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FAIRFAX, VA

Transcript of Hearing

Date: June 24, 2022
Case: Depp, II -v- Heard

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VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

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JOHN C. DEPP, II, :

Plaintiff, :

v. : Case No.

AMBER LAURA HEARD, : CL-2019-0002911

Defendant. :

-----x

HEARING

Before the Honorable PENNEY AZCARATE

Fairfax, Virginia

Friday, June 24, 2022

11:01 a.m.

Job No.: 453718

Pages: 1 - 20

Reported by: Carol A. Lowe, RPR

1 Hearing held at:

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4 CIRCUIT COURT OF FAIRFAX COUNTY

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6 Courtroom 5J

7 Fairfax, Virginia 22030

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A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF:

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1 P R O C E E D I N G S

2 (The court reporter was sworn.)

3 THE COURT: All right. And this matter,
4 it's just on the docket today for entry of order;
5 correct?

6 MR. CHEW: Yes, Your Honor.

7 MS. BREDEHOFT: Correct, Your Honor.

8 THE COURT: All right. So I have two
9 orders.

10 MR. CHEW: Yes, Your Honor.

11 THE COURT: Okay. So what are --

12 MS. BREDEHOFT: As a practical matter
13 there's three differences, Your Honor. And I had
14 sent last evening to Samy a red line. We really
15 just have three issues. I have another copy of
16 the red line.

17 And if you want to share mine with me,
18 because I -- for some reason I only have two.

19 These are the -- these are the
20 differences. One of them I think is more a matter
21 of semantics, Your Honor. Ms. Heard with her
22 counterclaim had one count of defamation and had

1 all of her defamatory statements within that one
2 count. Mr. Depp listed his statements as separate
3 counts.

4 And so my red line of Mr. Chew's just
5 cleaned that up and said consisting of three
6 defamatory statements, consisting of three
7 defamatory statements and just saying that the
8 verdict for Ms. Heard was only on one of her
9 statements. So I just cleared that up. I don't
10 think that should be controversial.

11 The second dispute, Your Honor, is we
12 put into the order the post-trial motion briefing
13 schedule --

14 THE COURT: Which really isn't even a
15 briefing schedule. We don't do briefing schedules
16 for post-trial motions, as you know practicing
17 over 20 years here. But, I mean, that's what I
18 did because you wanted something. But that's
19 not -- it doesn't belong in the judgment order.
20 And I'm not going to put that in the judgment
21 order.

22 MS. BREDEHOFT: So then, Your Honor,

1 what I did anticipating that is we don't have
2 anything on the order that says when we file it,
3 when the Court --

4 THE COURT: You -- you don't need
5 anything --

6 MS. BREDEHOFT: Well --

7 THE COURT: -- to begin with.

8 MS. BREDEHOFT: -- Your Honor --

9 THE COURT: But since you wanted
10 something, I said something.

11 MS. BREDEHOFT: Your Honor, actually
12 that hasn't been my experience. But -- but
13 typically we would have gone to calendar
14 control --

15 THE COURT: Not --

16 MS. BREDEHOFT: -- asked for a briefing
17 schedule of more than five pages --

18 THE COURT: Not for post-trial motions.
19 Post-trial motions just go to the judge. You just
20 file your post-trial motions with the judge. And
21 the judge decides what the judge is going to do;
22 whether there's going to be an oral hearing or

1 not, period.

2 MS. BREDEHOFT: And that's --

3 THE COURT: I'm the chief judge of this
4 court.

5 MS. BREDEHOFT: Right. And I --

6 THE COURT: And that's how it goes,
7 ma'am.

8 MS. BREDEHOFT: And I completely respect
9 that. And it must have changed in the last three
10 years, Your Honor, because the last trial I tried
11 was right before COVID. And the other side had
12 post-trial motions. And we scheduled it. And we
13 had a hearing. So --

14 THE COURT: You scheduled it with the
15 judge that had that trial, I assume, but that's
16 it.

17 MS. BREDEHOFT: Correct. That's
18 absolutely correct.

19 THE COURT: You don't go to calendar
20 control.

21 MS. BREDEHOFT: So then I --

22 THE COURT: I mean, it doesn't happen.

1 MS. BREDEHOFT: -- then I apologize for
2 that. But I do feel like at least at a minimum we
3 should put on the record since we're here today
4 what that schedule is.

5 We are filing our post-trial motions by
6 July 1. We have no page limitations. The
7 opposition is due by July 6th. They have no page
8 limitations. Then Your Honor believes that --
9 that Your Honor can decide that on the papers.

10 THE COURT: Absolutely.

11 MS. BREDEHOFT: If Your Honor determines
12 that there needs to be a hearing, it would be held
13 between July 11 and 14 so that it's within the
14 21 ---

15 THE COURT: Right.

16 MS. BREDEHOFT: -- days.

17 THE COURT: And I do not anticipate a
18 hearing. I've had this case for 18 months. And
19 with a six-week trial I do not see the need for a
20 hearing.

21 MS. BREDEHOFT: Understood. Your Honor
22 has made that crystal clear. And I understand

1 that, but we will be available if --

2 THE COURT: Okay.

3 MS. BREDEHOFT: -- the Court decides on
4 a hearing of that.

5 And then the other issue on the judgment
6 order was simply the wording of the finality of
7 that. It says subject to post-trial motions this
8 order is final in ours. They have this order is
9 final.

10 And, Your Honor, I would cite to the
11 Court -- Your Honor may recall that Rule 1:1 was
12 amended in 2018 to add Section (b), General Rule,
13 Orders Deemed Final. And in there it says
14 specifically -- and I'm reading from Rule 1:1(b).

15 "Unless otherwise provided by rule or
16 statute, a judgment, order or decree is final if
17 it disposes of the entire matter before the court,
18 including all claim(s) and all cause(s) of action
19 against all parties, gives all the relief
20 contemplated, and leaves nothing to be done by the
21 court except the ministerial execution of the
22 court's judgment, order or decree."

1 A post-trial motion is more than a
2 ministerial. And all we're saying here is subject
3 to the post-trial motions --

4 THE COURT: No. No.

5 MS. BREDEHOFT: -- this order is final.

6 THE COURT: The judgment will be final
7 today. If a post-trial motion is taken, then
8 that's why I have 21 days to decide whether or not
9 to amend that. But this judgment will be final
10 today.

11 MS. BREDEHOFT: Correct, unless Your
12 Honor modifies, suspends or --

13 THE COURT: Right. But I'm not putting
14 that in the order.

15 MS. BREDEHOFT: Correct.

16 THE COURT: The judgment is final today.

17 MS. BREDEHOFT: Correct. And just so
18 we're all clear, though, in the event --

19 THE COURT: We are crystal clear.

20 MS. BREDEHOFT: -- that the Court were
21 to grant any type of post-trial motions, that
22 would then supersede as long as it's within the 21

1 days.

2 THE COURT: That's why I have 21 days.

3 MS. BREDEHOFT: If the Court denies
4 them, yes, this is final. And we completely agree
5 with that. We're not contesting that. We just --
6 we're working with 1:1(b) --

7 THE COURT: No. I'm -- I'm just putting
8 final on the order.

9 MS. BREDEHOFT: Okay. That's fine.
10 Thank you. Then I -- then I think we're done.

11 THE COURT: Okay.

12 MR. CHEW: Excuse me, Your Honor. Ben
13 Chew and Andrew Crawford --

14 THE COURT: Yes.

15 MR. CHEW: -- for the plaintiff, Johnny
16 Depp. May I please approach?

17 THE COURT: Okay.

18 MR. CHEW: Thank you.

19 This is the final order we believe Your
20 Honor should sign. It doesn't have the briefing
21 schedule because we didn't believe that was
22 necessary. It has our Exhibit A. Apparently

1 she retyped it for some reason. I don't know
2 whether that's a bug or a feature --

3 MS. BREDEHOFT: Let -- let me just
4 interject. It was sent to me in PDF. We
5 converted to Word. And we cut and pasted
6 identically.

7 THE COURT: Okay.

8 MR. CHEW: Well --

9 MS. BREDEHOFT: We did not -- we did not
10 feel we had any right to touch their Exhibit A.
11 And we did not.

12 THE COURT: Okay.

13 MR. CHEW: We -- we believe that that is
14 the correct order to be signed. And I think it's
15 crystal clear, as Your Honor pointed out. As to
16 the briefing schedule, we won't be filing any
17 post-trial motions. We will merely be responding
18 to Ms. Heard's.

19 And the only -- the last thing I would
20 request, Your Honor, is if we could trouble the
21 Court for a copy or we can go make a copy of the
22 final order once the Court has entered it.

1 THE COURT: Okay.

2 MR. CHEW: Thank you, Your Honor.

3 THE COURT: All right. Anything
4 further?

5 MS. BREDEHOFT: No, Your Honor.

6 THE COURT: All right. I will sign this
7 order. I will give -- actually, I'll --

8 MS. BREDEHOFT: Your Honor, I'm signing
9 his order.

10 THE COURT: I think you need to sign it.

11 All right. So I can -- give it to Ms.
12 Bredehoft to sign.

13 MS. BREDEHOFT: Oh, okay. I'll sign
14 that one.

15 THE COURT: All right.

16 MS. BREDEHOFT: Okay?

17 THE COURT: All right. I'll sign that.
18 And I'll get copies to you.

19 MR. CHEW: Thank you very much, Your
20 Honor.

21 THE COURT: All right. The only other
22 question I had was there are some -- the clerks

1 have asked me about it, because there were some of
2 the hearings that were under seal.

3 Is that still -- are they staying under
4 seal? Because now if it's going to be appealed to
5 the Court of Appeals, there's a question with
6 that. So that's why...

7 MS. BREDEHOFT: I'd have to look at -- I
8 know that we filed a number of transcripts. And
9 we filed certain ones under seal that were under
10 seal because we didn't want to violate any of the
11 Court's orders obviously in that.

12 I don't have that list in front of me.
13 It was a pretty extensive list. And there were
14 certain --

15 THE COURT: Right.

16 MS. BREDEHOFT: -- ones. I would have
17 to look at that before making any kind of
18 determination on that.

19 MR. CHEW: If we could also
20 double-check, please, Your Honor.

21 THE COURT: Okay. That's fine. If you
22 could just get back to Samy to find out, because

1 I'd -- I'd rather unseal as much as I possibly
2 could at this point.

3 Most of the things -- items in -- at
4 least the hearings were sealed because we didn't
5 want to have any taint to the jury. But since
6 that's cleared -- and for like the motion in
7 limine issues and things, I'm just thinking
8 that --

9 MR. CHEW: And -- I apologize, Your
10 Honor. And our assumption is once the trial was
11 on things would not be sealed anymore.

12 THE COURT: Correct. And that was my
13 assumption too. So I just -- but when you started
14 filing things under seal I was a little confused.

15 MS. BREDEHOFT: Yeah. And I'm not sure
16 that that was my assumption, that everything
17 suddenly became unsealed. I think it depended
18 upon the circumstances. So I'll go back and look,
19 Your Honor.

20 THE COURT: Well, my -- my intention is
21 to unseal everything.

22 MS. BREDEHOFT: So --

1 THE COURT: Okay? So that's where I'm
2 at. So if you can -- if you provide me something
3 different than that, I'll take a look at that.
4 But especially when it goes up to the Court of
5 Appeals on appeal there shouldn't be anything
6 sealed. We've had the trial.

7 MS. BREDEHOFT: We -- we absolutely will
8 do so, Your Honor. There is one more ministerial
9 thing.

10 THE COURT: Sure. Sure.

11 MS. BREDEHOFT: In this judgment order
12 which -- which went back and forth a few times --
13 and a lot of it reflects my edits from earlier
14 judgment orders -- I had included in here that we
15 incorporate the jury verdict form. And Mr. Chew
16 agreed with me. And it's in this judgment order.
17 It's still not on the record, the verdict --

18 THE COURT: No, because it's signed by
19 the foreperson whose name is under seal.

20 MS. BREDEHOFT: Can we block that
21 signature out and -- and then still file that?
22 Because we've -- in this judgment order we've

1 incorporated it. And that's what --

2 THE COURT: All right.

3 MS. BREDEHOFT: -- we typically do with
4 judgment orders.

5 THE COURT: Any objection to that?

6 MR. CHEW: No, Your Honor.

7 THE COURT: All right. We can -- we can
8 do that.

9 MS. BREDEHOFT: Wonderful.

10 THE COURT: All right. We'll do that --

11 MS. BREDEHOFT: Thank you.

12 THE COURT: -- attach that to it. Okay.

13 MS. BREDEHOFT: And we will answer --
14 we'll look at that and we'll answer that no later
15 than next Friday when we file the post-trial
16 motions, Your Honor --

17 THE COURT: All right.

18 MS. BREDEHOFT: -- on the seal.

19 THE COURT: That's fine. And when you
20 appeal there will be a suspension bond too. You
21 understand that?

22 MS. BREDEHOFT: We plan on addressing

1 that with the post-trial motions, Your Honor.

2 THE COURT: Well, I can address it right
3 now. If you --

4 MS. BREDEHOFT: I -- I'd prefer to be
5 able to --

6 THE COURT: I understand what you
7 prefer, but I'm going to tell you the suspension
8 bond would be the amount of judgment plus six
9 percent interest for a year because that's what it
10 should be.

11 MS. BREDEHOFT: Okay.

12 THE COURT: Okay. So that's one less
13 thing you have to address.

14 MS. BREDEHOFT: Well, will Your Honor
15 permit me to at least address that in the
16 post-trial motions?

17 THE COURT: If you wish, but that's my
18 order right now.

19 MS. BREDEHOFT: I understand, completely
20 understand.

21 THE COURT: Okay.

22 MS. BREDEHOFT: Thank you, Your Honor.

1 THE COURT: All right. Anything further
2 on this?

3 MR. CHEW: No, Your Honor. Thank you
4 very much.

5 THE COURT: Anything further?

6 MS. BREDEHOFT: No.

7 THE COURT: All right. We'll get a copy
8 of this order for you.

9 MS. BREDEHOFT: I hope Your Honor had a
10 great vacation, by the way.

11 THE COURT: Okay. I -- the Court is in
12 recess.

13 (Off the record at 11:10 a.m.)
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CERTIFICATE OF SHORTHAND REPORTER

I, CAROL A. LOWE, the court reporter before whom the foregoing hearing was taken, do hereby certify that the foregoing transcript is a true and correct record of the proceedings; that said proceedings were taken by me stenographically and thereafter reduced to typewriting under my supervision; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.



Carol A. Lowe, RPR