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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF LOS ANGELES**

16 GREGG "ROCKY" BROOKS,

17 Plaintiff,

18 vs.

19 JOHN C. DEPP, an individual; MIRIAM
20 SEGAL, an individual; BRAD FURMAN, an
21 individual; GOOD FILM PRODUCTIONS
22 US, INC., a New York Corporation;
23 INFINITUM NIHIL, A Californian
24 Corporation; and DOES 1-50,

25 Defendants.

CASE NO. BC713123

ASSIGNED FOR ALL PURPOSES TO
HON. HOLLY J. FUJIE, DEPT. 56

**TRIAL BRIEF OF DEFENDANTS
JOHN C. DEPP, II AND INFINITUM
NIHIL**

FINAL STATUS CONFERENCE:

DATE: October 7, 2019
TIME: 8:30 a.m.
DEPT: 56

Complaint Filed: July 6, 2018
Trial Date: October 21, 2019

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1 Defendants John C. Depp, II (“Mr. Depp”) and Infinitum Nihil (collectively, “Defendants”)
2 submit their trial brief as follows:

3 1. INTRODUCTION

4 This case is about an assault that never happened, and damages that do not exist. Plaintiff
5 Gregg “Rocky” Brooks (“Mr. Brooks” or “Plaintiff”) has invented a wholly fictitious claim for
6 assault and battery in a transparent attempt to force Mr. Depp, a world-renowned actor and
7 celebrity, to make a nuisance settlement payment instead of enduring the publicity, cost, and
8 inconvenience of this litigation. In recent filings with this Court, Mr. Brooks has made manifest
9 his intention to double down on this strategy, threatening to smear Mr. Depp with palpably false,
10 defamatory, and irrelevant allegations related to Mr. Depp’s disputes with his former wife, Amber
11 Laura Heard (“Ms. Heard”), and even going so far as to designate Ms. Heard as a potential witness
12 in this action. These shameless tactics cannot conceal the fact that Mr. Brooks has no valid claim.

13 Notwithstanding Mr. Brooks’ attempt to turn this case into a circus, the facts that underlie
14 his allegations are straightforward. On the evening of April 12, 2017, Mr. Brooks was working as
15 a location manager on the set of a film that has not yet been released, entitled “City of Lies.”
16 Mr. Brooks was involved in a series of altercations with persons on set, including a security guard
17 for a nearby property whom Mr. Brooks flipped off; and a woman who was present on set, with
18 whom Mr. Brooks became verbally abusive. Mr. Depp, who was also present on set, eventually
19 intervened and verbally reprimanded Mr. Brooks for his misbehavior. Mr. Brooks claims that
20 during this exchange, Mr. Depp punched him twice. That is categorically false. Mr. Depp, along
21 with multiple eyewitnesses who were standing close by and had an unimpeded view of the
22 exchange, will testify that Mr. Depp never even touched (and certainly did not punch) Mr. Brooks.
23 Mr. Brooks may well have felt embarrassed and resentful at being publicly (and appropriately)
24 rebuked for his misbehavior on set, but Mr. Depp’s verbal rebuke, deservedly sharp though it may
25 have been, did not cause Mr. Brooks the slightest physical harm.

26 Later that same evening, Mr. Depp and Mr. Brooks met in the Barclay Hotel after filming
27 had wrapped to put the incident behind them. According to Mr. Brooks’ own deposition testimony,

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1 they “hugged it out.” *See* Deposition Transcript of Gregg Brooks (“Brooks Transcript”) at 131:25.¹
2 At the request of Mr. Brooks, Mr. Depp also allowed his picture to be taken with Mr. Brooks after
3 their “hug out.” Mr. Brooks admits that both men were smiling in this picture. Incredibly,
4 Mr. Brooks also testified in his deposition that he posted that same picture to Facebook, where it
5 remained for many months—until the day after he filed his lawsuit, when Mr. Brooks deleted it in a
6 blatant attempt to destroy evidence that would undermine his made-up claim:

7 Q: And did Mr. Depp then allow Mr. Gutierrez to take a picture
8 of you and Mr. Depp?

9 A: Yes.

10 Q: Do you have a copy of that picture in your possession,
11 custody, or control?

12 A: I’d have to look for it. I deleted it.

13 * * *

14 Q: When’s the last time you’ve seen a copy of the picture of
15 yourself and Mr. Depp that Mr. Gutierrez took?

16 A: When I erased it off of Facebook.

17 Q: And when was that?

18 A: Right after I filed suit.

19 Q: Why did you erase the photo right after you filed suit?

20 A: Didn’t seem like a good idea to be there.

21 Q: And why did you think it was not a good idea for it to be
22 there?

23 A: Common sense.

24 Q: Did the photo remain on your Facebook page from at or
25 about the day after the incident until the day you filed your lawsuit?

26 A: Yes.

27 Q: Were you and Mr. Depp both smiling in the photo?

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¹ A copy of the excerpts from the Brooks Transcript cited herein is attached as collective Exhibit 1.

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A: Yes.

(Brooks Transcript 134:20-136:14.)

Mr. Brooks’ claim to have been punched and to have suffered emotional damages is directly controverted by multiple other witnesses, and belied by his own conduct after the alleged incident, when he hugged Mr. Depp and took a smiling photo with him. But even taking Mr. Brooks’ false claim at face value, he still has no recoverable damages. By his own admission, Mr. Brooks suffered *no physical injuries that required any treatment*. Indeed, he did not so much as take an aspirin (or any other pain medication) the night of the imagined incident. Mr. Brooks did not see a doctor about any physical injury related to the incident with Mr. Depp, and incurred *no medical expenses* in obtaining any treatment for any physical injury.

Unable to cite any physical injury, Mr. Brooks now asserts that he suffered emotional injuries, and needs therapy as a result. Here, again, Mr. Brooks’ claims are transparently false. Discovery in this action has disclosed that in the two and one-half years since the alleged incident, Mr. Brooks has apparently gone to his family therapist after the incident a grand total of four times. Notably, Mr. Brooks did not visit his family therapist after the alleged incident with Mr. Depp *until September of 2018—eighteen months after the date of the alleged incident*. Moreover, that first visit to his family therapist did not take place *until after Mr. Brooks was served with interrogatories in this action asking whether he had received any medical treatment*, at which point Mr. Brooks apparently realized that a visit to a therapist might help obfuscate the fact that he has no damages. Mr. Depp is confident that the Court and the jury will be able to see through this blatant attempt to manufacture damages after the fact.²

No doubt recognizing that his complete lack of damages is a gaping weakness in an already weak case, Mr. Brooks has laid out an alternative theory of damages in recent discovery responses, in which he claims to have been “blacklisted” or to have suffered negative publicity from his filing of this lawsuit, which he asserts has resulted in \$70,000 in damages from two lost employment opportunities. No competent evidence of any such adverse employment consequences exists.

² In any event, Mr. Brooks’ four visits to his family therapist total only \$800.

1 Moreover, as a matter of law, damages for “blacklisting” from negative publicity are not
2 attributable to Defendants and are not recoverable in this action. These imaginary “damages”
3 would be wholly irrelevant even if they existed, since they have no proximate causal nexus with the
4 claims for assault and battery alleged by Mr. Brooks. Negative publicity from litigation is not a
5 recoverable item of damages in an action for assault and battery.

6 Mr. Brooks’ claims are entirely fictitious and would not warrant any recovery even if they
7 had a basis in reality. Accordingly, Defendants are confident that judgment will be entered in their
8 favor and against Mr. Brooks on all causes of action.

9 2. FACTUAL BACKGROUND

10 Mr. Brooks commenced this case on July 6, 2019, with the filing of his Complaint. The
11 Complaint asserts causes of action against Mr. Depp for assault and battery, negligence, and
12 intentional infliction of emotional distress. The Complaint asserts a claim against both Defendants
13 for negligent infliction of emotional distress. It goes without saying that Mr. Depp is a well-
14 known actor and celebrity. Defendant Infinitum Nihil is an entity in which Mr. Depp has an
15 equity interest. No conduct by Infinitum is alleged anywhere in the Complaint.

16 On the evening of April 12, 2017, on the set of City of Lies in downtown Los Angeles,
17 Mr. Brooks acted belligerently toward several people on set, including a representative from
18 Gilmore & Associates (a company that owned a nearby property adjacent to the downtown site
19 where filming was taking place on the evening of April 12, 2017), whom Mr. Brooks flipped off,
20 and a woman on set whom Mr. Brooks berated, both events occurring just before the encounter
21 between Mr. Depp and Mr. Brooks. Mr. Depp, who was also present on set, intervened and
22 confronted Mr. Brooks about his misbehavior. Mr. Depp’s verbal reprimand of Mr. Brooks was
23 clearly warranted by his behavior on set, but the altercation never escalated to any form of
24 physical violence. Mr. Depp never punched or struck Mr. Brooks, as will be confirmed by a
25 number of persons who witnessed this interaction.

26 Later that same evening, Mr. Depp and Mr. Brooks met to put the incident behind them.
27 In Mr. Brooks’ own words, they “hugged it out.” (Brooks Transcript 131:25.) Mr. Depp then
28 agreed to have his picture taken with Mr. Brooks. Mr. Brooks admits that both men were smiling

1 in this picture. As discussed in the Introduction, Mr. Brooks testified in his deposition that he
2 posted that picture to Facebook, where it remained for many months—until the day after he filed
3 his lawsuit, when Mr. Brooks deleted it.

4 Even if Mr. Brooks’ claim to have been punched was true (which it is not) the evidence is
5 clear that he suffered no meaningful damages from the incident. Mr. Brooks has confirmed that he
6 suffered no medical injuries that required treatment, and thus incurred no medical expenses related
7 to the incident. For instance, his response to Form Interrogatory No. 6.4 concedes that as of
8 November 29, 2018 he had incurred *no medical expenses* as a result of the incident, and had not
9 even received a consultation, examination, or treatment for any injury. Moreover, his response to
10 Form Interrogatory No. 6.5 admits that he has never taken or been prescribed *any* medication
11 whatsoever as a result of the incident. His response to Form Interrogatory No. 6.6 admits that
12 there were no other medical services necessitated by the incident, and his response to Form
13 Interrogatory No. 6.7 concedes that no health care provider has ever advised him of the need for
14 future medical treatment. His response to Form Interrogatory No. 9.1 concedes that there are no
15 other damages that he attributes to the incident. Mr. Brooks’ deposition testimony similarly
16 confirms the lack of any medical damages attributable to the alleged incident:

17 Q: Do I correctly understand that from the moment that
18 Mr. Depp landed these punches on you on the set through today, you
19 haven’t seen any medical doctor for any complaints about what
happened to you?

20 A: No.

21 Q: No, I don’t understand or no, you haven’t seen a medical--

22 A: No, I have not seen a medical doctor.

23 Q: Is that because you didn’t feel the need to seek medical
treatment?

24 A: Yes.

25 (Brooks Transcript 123:5-16.)

26 Mr. Brooks does assert that he suffered emotional or psychological injuries from the
27 incident, claiming that these injuries necessitate treatment from his family therapist. Mr. Brooks
28 did not have any meeting with his family therapist until September of 2018, *eighteen months* after

1 the incident, and shortly *after* Mr. Depp served discovery requests on Mr. Brooks inquiring as to
2 whether he had sought any medical treatment related to the incident.

3 Unable to articulate any actual medical or other damages that arose from the alleged
4 incident, Mr. Brooks has resorted to asserting that negative publicity from the incident has had an
5 adverse impact on his employability. Critically, Mr. Brooks does *not* contend that any physical or
6 emotional injuries from the alleged incident on April 12, 2017 had any impact on his ability to
7 find or perform work. His deposition testimony on that point was perfectly clear:

8 Q: Okay. But you agree, however, that from April 13, 2017
9 forward, if work was available, you were physically and emotionally
able to do it; correct?

10 A: And I did.

11 Q: Okay. So no physical or emotional injuries that you suffered
12 prevented you from working from April 13, 2017 forward; correct?

13 A: Yes.

14 (Brooks Transcript at 162:11-19.)

15 Instead, Mr. Brooks' theory is that he has been "blacklisted" as a result of negative
16 publicity arising from the incident and this litigation. Mr. Brooks claims that this is attributable to
17 news articles more than a year after the alleged incident took place. However, this claim, too, is
18 undercut by Mr. Brooks' own deposition testimony:

19 Q: Has any potential employer that you've sought work from
20 ever told you directly that Mr. Depp had blackballed you?

21 A: No.

22 (Brooks Transcript at 172:16-24.)

23 Although no such claim is alleged in Plaintiff's Complaint, the theory set forth in
24 Plaintiff's response to Form Interrogatory Nos. 8.6 and 8.7 is that "Plaintiff has been denied two
25 jobs, each expected to run for several months, because of this incident and the ensuing lawsuit,"
26 and that "[t]he lost jobs have resulted in a loss of approximately \$70,000 in income." In his
27 responses to Mr. Depp's Second Set of Special Interrogatories, Mr. Brooks later expanded on this
28 theory somewhat, asserting that Mr. Brooks "contends that the false narrative set forth by

1 [Mr. Depp] and those acting on his behalf in response to the lawsuit have caused him to lose
2 employment.”

3 3. ARGUMENT

4 A. Plaintiff's Claims Are Factually Untenable

5 (1) The Evidence Will Establish That This Entire Case Is Based On An Assault
6 And Battery That Never Actually Happened

7 This entire case is based on a fiction. Mr. Depp never punched Mr. Brooks. Mr. Depp will
8 testify to that effect, as will several of the multiple individuals on set who witnessed the
9 altercation. Mr. Brooks did indeed receive a verbal reprimand from Mr. Depp, which was well
10 warranted by Mr. Brooks' improper behavior toward others on set. But Mr. Brooks'
11 embarrassment at having been publicly scolded does not give rise to any valid cause of action.
12 Mr. Brooks was never threatened, punched, or otherwise physically harmed. Moreover,
13 Mr. Brooks' story is belied by his own admissions that he and Mr. Depp made up that same night
14 and took a picture together in which both men were smiling. In short, Mr. Brooks' claims are
15 wholly lacking in credibility or any valid factual basis, and will be proven false at trial.

16 (2) Mr. Brooks Will Be Unable To Satisfy The High Burden Of A Claim For
17 Emotional Distress

18 Even if he were able to convince the jury that an assault or battery occurred, Mr. Brooks
19 would be unable to establish the elements of a claim for either negligent or intentional infliction of
20 emotional distress.

21 A cause of action for intentional infliction of emotional distress
22 exists when there is 1) extreme and outrageous conduct by the
23 defendant with the intention of causing, or reckless disregard of the
24 probability of causing, emotional distress; (2) the plaintiff's suffering
severe or extreme emotional distress; and (3) actual and proximate
causation of the emotional distress by the defendant's outrageous
conduct.

25 *Hughes v. Pair* (2009) 46 Cal.4th 1035, 1050 (citations omitted).

26 “A defendant's conduct is ‘outrageous’ when it is so extreme as to exceed all bounds of
27 that usually tolerated in a civilized community.” *Id.* (Citations omitted). Moreover, to give rise
28 to a claim for emotional distress, the California Supreme Court has set a “high bar,” explaining

1 that the distress caused by the underlying “outrageous” conduct must be “emotional distress of
2 such substantial quality or enduring quality that no reasonable [person] in civilized society should
3 be expected to endure it.” *Id.* at 1051. This standard applies whether the claim is for intentional
4 or negligent infliction of emotional distress. *Wong v. Jin* (2010) 189 Cal.App.4th 1354, 1378
5 (recovery would not be appropriate absent a showing of “serious emotional distress with which a
6 reasonable, normally constituted person would be unable to cope”).

7 Here, any suggestion that Mr. Depp either intentionally or negligently inflicted severe
8 emotional distress on Mr. Brooks is untenable. Mr. Depp did not lay a hand on Mr. Brooks or in
9 any way harm him, but merely verbally reprimanded him for inappropriate behavior on set. Later
10 the same night, the two “hugged it out” and took a picture in which both were smiling.
11 Mr. Brooks subsequently posted that picture to Facebook, only taking it down fifteen months later,
12 when he filed the present lawsuit. Mr. Brooks suffered no physical injuries that required
13 treatment, and did not even seek any therapy for eighteen months after the purported incident (and
14 only did so then in the context of this litigation when faced with questions about his nonexistent
15 damages).

16 B. Mr. Brooks Has Not Alleged, And Cannot Prove, Any Actual Damages

17 (1) Mr. Brooks Suffered No Injury And Incurred No Valid Medical Expenses

18 Even if his claims were not made up, however, Mr. Brooks would have no basis to seek
19 any recovery in this action, because he incurred no actual damages. By his own admission,
20 Mr. Brooks suffered no physical injury that required any medical attention. He did not require or
21 receive any medication or treatment in connection with the alleged incident.

22 Mr. Brooks nevertheless has attempted to manufacture medical expenses and emotional
23 damages after-the-fact by seeking treatment from his family therapist. These claimed damages are
24 beyond dubious. Mr. Brooks did not seek any such treatment until *eighteen months after the*
25 *supposed incident*, and only did so after he was served with discovery requests inquiring as to
26 whether he had incurred any medical damages. The jury will be well capable of seeing through

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1 these sham damages.³ As noted above, any claim by Mr. Brooks that he suffered any serious
2 emotional injury is directly undercut by his own conduct, including the taking of a picture with
3 Mr. Depp shortly after the incident (in which Mr. Brooks was smiling), and “hugging” Mr. Depp.

4 (2) Mr. Brooks Cannot Cite Negative Publicity From This Lawsuit As A Basis
5 For His Purported Damages

6 (a) Negative Publicity From Litigation Is Not An Element Of Damages
7 For Plaintiff’s Claims

8 As for Mr. Brooks’ purported damages from lost employment due to negative publicity,
9 these claims are unsupported by any competent evidence whatsoever, and are, moreover, barred as
10 a matter of law. Mr. Brooks has cited nothing but secondhand hearsay in support of this assertion.
11 But even if competent evidence existed of harm to Mr. Brooks’ employment prospects from
12 negative publicity, that evidence would be irrelevant in this case. Negative publicity from
13 litigation is not a recoverable element of damages in an action for assault and battery.
14 Mr. Brooks’ supposed employment difficulties cannot be said to arise from the alleged altercation
15 at issue in this case, and cannot properly be considered by the jury in assessing whether
16 Mr. Brooks has been damaged by the Defendants. As detailed in the Civil Jury Instructions
17 offered by the Judicial Council of California (“CACI”), a plaintiff may only recover for lost
18 earnings that are a “result of the injury.” See CACI 3903C and CACI 3903D. Mr. Brooks has no
19 viable argument that negative publicity and purported blacklisting *caused by his filing of this*
20 *lawsuit* are the result of the alleged altercation at issue in this case such that they may be
21 considered damages for assault and battery. It is not as if Mr. Brooks is contending that he
22 suffered a physical injury that rendered him unable to work. By his own admission, he was
23 physically and emotionally capable of working for many months after the incident, and did so
24 until he was injured in an unrelated car accident. Rather, his discovery responses appear to claim
25 that the fact that he has filed this lawsuit (and Mr. Depp’s defense of it) has made him less
26 marketable to potential employers.

27 ³ And in any case, these claimed damages ultimately amount to only \$800 for four consultations with Mr. Brooks’
28 family therapist.

1 But negative personal consequences of litigation are not a recoverable element of
2 damages—if they were, every plaintiff would include the time, cost, stress, and inconvenience of
3 litigation as evidence of damages. For instance, it is well grounded that a plaintiff’s litigation
4 costs are not an element of damages, even though the litigation costs may be significant. *See, e.g.,*
5 *Gorman v. Tassajara Development Corp.* (2009) 178 Cal.App.4th 44, 83 (noting the “general rule
6 that the expenses of litigation are ordinarily not considered tort damages”); *see also, Gray v. Don*
7 *Miller & Associates, Inc.* (1984) 35 Cal.3d 498, 504 (“[u]nder the American rule, as a general
8 proposition each party must pay his own attorney fees”). For the same reasons, any adverse
9 employment consequences that Mr. Brooks claims have arisen as a result of his filing of this
10 lawsuit are not properly understood as recoverable damages for the underlying tort alleged, and
11 may not properly be presented to the jury.

12 In any event, Defendants have no control over the hiring and firing decisions of
13 Mr. Brooks’ potential future employers, and there simply is no viable argument that those
14 decisions are a natural and probable effect of the alleged altercation between Mr. Brooks and
15 Mr. Depp at issue in this case. *See, e.g., Brooker v. El Encino Co.* (1963) 216 Cal.App.2d 598,
16 602 (“a party is only answerable for the natural, probable, reasonable, and proximate
17 consequences of his acts”); *see also, Brewer v. Teano* (1995) 40 Cal.App.4th 1024, 1030
18 (explaining that in evaluating principles of duty and causation, a court must evaluate “whether the
19 category of negligent conduct at issue is sufficiently likely to result in the kind of harm
20 experienced that liability may appropriately be imposed”). Even accepting as true the unsupported
21 assertion that Mr. Brooks has lost work because of negative publicity related to this lawsuit, the
22 conduct of his potential employers and the news media would constitute an intervening and
23 superseding cause (as would his own conduct in filing this lawsuit), and no liability for these
24 supposed lost jobs could possibly attach to Defendants.

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1 (b) Mr. Brooks Has Not Pled Any Claim For Interference With
2 Employment, And His Claims Of Diminished Employability Are
3 Irrelevant

4 Moreover, any claim by Mr. Brooks that he has been “blacklisted” or that there has been
5 any wrongful conduct in interfering with his employment, would be in the nature of a separate
6 claim such as tortious interference, not an element of damages in this action for assault and
7 battery. No such claim has ever been pled in this action.

8 Mr. Brooks’ recent discovery responses assert that there has been a “false narrative” about
9 him in the media prompted by this litigation and Mr. Depp’s defense of it, which Mr. Brooks
10 believes has damaged his employability. His Complaint contains no such allegation or cause of
11 action with respect to any such “false narrative.” Any claim related to blacklisting or negative
12 publicity subsequent to the alleged incident would be a different claim, based on completely
13 different conduct, than the assault and battery Mr. Brooks has alleged in his Complaint. It is, of
14 course, well-grounded that the trial of a matter is framed by the pleadings, and a party may not
15 proceed to trial on a claim not pled. *See, e.g., Rosenfeld v. Abraham Joshua Heschel Day School,*
16 *Inc.* (2014) 226 Cal.App.4th 886, 895. Mr. Brooks’ Complaint contains no allegation of
17 blacklisting, and no cause of action related to any alleged wrongful interference with his future
18 employment prospects. Accordingly, Mr. Brooks’ claims related to blacklisting or any purported
19 interference with his employment are not merely fictitious, but irrelevant. Moreover, even if
20 Mr. Brooks had pled such a claim related to Mr. Depp’s response to this litigation, any such claim
21 would be legally barred by the litigation privilege. *See Civil Code § 47; Silberg v. Anderson*
22 (1990) 50 Cal.3d 205, 214.

23 C. Mr. Brooks Has No Valid Claim Against Infinitum Nihil

24 As set forth above, Mr. Brooks’ claims against Mr. Depp are baseless. Even if a claim
25 could be validly stated against Mr. Depp, however, no such claim could be asserted against
26 Infinitum Nihil. The only remaining cause of action asserted against Infinitum Nihil in the
27 Complaint is the tenth cause of action for negligent infliction of emotional distress. “[T]he
28 negligent causing of emotional distress is not an independent tort, but the tort of negligence.”

1 *Burgess v. Superior Court* (1992) 2 Cal.4th 1064, 1072. “The traditional elements of duty, breach
2 of duty, causation, and damages apply.” *Id.* Thus, such a claim must be based upon the “violation
3 of a duty owed directly to the plaintiff.” *Ragland v. U.S. Bank National Assn.* (2012) 209
4 Cal.App.4th 182, 206. Here, no duty existed (or has even been alleged) as between Mr. Brooks
5 and Infinitum Nihil. Similarly, no conduct by Infinitum Nihil that could be deemed to constitute a
6 violation of such a duty occurred (or has even been alleged). Thus, no claim has been stated
7 against Infinitum Nihil.

8 To the extent that Mr. Brooks’ claims against Infinitum Nihil are predicated on the
9 mistaken assumption that it is Mr. Depp’s employer and therefore liable under a theory of
10 *respondeat superior* for Mr. Depp’s alleged torts, Mr. Brooks is incorrect (and has been repeatedly
11 informed of that fact throughout the course of this action). Infinitum Nihil is not and was not
12 Mr. Depp’s employer, ***and no conduct by Infinitum Nihil has been alleged or can be proven that***
13 ***has any bearing on the events of April 12, 2017.*** Moreover, Mr. Brooks dismissed his fourth
14 cause of action for *respondeat superior* on December 5, 2018. Mr. Brooks has failed to state any
15 viable claim against Infinitum Nihil, which ought to be simply dismissed.

16 4. CONCLUSION

17 For all the foregoing reasons, Defendants are confident that judgment will be entered in
18 their favor and against Mr. Brooks on all causes of action.

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DATED: October 2, 2019

Respectfully submitted,

BROWN RUDNICK LLP

By: 

RANDALL A. SMITH
Attorneys for Defendants,
JOHN C. DEPP, II and INFINITUM NIHIL

Exhibit 1

1 any sort of medical -- medical treatment for -- in
2 relation to anything that happened to you with the
3 incident with Mr. Depp?

4 A Just therapy.

5 Q Well, we can break that up. Do I correctly 12:19
6 understand that from the moment that Mr. Depp landed
7 these punches on you on the set through today, you
8 haven't seen any medical doctor for any complaints
9 about what happened to you?

10 A No. 12:19

11 Q No, I don't understand or no, you haven't
12 seen a medical --

13 A No, I have not seen a medical doctor.

14 Q Is that because you didn't feel the need to
15 seek medical treatment? 12:19

16 A Yes.

17 Q And you've given some sworn discovery
18 responses in this case that say essentially that the
19 injuries you're claiming are emotional injuries, not
20 physical. Is that still your position? 12:20

21 A Yes.

22 Q And would you agree with me today that you
23 didn't suffer any physical injuries as a result of
24 this incident?

25 A No. 12:20

1 handshake --

2 A Yes.

3 Q -- and then you simultaneously kind of
4 wrapped the other arm around each other?

5 A Yes. 12:46

6 Q And you gave each other effectively a hug;
7 correct?

8 A A bro hug, yes.

9 Q And you call it a bro hug?

10 A Yeah. 12:46

11 Q Okay. How long did this interaction with
12 Mr. Depp last?

13 A Not long.

14 Q Was anybody else present to witness this to
15 your knowledge? 12:46

16 A There were people on the set clearing out.
17 I don't know who was up there to see it.

18 Q Did you accept his apology?

19 A Yes.

20 Q Did you tell him that you had no hard
21 feelings? 12:46

22 A I don't remember what I said to him.

23 Q Do you think you conveyed that sort of
24 sentiment to him at this time?

25 A He apologized to me and we hugged it out, so 12:46

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1 the parking lot. Depp was taking pictures with his
2 fans who were waiting for him. Miguel thought it
3 would be a good idea to take a picture.

4 Q So you and Miguel Gutierrez were present at
5 this time? 12:49

6 A Uh-huh.

7 Q Is that a yes?

8 A Yes, yes.

9 Q And Mr. Depp was also present?

10 A Yes. 12:49

11 Q What did Mr. Gutierrez say to you about
12 whether a picture ought to be taken?

13 MS. ARMINAK: Objection. Asked and
14 answered. You can answer again.

15 THE WITNESS: I believe he asked Johnny if
16 he would take a picture with me. 12:49

17 BY MR. SMITH:

18 Q And what did Mr. Depp say?

19 A He said yes.

20 Q And did Mr. Depp then allow Mr. Gutierrez to
21 take a picture of you and Mr. Depp? 12:49

22 A Yes.

23 Q Do you have a copy of that picture in your
24 possession, custody, or control?

25 A I'd have to look for it. I deleted it. 12:49

1 Q Did Mr. Gutierrez text a copy of that photo
2 to you after he took it?

3 A I don't remember if he used my phone or his
4 phone.

5 Q But was -- was the photo taken by 12:50
6 Mr. Gutierrez --

7 A Yes.

8 Q -- on an i-type phone?

9 A Yes.

10 Q And you don't remember if it was your phone 12:50
11 or his phone; correct?

12 A That's correct.

13 Q Have you looked on -- do you still own the
14 same phone today that you had with you that evening?

15 A Probably not, no. Yeah. 12:50

16 Q Do you know what became of the phone that
17 you had with you that evening?

18 A Yeah, it broke.

19 Q What did you do with it after it broke?

20 A I replaced it with a new phone. 12:50

21 Q When's the last time you've seen a copy of
22 the picture of yourself and Mr. Depp that
23 Mr. Gutierrez took?

24 A When I erased it off of Facebook.

25 Q And when was that? 12:50

1 A Right after I filed suit.

2 Q Why did you erase the photo right after you
3 filed suit?

4 A Didn't seem like a good idea to be there.

5 Q And why do you think it was not a good idea 12:51
6 for it not to be there?

7 A Common sense.

8 Q Did the photo remain on your Facebook page
9 from at or about the day after the incident until
10 the day you filed your lawsuit? 12:51

11 A Yes.

12 Q Were you and Mr. Depp both smiling in the
13 photo?

14 A Yes.

15 Q Is this photo that you posted on your 12:51
16 Facebook page that Mr. Gutierrez took, is that the
17 only photo that you're aware of that was ever taken
18 of yourself and Mr. Depp?

19 A Yes.

20 Q When's the last time you've seen that photo? 12:52

21 MS. ARMINAK: Objection. Asked and
22 answered.

23 THE WITNESS: When I erased it.

24 BY MR. SMITH:

25 Q If you wanted to go about getting a copy of 12:52

1 publicity on this case; correct?

2 A (Inaudible response.)

3 MS. ARMINAK: Well, objection. Calls for
4 speculation. Lacks foundation.

5 THE REPORTER: I didn't get your response.

01:23

6 THE WITNESS: I don't see it that way.

7 BY MR. SMITH:

8 Q And how do you see it?

9 A I see it that I'm not getting work because
10 of the incident.

01:23

11 Q Okay. But you agree, however, that from
12 April 13, 2017 forward, if work was available, you
13 were physically and emotionally able to do it;
14 correct?

15 A And I did.

01:23

16 Q Okay. So no physical or emotional injuries
17 that you suffered prevented you from working from
18 April 13, 2017 forward; correct?

19 A Yes.

20 Q So to the extent there's been some
21 impediment to your working after April 13, 2017, it
22 has something to do with something besides any
23 injuries you suffered from this incident with
24 Mr. Depp; correct?

01:23

25 A Repeat the question, please.

01:23

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1 A Yes.

2 Q So would you agree the first time you had
3 any difficulty in securing employment opportunities
4 tied in any way to the incident came after the
5 incident got publicized in the New York Post?

01:42

6 A Yes.

7 Q Do you have any reason to testify that
8 Mr. Depp did anything to cause the New York Post to
9 publish that article in May of 2018?

10 A No.

01:43

11 Q Do you have any reason to believe that
12 Mr. Depp made any effort to publicize anything about
13 the incident that happened between himself and you
14 on April 12, 2017?

15 A No.

01:43

16 Q Putting aside Mr. Bertolino, I want to focus
17 on potential employers. Has any potential employer
18 that you've sought work from ever told you directly
19 that Mr. Depp had blackballed you?

20 A No.

01:43

21 Q And has any potential employer ever told you
22 they were not willing to hire you because of
23 anything having to do with the incident?

24 A Yes.

25 Q And who told you that?

01:44

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PROOF OF SERVICE

STATE OF CALIFORNIA,

COUNTY OF ORANGE

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Orange, State of California. My business address is 2211 Michelson Drive, Seventh Floor, Irvine, CA 92612.


On October 2, 2019, I served true copies of the following document(s) described as **TRIAL BRIEF OF DEFENDANTS JOHN C. DEPP, II AND INFINITUM NIHIL** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address csuda@brownrudnick.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on October 2, 2019, at Irvine, California.



CASEY SUDA

**SERVICE LIST
BROOKS v. DEPP
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