue the 11 merits of the D.C. motions, but I do have to 12 correct the record. First of all, Mr. Depp has 13 lost four motions in the D.C. courts on this 14 issue. He just will not give up. 15 And I can tell Your Honor the exact 16 number of pages. He's produced about 600 pages. 17 And I will just say very briefly the vast majority 18 of those are transcripts. So we really don't have 19 anything in D.C. 20 But that's not before the Court today. 21 What's before the Court today is Mr. Depp's 22 affirmative defenses in this case. As far as the</p>	<p style="text-align: right;">31</p> <p>1 ways. That's the plaintiff's argument or, I'm 2 sorry, the defendant's argument. 3 THE COURT: But -- but they're -- 4 they're also saying that they're not going to rely 5 on any attorney-client privilege statements or any 6 other documents in their affirmative defenses. 7 So -- 8 MR. MURPHY: But the problem is we don't 9 know what that means, Your Honor. Mr. Depp could 10 get up there and say, I never gave Mr. Waldman -- 11 you know, Mr. Chew could say, did you ever give 12 Mr. Waldman the authority to make, you know, the 13 three statements one by one. And he could say no. 14 And then what are -- how are we supposed 15 to oppose that? We have nothing to oppose that. 16 We have no documents about that. So that makes it 17 very difficult for him to just pull that out at 18 trial. 19 A general statement of we're not 20 intending to rely on privileged documents, we 21 don't know what that means. That's the whole 22 point of all these objections followed by</p>
<p style="text-align: right;">30</p> <p>1 fourth defense, we're not reading anything into 2 it. We're saying Mr. Waldman is Mr. Depp. That's 3 exactly Ms. Heard's argument. That's the 4 definition of agency. 5 He -- the 13th defense includes that 6 same reservation of rights. That's the only 7 reason that's part of this as well. 8 The fifth defense which is the main 9 issue here, Mr. Depp can't assert privilege within 10 a defense. That makes no -- that makes no sense. 11 You're either asserting a defense or you're not. 12 There is no authority cited for the -- that a 13 party can have a hypothetical defense at some 14 point in the future or what they refer to as a 15 nonactive defense. It's either a defense or it's 16 not. 17 And Depp is arguing that Heard is trying 18 to have him surrender the privilege. The argument 19 is Mr. Depp has already surrendering it -- 20 surrendered it by asserting these defenses. And 21 he can either withdraw the defenses or he can 22 produce the documents, but he can't have it both</p>	<p style="text-align: right;">32</p> <p>1 documents produced subject to them. We don't know 2 what that is. 3 MR. CHEW: That would be a privileged 4 communication. If we were -- 5 MR. MURPHY: Your Honor, I thought this 6 was my -- my -- 7 MR. CHEW: Well, I -- 8 THE COURT: I understand. 9 MR. CHEW: -- I just... 10 THE COURT: Okay. Go ahead. Yes, sir. 11 MR. MURPHY: So for those reasons, Your 12 Honor, we would request that the Court either 13 order that by asserting these defenses there has 14 been to at least some extent a waiver of privilege 15 as to Mr. Waldman's authority or agency for Mr. 16 Depp or, in the alternative, Mr. Depp has to 17 withdraw these defenses. It just has to be one or 18 the other is the plaintiff's position. 19 THE COURT: All right. 20 MR. MURPHY: That's all I have, Your 21 Honor, on that issue. 22 THE COURT: All right. Thank you.</p>

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1 All right. The -- the problem I have
2 in -- in all these discovery -- is that you -- you
3 know, you provide all documents supporting. And
4 whenever a discovery request starts with provide
5 all documents supporting, it always is a question
6 of is it overbroad. Okay?
7 And it's -- it's very hard to compel
8 somebody to provide something when I'm not really
9 sure exactly the -- the scope of it, the breadth
10 of it. It's just -- it's just -- it's just -- as
11 far as the rules are concerned it's just
12 overbroad.
13 So I can't compel somebody when -- when
14 I find that the request is overbroad. If you can
15 narrow that somehow to time frames, to -- to
16 something -- I mean, something has to be done
17 there to -- to make it a little less -- less --
18 less -- more succinct. I just can't compel
19 somebody when I'm not even sure exactly what I'm
20 compelling.
21 The other issue as far as the waiver of
22 attorney-client privilege, it's -- it's on the

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1 record that they're not going to rely on anything
2 that deals with attorney -- attorney-client
3 privilege in their affirmative defenses.
4 Based on that there's no waiver at this
5 point. And I'm not going to require them to waive
6 any attorney-client privilege at this time. All
7 right.
8 MR. MURPHY: Thank you, Your Honor. So
9 I'll move onto the next issue now which is the
10 interrogatories.
11 THE COURT: Okay.
12 MR. MURPHY: And I will be brief. I
13 know Your Honor said you've already -- you -- you
14 fully read the papers.
15 THE COURT: Yes.
16 MR. MURPHY: This is the first
17 interrogatories. We've narrowed this to --
18 THE COURT: Okay.
19 MR. MURPHY: -- only certain ones --
20 THE COURT: All right.
21 MR. MURPHY: -- during the meet and
22 confer process, to interrogatories nine and 10.

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1 I mean, Mr. Depp stated in those he'd
2 identify all responsive documents by Bates number.
3 That's -- you know, Mr. Chew has said in the past
4 if we say we're going to do something, well, do
5 it. And that's all we're asking for that.
6 Interrogatory 11. Mr. Depp stated in
7 his supplemental responses he may have consumed
8 alcohol, medications and drugs on the date Heard
9 claims he abused her but denies he was binging on
10 drugs. So documents related to or at a minimum
11 supporting those factual statements should be
12 produced.
13 Depp argues in the opposition -- or Mr.
14 Depp argues in the opposition that he agreed to
15 produce documents evidencing drug or alcohol abuse
16 or use by Depp or Heard on the dates of the
17 alleged abuse. That was the first time we
18 received that offer, but we would request that
19 be -- that be ordered.
20 Interrogatory 14. Mr. Depp responded
21 with a description of the Rocky Brooks case which
22 includes violent conduct that Mr. Depp committed.

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1 He's accused of punching another individual in the
2 face on a set in 2016. So he should produce
3 documents not only supporting that statement but
4 clearly those -- that subject matter is relevant
5 to the issues at the heart of this case.
6 And interrogatory 16. This is damages.
7 Mr. Depp should produce documents supporting or
8 related to that response. Two more, Your Honor.
9 Interrogatory 13. This is the
10 separation agreements or agreement in -- in
11 particular with -- with his ex-spouse, Vanessa
12 Paradis. We received lots of conflicting
13 representations about this. During the meet and
14 confer it was stated that this is the only one; a
15 flat statement, no ambiguity. Now it says, oh,
16 maybe there is another one.
17 I don't know what Mr. Chew is going to
18 argue, but we just want any -- I would find it
19 hard to believe Mr. Depp didn't execute his own
20 separation agreement especially with what's in it
21 which I won't go into in -- in open court. But I
22 just would be shocked if -- if he did not execute



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<p style="text-align: right;">37</p> <p>1 that.</p> <p>2 And interrogatory 17. This one, Your</p> <p>3 Honor, is two other litigations. And they argue</p> <p>4 that we're seeking everything about those</p> <p>5 litigations. Well, in our motion that's not at</p> <p>6 all what we said.</p> <p>7 We want everything within the scope of</p> <p>8 the Court's prior order from August that listed --</p> <p>9 and we attached it to our motion; that listed -- I</p> <p>10 think it was like 12 factual topics. That's all</p> <p>11 we're asking for here; is anything in those</p> <p>12 litigations related to those topics.</p> <p>13 During the meet and confer -- I don't</p> <p>14 even know what this Jane Doe lawsuit is. I asked</p> <p>15 about that at the meet and confer. I never</p> <p>16 received a response. So how can we know if</p> <p>17 they're relevant when they won't even tell us what</p> <p>18 they are?</p> <p>19 And so for that one it's just -- and</p> <p>20 that's exactly what's in the proposed order,</p> <p>21 what's in the scope of RFP five from the Court's</p> <p>22 August order about four other litigations. We</p>	<p style="text-align: right;">39</p> <p>1 again -- which on its face and -- and which they</p> <p>2 haven't withdrawn calls for Mr. Depp to produce</p> <p>3 all documents supporting, refuting or relating to</p> <p>4 any of Mr. Depp's denials of RFAs or interrogatory</p> <p>5 responses. And that -- again, that's hopelessly</p> <p>6 overbroad as the previous category was.</p> <p>7 And, again, you know, I appreciate</p> <p>8 what's been said by Mr. Murphy, but interrogatory</p> <p>9 number 17 would encompass every single document</p> <p>10 from every single one of the cases that we talked</p> <p>11 about; the case against the manager which was</p> <p>12 successful for Mr. Depp, the case against the</p> <p>13 former lawyer who took five percent on an illegal</p> <p>14 oral contract which was successful for Mr. Depp</p> <p>15 and -- and the other litigations. And we're</p> <p>16 talking about millions and millions of documents.</p> <p>17 The Court has already ruled on that. So</p> <p>18 this basically would be an end run around the</p> <p>19 court order which denied that. And they didn't</p> <p>20 amend it. But what we -- what we have stated and</p> <p>21 are obviously willing to do is to produce</p> <p>22 documents, if any, evidencing drug or alcohol use</p>
<p style="text-align: right;">38</p> <p>1 just think these should be added to that.</p> <p>2 THE COURT: All right.</p> <p>3 MR. MURPHY: And then lastly</p> <p>4 interrogatories one through two of the second</p> <p>5 interrogatories. That's another -- they said they</p> <p>6 would identify documents by Bates number. And</p> <p>7 they should.</p> <p>8 THE COURT: Okay.</p> <p>9 MR. MURPHY: That's all I have for this</p> <p>10 issue, Your Honor.</p> <p>11 THE COURT: All right. Thank you.</p> <p>12 MR. MURPHY: I'm trying to be as quick</p> <p>13 as possible.</p> <p>14 THE COURT: No, I appreciate it. Okay.</p> <p>15 So basically the RFAs -- the interrogatories nine</p> <p>16 and 10 and, I guess, interrogatories one and two</p> <p>17 are the big issue. Am I right about that, the</p> <p>18 Bates number issue?</p> <p>19 MR. CHEW: Yes. Thank you, Your Honor.</p> <p>20 And I'll -- I'll be very brief as well. We</p> <p>21 respectfully submit the Court should deny the</p> <p>22 motion to compel as to this category which</p>	<p style="text-align: right;">40</p> <p>1 by Mr. Depp or Ms. Heard on any of the dates of</p> <p>2 the alleged abuse.</p> <p>3 THE COURT: Which is number 11; right?</p> <p>4 MR. CHEW: I -- I believe that's</p> <p>5 correct.</p> <p>6 THE COURT: Interrogatory number 11. I</p> <p>7 just want it for the record. I just wanted to</p> <p>8 make sure. Yeah. Okay.</p> <p>9 MR. CHEW: All those such documents are</p> <p>10 believed to have been --</p> <p>11 THE COURT: Okay.</p> <p>12 MR. CHEW: -- long since produced.</p> <p>13 And, two, a fully executed copy of Mr.</p> <p>14 Depp's separation agreement with Vanessa Paradis,</p> <p>15 his former wife with which he had his two</p> <p>16 children, to the extent that one can be located.</p> <p>17 But, again, we have produced the one copy that we</p> <p>18 have in Mr. Depp's possession. But we certainly</p> <p>19 would be willing to go back and look again.</p> <p>20 But -- so that's what -- what we would be willing</p> <p>21 to do.</p> <p>22 But the -- the motion to compel was --</p>

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11 (41 to 44)

<p style="text-align: right;">41</p> <p>1 was based on all of the documents relating to the 2 denials of RFAs or interrogatory responses which 3 is why we opposed it. 4 THE COURT: All right. 5 MR. CHEW: Thank you, Your Honor. 6 THE COURT: Okay. Yes, sir. 7 MR. MURPHY: I'll be very brief, Your 8 Honor. 9 Again, the proposed order and what was 10 argued in the motion, all we want is documents 11 relating to the Jane Doe and Buckley, LLP, 12 lawsuits within the scope of revised request five 13 and the Court's August 19, 2021, order. 14 So now in the brief and the argument 15 it's a strawman. They're saying we want millions 16 of documents from those cases, we're trying to 17 revisit the Court's order; absolutely not. We're 18 within the scope of the Court's order. That's all 19 we're asking for. 20 And we've had to oppose that multiple 21 times and despite being very clear about that. 22 And it's not about all interrogatories anymore, as</p>	<p style="text-align: right;">43</p> <p>1 just the -- the depositions from those for certain 2 witnesses. And I'm not going backwards on that. 3 So I'm denying 17. Okay. And did I leave any out 4 or was that it? 5 MR. MURPHY: I believe there's still 6 interrogatory 14, Your Honor, the -- 7 THE COURT: Interrogatory -- 8 MR. MURPHY: -- the Rocky Brooks. 9 THE COURT: -- 14. Which one? I don't 10 have it on my list here. And which one was 11 interrogatory 14? I'm sorry. 12 MR. MURPHY: It's about -- that's where 13 he -- information about the Rocky Brooks case 14 which is that he -- you know, Mr. -- Mr. Brooks 15 contended that Mr. Depp punched him on set in 16 2016. 17 THE COURT: Okay. If -- well, if there 18 are any documents as to that incident, that should 19 be turned over as well. 20 MR. CHEW: That -- I just have to say 21 that -- that -- that's hilarious. There -- 22 there -- there are photographs of the interaction</p>
<p style="text-align: right;">42</p> <p>1 I just argued. We've narrowed it to specific 2 ones. So that's all I have in rebuttal on that 3 one, Your Honor. 4 THE COURT: All right. Thank you. 5 I -- I think -- I think it's -- it would 6 be proper and make sense for the Bates number 7 issues for interrogatories nine through 10 and one 8 through two. If they can get the Bates stamp, 9 they should be -- they should be done. That 10 would -- that's -- that's ordered to be done. 11 Number 11. They -- the plaintiff says 12 they have filed responses to that. But if there 13 are any others that should be filed in response to 14 that, that should be done as well. 15 In addition, the fully executed 16 separation agreement if located, if it can be 17 located, should be -- should be turned over in 18 discovery as well. 19 As for number 17, that is overbroad. 20 I'm going to deny number 17. We have gone back 21 and forth about other litigations. What I -- what 22 I had ordered before is maybe -- I believe it was</p>	<p style="text-align: right;">44</p> <p>1 between Mr. Depp and Mr. Brooks. The only 2 physical contact was a hug that they had. 3 THE COURT: Well, if there's any 4 documentation or any pictures or anything -- 5 MR. CHEW: We will be happy -- 6 THE COURT: -- you should turn it over. 7 MR. CHEW: -- to do that, Your Honor. 8 THE COURT: All right. Thank you. 9 MR. MURPHY: Thank you, Your Honor. 10 THE COURT: All right. 11 MR. MURPHY: I will be brief on the 12 counterclaim denials and the RFA responses. The 13 request for admissions. On the first request for 14 admissions, those are various factual statements. 15 Mr. Depp denied he punched, slapped, punched while 16 wearing rings and choked Ms. Heard, head butted; 17 denied he pushed, shoved or threw glass bottles at 18 her. So any documents supporting those denials 19 absolutely be produced. 20 RFAs 11 through 15. These are -- 21 contain factual statements. Mr. Depp admits he 22 may have destroyed property in the presence of</p>

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<p style="text-align: right;">45</p> <p>1 Heard. 2 RFAs 12 through 13. He may have used 3 the words "slut" and "whore" but has no 4 independent recollection of that; the same with 5 saying that -- that my client wouldn't find work 6 as an actress when she got old and her tits would 7 sag and that she would, should or wanted to get 8 raped. 9 He -- he says he doesn't recall making 10 these statements; but he admits he may have, some 11 of it may have been in jest. We need documents 12 supporting his inability to -- to -- to clearly 13 admit or deny those. They're very qualified. 14 And this bleeds into the next RFA issue, 15 the fourth RFAs. These are the Tracey Jacobs 16 documents. I'm not going to rehash all of that 17 issue. I know Your Honor has heard that before. 18 But suffice it to say we were unable to 19 authenticate those in the deposition. They were 20 produced in the middle of it or, actually, right 21 when it began. So Ms. -- Ms. Bredehoft could not 22 do that.</p>	<p style="text-align: right;">47</p> <p>1 judgment? They won't clearly -- they say it 2 appears to be a copy. They won't admit or deny 3 authenticity. 4 If you have something where you can't 5 admit the authenticity of the UK judgment, well, 6 produce it to us. Otherwise, what is prohibiting 7 you from doing that? We need to know now. 8 The same with Mr. Depp's own quotations; 9 I'm an actor, I lie for a living. Okay. If 10 you're denying you made that, we need the 11 documents now to tee up the issues in the same way 12 I just phrased it to Your Honor. 13 And then lastly one, three through 14 14 and 16 through 24 of that fifth set of RFAs. 15 These are articles which are relevant to Mr. 16 Depp's reputation. If they're not going to admit 17 authenticity, have you made reasonable efforts? 18 What do you have to -- to support your inability 19 to admit or deny that unequivocally so that we can 20 be prepared for that issue at trial? And that's 21 all on the RFAs, Your Honor. 22 THE COURT: All right. Yes, sir.</p>
<p style="text-align: right;">46</p> <p>1 Rule 4:11 requires a reasonable 2 inquiry -- that's right out of the text or rule -- 3 before lack of knowledge can be used to refuse to 4 admit or deny. And there's no evidence a 5 reasonable inquiry has been made here by Mr. Depp 6 to -- to support his claimed inability to admit or 7 deny authenticity. 8 We're not moving today to -- on the 9 RFAs. What we're moving for is any documents 10 supporting his inability to do so so that when 11 that issue comes up we have the documents to do 12 so. 13 And if he does not admit the 14 authenticity, there is a provision in Rule 4:11 15 where at trial if you're forced to prove something 16 that should have been admitted, you can seek 17 sanctions for doing that. So all we're seeking is 18 the documents to -- to enable us to take those 19 actions depending on what happens. 20 Briefly on the fifth RFAs. You know, 21 RFA two, this one is ridiculous. This is the UK 22 judgment. How -- you know, is there another UK</p>	<p style="text-align: right;">48</p> <p>1 MR. CHEW: Your Honor, I know this is a 2 recurring theme. And I don't know why they do 3 this, but they do. The Court should deny the 4 motion to compel as to the fourth category which 5 is as overbroad as two of the other categories 6 that the Court has addressed in that she seeks all 7 documents relating to Mr. Depp's denials of the 8 numerical allegations in the counterclaim and 9 everything else. 10 Indeed, this category is even more 11 egregious because they call for documents relating 12 to allegations in the counterclaims that are no 13 longer at issue. Specifically, by letter order of 14 January -- 15 MR. MURPHY: I'm sorry to interrupt, 16 Your Honor. I haven't had a chance to argue that 17 yet. I just want to point that out. We're 18 talking about RFAs. 19 THE COURT: Just the RFAs. 20 MR. CHEW: Well, I'm -- I'm -- the same 21 applies to the RFAs. I thought that's what we 22 were dealing with because he just made reference</p>

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49	<p>1 to the RFAs. So perhaps I'm --</p> <p>2 THE COURT: He -- he did specific RFAs</p> <p>3 that he was discussing.</p> <p>4 MR. CHEW: Well, I mean, that -- that</p> <p>5 may be; but he -- they're asking for all documents</p> <p>6 relating to denials of allegations in the</p> <p>7 counterclaim, denials of the RFAs.</p> <p>8 THE COURT: Well --</p> <p>9 MR. CHEW: I mean --</p> <p>10 THE COURT: -- the ones he was talking</p> <p>11 about are documents to authenticity of some of the</p> <p>12 documents, some of the statements; documents</p> <p>13 pertaining to some of the statements that were</p> <p>14 made in request for admissions.</p> <p>15 MR. CHEW: Yes. I believe we addressed</p> <p>16 that in -- in the papers. The Tracey Jacobs issue</p> <p>17 the Court has already ruled on. So this is yet</p> <p>18 another motion for reconsideration. It's exactly</p> <p>19 what Chief Judge White predicted she would --</p> <p>20 Ms. Bredehoft would continue to do relentlessly</p> <p>21 until she gets a different ruling.</p> <p>22 Ms. Bredehoft did have the documents at</p>	51
50	<p>1 Ms. Jacobs' deposition. So she had the</p> <p>2 opportunity to do that. She was asking Mr. Depp</p> <p>3 to authenticate documents, many of which he wasn't</p> <p>4 even a party to. So I don't know how he could</p> <p>5 possibly authenticate documents to which he was</p> <p>6 not a party.</p> <p>7 So that's the kind of thing that --</p> <p>8 that -- that we're being asked to do. And we</p> <p>9 respectfully submit that as with so much of this</p> <p>10 it's overbroad.</p> <p>11 And I just want to make one very quick</p> <p>12 comment. You know, 10 days ago we received</p> <p>13 Ms. Heard's 17th set of requests for production.</p> <p>14 And I know there's no limit, numerical limit, in</p> <p>15 this court for RFPs; but it's -- it's becoming</p> <p>16 ridiculous. And there were 217 new requests in</p> <p>17 this 17th set.</p> <p>18 And, again, I think at some point this</p> <p>19 whole thing is just, you know -- then come in</p> <p>20 and -- and have to deal with this foolishness.</p> <p>21 THE COURT: All right.</p> <p>22 MR. CHEW: And at some point we will</p>	52
	<p>1 seek a motion for a protective order because</p> <p>2 it's -- it's -- it's overkill.</p> <p>3 THE COURT: All right.</p> <p>4 MR. CHEW: Thank you, Your Honor.</p> <p>5 THE COURT: Okay. If you could --</p> <p>6 MR. MURPHY: I don't need to respond to</p> <p>7 the RFAs. May I just respond to that last point,</p> <p>8 Your Honor?</p> <p>9 THE COURT: All right. Well, hold --</p> <p>10 hold on just a second. I -- I apologize, but I</p> <p>11 need to break for a moment. I have some people</p> <p>12 here for a gavel presentation that I told them</p> <p>13 I'd -- I'd present at 1:00. So just give me like</p> <p>14 two minutes and I'll be back.</p> <p>15 MR. MURPHY: Thank you.</p> <p>16 MR. NADELHAFT: Thank you, Your Honor.</p> <p>17 THE COURT: All right. Thank you. I</p> <p>18 appreciate it.</p> <p>19 (A recess was taken.)</p> <p>20 THE COURT: All right. So you were</p> <p>21 going to respond to that. Yes, sir.</p> <p>22 MR. MURPHY: Yes. I just want to</p>	

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<p style="text-align: right;">53</p> <p>1 of requests. That's the only follow-up I wanted 2 to state on that, Your Honor. 3 THE COURT: All right. Thank you. 4 I just want to make sure, since I had 5 that break, the RFPs. We have the -- oh, gosh. 6 Was it 11 through 15? 7 MR. MURPHY: It is -- if I could just 8 have one -- 9 THE COURT: Sorry. 10 MR. MURPHY: -- quick second. No. 11 THE COURT: I have the table. So I just 12 want to make sure, because I had made some notes. 13 MR. MURPHY: It's RFPs two, five and 14 six, Your Honor. 15 THE COURT: Two, five and six. And 18 16 and 19? 17 MR. MURPHY: Yes. 18 THE COURT: Oh, no. 19 MR. MURPHY: Two -- two, five and six 20 were only requesting documents supporting the 21 first, fourth and fifth RFAs today, Your Honor. 22 So it's requests two, five and six.</p>	<p style="text-align: right;">55</p> <p>1 don't know... 2 MR. MURPHY: That would take care of 3 RFPs five and six, Your Honor. 4 THE COURT: Right. But so -- 5 MR. MURPHY: Two was -- 6 THE COURT: -- we still have two. 7 MR. MURPHY: -- was factual statements. 8 So I just want to -- 9 THE COURT: Okay. Let me go back to 10 two. And two I just -- I'm going to deny the 11 motion to compel as to two. I just find it 12 overbroad. 13 MR. MURPHY: Thank you, Your Honor. 14 THE COURT: Thank you. 15 MR. MURPHY: So I will be brief on the 16 counterclaim allegations. I have -- they are 17 grouped by subject matter in the order I'm going 18 to argue them. 19 THE COURT: Okay. 20 MR. MURPHY: The first grouping is -- 21 these are denials of allegations of Mr. Depp 22 ruining Heard's career in matters of the divorce</p>
<p style="text-align: right;">54</p> <p>1 THE COURT: Two, five and six. 2 MR. MURPHY: And I'm prepared to argue 3 the counterclaims, but I'm assuming Your Honor is 4 going to rule first. 5 THE COURT: Thank you. I appreciate it. 6 I just have to get back to it. I'm sorry. All 7 right. Here. I finally got to the requests here. 8 MR. MURPHY: And these are the 12th 9 RFPs, just -- not the 11; just -- just so we're 10 clear. 11 THE COURT: I understand. All right. 12 All right. It's -- from these -- I mean, it's 13 still an issue of overbroad. I know you're 14 getting more specific to exactly what you -- what 15 you need. 16 If -- I can compel Mr. Depp to respond 17 to any ones that he can as far as authenticity 18 is -- is in -- is before the Court or before -- 19 the requests ask for authenticity if -- either a 20 yes or no, if they're going to authenticate them 21 and if not authenticate the basis for not 22 authenticating them. That's -- that is fair. I</p>	<p style="text-align: right;">56</p> <p>1 litigation. So these are RFPs 50, 52 through 60 2 and 66 through 68. 3 Mr. Depp refused to produce any 4 documents supporting these denials of the 5 paragraphs 17, 19, 19 through 28 and 31 through 32 6 of the counterclaim. All of those allegations are 7 the subject matter I just described including Mr. 8 Depp's comments to friends he wanted to ruin 9 Heard's career and other disparaging comments -- 10 some documents have already been produced on that, 11 but we don't know what else there are -- the 12 divorce litigation for which Mr. Depp has almost 13 obsessively moved to compel in this case and that 14 he's using litigation to destroy my -- my client's 15 career. 16 So those -- he denied those allegations; 17 refused to produce documents. Those objections 18 should be overruled and all documents produced. 19 I just want to address -- the only point 20 in rebuttal was a specific objection to RFP 59 21 which is paragraph 27 of the counterclaim. Mr. 22 Depp complains these are opinions or insults so he</p>

<p style="text-align: right;">57</p> <p>1 should not have to produce documents supporting 2 his denials. 3 But if Mr. Depp intends to testify at 4 trial in opposition to these statements, how can 5 he produce -- how can he refuse to produce 6 documents supporting that testimony? He -- he 7 denied them. All we can think to assume is he 8 intends to deny the facts within those at trial. 9 He -- he denied that he has an obsession 10 with destroying Ms. Heard. And just because Mr. 11 Depp in his brief characterizes this one 12 allegation -- again, we're only talking about one 13 here. They haven't opposed the other ones 14 specifically -- as a rant, that doesn't mean they 15 are. And it doesn't mean that Mr. Depp can just 16 claim these are rants and then not produce 17 documents. The point is that factual allegations 18 were made. He denied them. Documents supporting 19 those should be produced. 20 The next category is the denial of 21 allegations involving Mr. Waldman. These are RFPs 22 61 through 65 and 74. Mr. Depp objected to</p>	<p style="text-align: right;">59</p> <p>1 The next category is denial of the 2 defamation allegations. These are RFPs 75, 78 3 through 80, 80, 81, 82, 83 and 88. Some of these 4 Mr. Depp objected and refused to respond to. Some 5 of them he has two pages of objections and he'll 6 produce subject to them. 7 Many of these underlie two defamation 8 allegations as we're going to trial. And for the 9 ones that are the statements that were dismissed 10 on demurrer, Mr. Depp himself -- and this is 11 attached in the brief we cited -- argued that 12 those statements are still relevant to causation 13 of damages. Were they caused by something else? 14 So this is not tit for tat discovery. 15 This is Mr. Depp claims they're relevant for those 16 reasons. So, therefore, they remain relevant for 17 those reasons under Mr. Depp's theory. Now that 18 we're asking the discovery he says, oh, those 19 are -- that was dismissed, that's not relevant. 20 He can't have it both ways on that. 21 The last grouping is allegations 22 relevant to the punitive damages. This is 39</p>
<p style="text-align: right;">58</p> <p>1 produce any documents supporting his denial, for 2 example, of paragraph 41 that Mr. Depp authorized 3 and conspired with Mr. Waldman. 4 I'm not going to belabor the point on 5 that one because that's related to Your Honor's 6 earlier ruling, but he also objected and refused 7 to produce documents supporting his denials of 8 paragraphs 29 through 30 of the counterclaim which 9 is RFPs 61 through 65. 10 These allegations include Mr. Waldman's 11 conduct in intimidating witnesses and forcing them 12 to sign sham declarations prepared by Mr. Waldman. 13 I do -- do not believe this is in the scope of 14 Your Honor's prior ruling as to the privilege. 15 This isn't asking communications between 16 Mr. Depp and Mr. Waldman. It's does Mr. Depp 17 possess any nonprivileged communications or 18 documents involving Mr. Waldman's conduct in 19 intimidating witnesses and forcing them to sign 20 sham declarations. If he doesn't have any, well, 21 then he has nothing to produce. If he does, they 22 should be produced. We can't know what he has.</p>	<p style="text-align: right;">60</p> <p>1 through 49 and 51. And documents supporting Mr. 2 Depp's denials of those allegations remain 3 relevant for punitive damages on the three 4 defamatory statements going to trial. 5 I'll -- any remaining time I'll reserve 6 for rebuttal to the plaintiff's argument. 7 THE COURT: All right. 8 MR. CHEW: Thank you again, Your Honor. 9 The Court should deny the motion to 10 compel as to this final category which is as 11 overbroad as -- as some of the previous ones the 12 Court has dealt with. 13 Again they're seeking all documents 14 relating to Mr. Depp's denials of the numerical -- 15 of -- of the allegations in the counterclaim. 16 Indeed, this category, as Mr. -- as -- as 17 defendant's counsel acknowledged, is even more 18 egregious because they call for all of the 19 allegations in the counterclaim most of which are 20 not at issue any longer. And I -- I didn't follow 21 his theory as to why Mr. Depp thinks they're 22 relevant. They're not relevant.</p>

<p style="text-align: right;">61</p> <p>1 As -- as Your Honor is aware and I -- I 2 started to mention when I mistook the argument, by 3 the Court's letter opinion of January 4, 2021, the 4 Court sustained Mr. Depp's demurrer to counts one 5 and counts three in their entirety and granted his 6 plea in bar as to five of the eight statements in 7 count two of the counterclaim. 8 So they're still asking us. They 9 haven't withdrawn these requests to produce 10 documents relating to allegations that are no 11 longer at issue. 12 For example, RFP number 47 demands that 13 Mr. Depp produce all documents supporting, 14 refuting or otherwise relating to your denial of 15 paragraphs 13 and 14 of -- of the counterclaim. 16 These paragraphs have nothing to do with the three 17 allegedly -- allegedly defamatory statements still 18 at issue in the counterclaim. 19 In sustaining Mr. Depp's demurrer as to 20 count three, the alleged violation of the Virginia 21 Computer Crimes Act, the Court has already 22 rejected Ms. Heard's argument that Mr. Depp is</p>	<p style="text-align: right;">63</p> <p>1 To the extent these are overbroad, I 2 mean, there's one RFP for not all. We're only 3 moving on specific allegations. How -- we can't 4 get more specific than that. 5 And to the extent there's a lot of RFPs, 6 well, we withdrew the previous RFP that asked for 7 all counterclaim denials within one in reliance on 8 moving to compel these. We can't get more 9 specific than specific paragraph denial. So 10 that's exactly what we did. So it's not all 11 allegations. 12 The plaintiff is in general arguing that 13 they're all overbroad, but I -- I -- I went 14 through very specific categories and groupings of 15 the subject matter of these denials of the 16 counterclaim allegations. 17 And I -- I don't hear any response of 18 why this category is -- is relevant or this one is 19 not or this one is overbroad or this one isn't; 20 just a global argument they should all be denied 21 without really assessing the specific subject 22 matter I just argued and why each one is relevant</p>
<p style="text-align: right;">62</p> <p>1 accountable for every unpleasant comment about her 2 on the Internet. Serving scores of RFPs for all 3 documents related to these irrelevant and basic 4 allegations is harassment. 5 Moreover, many paragraphs in Ms. Heard's 6 counterclaim do not even contain factual 7 allegations but are just opinions or insults 8 directed at Mr. Depp including the RFP number 59 9 that was just alluded to which deals with 10 counterclaim paragraph 27. 11 Quote, without this case Mr. Depp's 12 attempts to keep this matter in the press would 13 amount to nothing more than a four-year-old stale 14 story that has been rehashed ad nauseam. 15 I mean, it -- it just goes on. It has 16 nothing to do with anything. And we respectfully 17 submit that -- that enough is enough and -- and 18 the Court should -- should deny as to this 19 category. 20 THE COURT: All right. 21 MR. MURPHY: Just very briefly, Your 22 Honor.</p>	<p style="text-align: right;">64</p> <p>1 and not overbroad and unduly burdensome. 2 That's all I have on this last topic, 3 Your Honor. 4 THE COURT: All right. Thank you. 5 It's very hard to parse through every 6 single one of these, honestly, when you come here 7 to do -- to do all these -- these -- especially 8 the denials; very hard to go through each one 9 separately to -- to see what is -- is going on. 10 It -- whenever you say documents related 11 to a denial it's -- it's very hard for the Court 12 to compel when it's very -- I'm just not sure what 13 could be produced or what they have that could be 14 produced when you deny something as -- that's laid 15 out in these -- these requests. 16 I think they're going to provide what 17 they can provide. I just can't see it -- that I 18 can compel any of this, because I just don't 19 see -- I find that the objections -- I just -- 20 it's hard because you -- you went over them, all 21 of them now; which I didn't have that earlier. 22 So I just don't want to make a blanket</p>

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<p style="text-align: right;">65</p> <p>1 ruling without really going through it. So let's 2 just -- we're going to have to go through them all 3 one at a time. I'm sorry. But you're going to 4 have to do it. 5 MR. MURPHY: I'm -- I'm absolutely 6 prepared to do that; however I can assist the 7 Court -- 8 THE COURT: Right. Because -- 9 MR. MURPHY: -- in doing that, Your 10 Honor. 11 THE COURT: Because there's quite a few 12 of them. So let's just go through. Is it in your 13 table? Because I'm having trouble finding it as 14 you -- as you outlined it. And you grouped them 15 differently than you -- 16 MR. MURPHY: No. 17 THE COURT: -- grouped them -- 18 MR. MURPHY: The -- the groupings I did 19 today I did not put in the table. We -- we were 20 trying to distill as the clerk suggested, but I 21 also am sensitive to -- we're not supposed to put 22 argument or change things around. So I --</p>	<p style="text-align: right;">67</p> <p>1 THE COURT: All right. So as to 50, I 2 find that to be overbroad. So I deny that. All 3 right. Next one. 4 MR. MURPHY: 50. And then it's 52 5 through 60, Your Honor. RFPs 52 through 60, I 6 should say, which are paragraphs 19 through 28 of 7 the counterclaim. 8 THE COURT: Where are they on your 9 table? Can you tell me the page -- 10 MR. MURPHY: The -- the -- 11 THE COURT: -- on your table? 12 MR. MURPHY: It's -- 13 MR. NADELHAFT: The next page. 14 MR. MURPHY: -- the next page, page 14 15 of the table, Your Honor. 16 THE COURT: 14. Sorry. And 52; 17 correct? 18 MR. MURPHY: 52 through 60 is this 19 grouping -- 20 THE COURT: All right. 21 MR. MURPHY: -- yes, Your Honor. 22 THE COURT: Just give me -- give me a</p>
<p style="text-align: right;">66</p> <p>1 THE COURT: Right. 2 MR. MURPHY: -- I was trying to strike a 3 fine line there. 4 THE COURT: Okay. So it's just -- it's 5 very hard to go back and forth. So let's just go 6 through them one at a time that you have 7 objections to. 8 MR. MURPHY: Does Your Honor mean go 9 through the groupings are one by one? 10 THE COURT: We have to go one by one. 11 MR. MURPHY: Okay. Absolutely, Your 12 Honor. So why don't we start at 50, Your Honor. 13 And then it's 52 through 60 and 66 through 68. 14 THE COURT: So 50, is that on your 15 table? 16 MR. MURPHY: Yes. These are all on the 17 table, Your Honor. 18 THE COURT: All right. And it's marked 19 as 50; correct? 20 MR. MURPHY: Yes. Or -- 21 THE COURT: Is it? 22 MR. MURPHY: Yes. 50, yes.</p>	<p style="text-align: right;">68</p> <p>1 minute. 2 All right. Again overbroad. I'll deny 3 the motion to compel to 52, to 53. 54 I'll deny. 4 55 I'll deny. 56. 57. How far am I going? 5 MR. MURPHY: Through 60 in this 6 grouping, Your Honor. 7 THE COURT: All right. Thank you. 8 58 I'll deny. 59 and 60. All right. 9 Now, what -- for 61 -- 10 MR. MURPHY: 61 is a different grouping, 11 Your Honor. 12 THE COURT: Okay. 13 MR. MURPHY: I'm happy to address that 14 now, but I was trying to go by the subject matter. 15 But I'll -- 16 THE COURT: All right. 17 MR. MURPHY: -- of course, follow 18 however Your Honor wants to do this. 19 THE COURT: If we could do it by the 20 table, it makes -- it's just -- 21 MR. MURPHY: Yes. Of course. 61. 22 These are one of the allegations related to Mr.</p>

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69	1 Waldman. 2 THE COURT: All right. All right. All 3 right. I'll overrule the objection as to any 4 nonattorney-client privilege documents that there 5 might be for 61. 6 MR. MURPHY: And then going through the 7 chart, Your Honor, 62 through 65 are part of this 8 same grouping. 9 THE COURT: All right. 62. All right. 10 Overbroad for 62. I'll deny 62. All right. As 11 to 63 I'll overrule the objections as to any 12 nonattorney-client privilege documents that may be 13 produced. All right. 64? Are we at 64 now? 14 MR. MURPHY: 64. And then 65 is the end 15 of this -- 16 THE COURT: Okay. 17 MR. MURPHY: -- grouping, Your Honor. 18 THE COURT: All right. The same. I'll 19 overrule the objections for 64. Anything that's 20 nonattorney-client privilege will be produced. 21 65. I'll deny 65. It's overbroad. All right. 22 Next?	71	1 have quotations in them -- 2 THE COURT: Okay. 3 MR. MURPHY: -- and denying them when 4 they don't. 5 THE COURT: When you actually go to -- 6 MR. MURPHY: Would it be -- 7 THE COURT: -- a clear statement. 8 MR. MURPHY: -- safe to say -- 9 THE COURT: Yes. It seems like that's 10 more of a narrow issue -- 11 MR. MURPHY: Yes. 12 THE COURT: -- than all documents. 13 So -- 14 MR. MURPHY: Would it be safe to say 15 that we can understand Your Honor's ruling -- 16 THE COURT: That would be fantastic. 17 MR. MURPHY: -- that for any RFPs that 18 have specific factual statements in them, those 19 are overruled -- 20 THE COURT: Right. 21 MR. MURPHY: -- with the exception of 22 Your Honor's privilege ruling and if they don't,
70	1 MR. MURPHY: 66, Your Honor. We can 2 go -- keep going through 66 through 68. 3 THE COURT: Okay. All right. I'll deny 4 66. All right. As to 67 again I'll overrule the 5 objections. He's to provide anything that's 6 nonattorney-client privilege that's in their 7 possession. 68. I'll deny 68. 69. I'll deny 8 69. Are we up to 70? 9 MR. MURPHY: Yes, Your Honor. 10 THE COURT: Okay. I'll deny 70. I'll 11 deny 71. I'll deny 72. 73 is denied. 74 is 12 denied. 75 and 76 are denied. 77 is denied. 78 13 is denied. 79 is denied. 14 80. I will overrule the objections if 15 there's any documents in possession that are 16 nonattorney-client privilege. 17 MR. MURPHY: I'm sorry to interrupt, 18 Your Honor. I'm sensing a pattern. Maybe we can 19 shortcut this. 20 THE COURT: That would be fantastic. 21 MR. MURPHY: Your -- yes. Your Honor 22 seems to be overruling objections when the RFPs do	72	1 the RFPs are denied? 2 THE COURT: That would be fantastic. 3 MR. MURPHY: Understood, Your Honor. 4 THE COURT: Thank you. Thank you -- 5 MR. CHEW: Thank you, Your Honor. 6 THE COURT: -- for shortcutting that. 7 All right. So is there anything else? 8 MR. MURPHY: That -- that's it, Your 9 Honor. 10 THE COURT: Okay. All right. So 11 somebody will get me an order by next week? 12 MR. MURPHY: Oh, lastly, Your Honor -- 13 THE COURT: Okay. 14 MR. MURPHY: -- the date of just -- 15 this -- this is a global issue -- 16 THE COURT: Okay. 17 MR. MURPHY: -- the date of compliance 18 with what Your Honor has ordered. 19 THE COURT: Okay. 20 MR. MURPHY: The proposed order has 21 December 23rd, I believe. 22 THE COURT: All right. Is --

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19 (73 to 76)

<p style="text-align: right;">73</p> <p>1 MR. MURPHY: There's a dispute -- 2 THE COURT: Is that an agreeable -- 3 MR. MURPHY: -- over the date. 4 THE COURT: -- date or -- 5 MR. CHEW: I think probably a more 6 realistic date would be after Christmas. May we 7 make it -- 8 MR. MURPHY: January 3rd is the consent 9 order. If they're asking for more time, maybe we 10 can go with that. 11 THE COURT: January 3rd? 12 MR. CHEW: If -- if that were the -- for 13 the -- for the consent order, let's keep the 14 same -- same date -- 15 THE COURT: Okay. 16 MR. CHEW: -- if we could. 17 THE COURT: All right. Let's do that. 18 Let's do it to January 3rd then. 19 MR. MURPHY: Thank you, Your Honor. 20 MR. CHEW: Thank you, Your Honor. 21 MR. MURPHY: We'll get Your Honor a 22 proposed order next week.</p>	<p style="text-align: right;">75</p> <p>1 CERTIFICATE OF SHORTHAND REPORTER 2 I, CAROL A. LOWE, the court reporter 3 before whom the foregoing hearing was taken, do 4 hereby certify that the foregoing transcript is a 5 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 supervision; 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 13 14 15 16 17 18 19  20 Carol A. Lowe, RPR 21 22</p>
<p style="text-align: right;">74</p> <p>1 THE COURT: Perfect. Thank you -- 2 MR. CHEW: Merry Christmas. 3 THE COURT: -- so much. 4 MR. CHEW: And thank you, Your Honor. 5 THE COURT: Right. Thank you. Have a 6 good day. 7 MR. NADELHAFT: Thank you, Your Honor. 8 THE COURT: Thank you. 9 (Off the record at 1:44 p.m.) 10 11 12 13 14 15 16 17 18 19 20 21 22</p>	

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