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Transcript of Hearing

Date: September 13, 2019

Case: Depp, II -v- Heard

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

Transcript of Hearing
Conducted on September 13, 2019

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 -vs-) NO. CL-2019-0002911 7 AMBER LAURA HEARD,) 8 Defendant.) 9 -----X 10 Hearing 11 BEFORE THE HONORABLE BRUCE D. WHITE 12 Fairfax, Virginia 13 Friday, September 13, 2019 14 10:47 a.m. 15 Job No.: 262601 16 Pages: 1 - 38 17 Reported by: Theresa R. Hollister, CCR 18 19 20 21 22</p>	<p>1 APPEARANCES 2 ON BEHALF OF PLAINTIFF: 3 BENJAMIN G. CHEW, ESQUIRE 4 ELLIOT J. WEINGARTEN, ESQUIRE 5 BROWN RUDNICK, LLP 6 601 Thirteenth Street, Northwest 7 Suite 600 8 Washington, D.C. 20005 9 (202) 536-1700 10 11 ROBERT B. GILMORE, ESQUIRE 12 STEIN MITCHELL BEATO & MISSNER, LLP 13 901 Fifteenth Street, Northwest 14 Suite 700 15 Washington, D.C. 20005 16 (202) 737-7777 17 18 19 20 21 22</p>
<p>1 Hearing held at: 2 3 Fairfax County Circuit Court 4 4110 Chain Bridge Road 5 Courtroom 57 6 Fairfax, Virginia 22030 7 (703) 691-7320 8 9 Pursuant to notice, before Theresa R. 10 Hollister, Certified Court Reporter and Notary 11 Public for the Commonwealth of Virginia. 12 13 14 15 16 17 18 19 20 21 22</p>	<p>1 APPEARANCES (cont.) 2 ON BEHALF OF DEFENDANT: 3 ROBERTA A. KAPLAN, ESQUIRE 4 JOHN C. QUINN, ESQUIRE 5 KAPLAN HECKER & FINK, LLP 6 350 Fifth Avenue 7 Suite 7110 8 New York, New York, 10118 9 (212) 763-0884 10 11 J. BENJAMIN ROTTENBORN, ESQUIRE 12 WOODS ROGERS, PLC 13 10 South Jefferson Street 14 Suite 1400 15 Roanoke, Virginia 24011-1319 16 (540) 983-7600 17 18 19 20 21 22</p>

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6 (21 to 24)

<p style="text-align: right;">21</p> <p>1 THE COURT: Let me hear back from you 2 all. 3 MS. KAPLAN: Your Honor, I'll be very 4 brief. Let me start with the protective orders that 5 my friend mentioned. The point of those protective 6 orders, and I think my friend just made my point for 7 me, is that, in those cases, the degree of 8 sensitivity and confidentiality of the materials are 9 far less than we're talking about here. They're 10 business disputes, either with lawyers or managers 11 or a bodyguard, not Mr. Depp. We're not talking 12 about that here. We're talking about a very, 13 very -- 14 THE COURT: But let me ask you this: 15 What difference does it make to me whether your 16 client or his client, in the past agreed to or 17 didn't agree to other protective orders? That's 18 their personal decisions based upon contact with 19 their counsel. It's not precedential. 20 MS. KAPLAN: No, no, no. I think the 21 point we're making, Your Honor, is that they're 22 routinely entered into in cases, as Your Honor</p>	<p style="text-align: right;">23</p> <p>1 matter of public record when they're filed. 2 MS. KAPLAN: Okay. Let me check on the 3 other. 4 (Pause.) 5 MS. KAPLAN: So here are the other 6 categories, Your Honor. 7 THE COURT: Okay. 8 MS. KAPLAN: She has a personal diary 9 that she kept during the course of their marriage. 10 Again, it has very intimate details about her and 11 their marriage, standard material that is subject to 12 a protective order. 13 THE COURT: Let me ask you to follow up 14 on that question. The personal diary was not 15 subject to a protective order in the course of the 16 divorce, but became subject to one at the time that 17 the final decree was entered? Is that correct or 18 incorrect? 19 MS. KAPLAN: No, I don't think anything 20 became subject to a protective order. 21 THE COURT: Oh, I thought you said that. 22 I must not have heard you right.</p>
<p style="text-align: right;">22</p> <p>1 knows, particularly cases like this. Mr. Heard 2 [sic] has entered into them in cases far less 3 sensitive than this. And particularly, as Your 4 Honor noted already, when it comes to medical 5 records, the idea their medical records would be out 6 there for public consumption, before all the 7 discovery is in and we get to trial, is really, 8 would be way outside the bounds of any standard -- 9 THE COURT: Well, I can help a little 10 bit. Medical records and the identifying 11 information, that's subject to the protective order. 12 That's out. Are there any other special areas that 13 you want me to address other than those? 14 MS. KAPLAN: May I consult with my 15 co-counsel for a second, Your Honor? 16 THE COURT: Sure. 17 MS. KAPLAN: And one more thing before I 18 get there. This text or tweet that I showed you 19 before, we didn't release these deposition dates. 20 We didn't go to the press and say -- 21 THE COURT: Well, deposition notices are 22 routinely filed in court cases. They become a</p>	<p style="text-align: right;">24</p> <p>1 MS. KAPLAN: No, no, no. We can talk 2 about the divorce case, but it's a completely 3 separate proceeding with a completely different 4 scope, Your Honor. And so I'm not sure I 5 understand -- that's certainly not precedential. 6 THE COURT: The reason I'm asking you the 7 question is not about precedential or not. But if 8 it was not subject to a protective order at the time 9 of the divorce, I suspect it may have been out in 10 the ether at the time of the divorce. 11 MS. KAPLAN: Oh, no, Your Honor -- 12 THE COURT: I don't know. 13 MS. KAPLAN: -- it was not subject -- it 14 was not out to the ether. There was no trial -- 15 (Mr. Chew standing.) 16 THE COURT: Give her a chance to respond. 17 MS. KAPLAN: There was no trial in the 18 divorce. There was no discovery in the divorce. 19 None of those materials would have been public. 20 Did you even produce it to the other 21 side? 22 Never been produced to Mr. Depp or his</p>

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9 (33 to 36)

<p style="text-align: right;">33</p> <p>1 this, how a reasonable person would read Ms. Heard's 2 op-ed and whether it was in fact could be found to 3 be defamatory as a matter of law, frankly, much less 4 a matter of fact, is at the heart of this case. 5 THE COURT: Okay. But we're not dealing 6 with that today. 7 MS. KAPLAN: No, I understand. So -- 8 THE COURT: I'm not sure why you're 9 sharing that with me. 10 MS. KAPLAN: Because my point is the 11 question is when we're trying that issue, if we're 12 going to get factually to that issue, we have to do 13 a lot of discovery. And to have that be tried 14 before we get to a trial, I don't think we need a 15 trial, but before we get to a trial, in the public 16 arena, is going to make it so much -- and it's not 17 only prejudice to my client, I think he can say 18 whatever he wants, I think it would be very 19 prejudicial to Mr. Depp. But I think even most 20 importantly, Your Honor, it would be prejudicial to 21 the administration of justice into having a fair 22 trial with a jury who is not infected by this kind</p>	<p style="text-align: right;">35</p> <p>1 psychiatrist, Your Honor, what she said in her 2 diaries, photos of herself, and what her assets are, 3 and where her bank accounts are, et cetera. 4 THE COURT: Okay. Thank you. 5 I'll add to the protective order that 6 would cover identifying information, personal 7 information, and medical records, also the personal 8 diary. There may be some parts of that might, at 9 some point, not be subject to that. But certainly 10 there will be, I suspect, a significant part of that 11 that would be subject to the protective order. So 12 we start with the premise that it's all under the 13 protective order. 14 I don't think -- I suspect that you all 15 don't have a problem in the manner you're going to 16 craft that order that takes care of this. I don't 17 think I have to do the minutia for you. If I'm 18 mistaken, you all let me know and we'll deal with 19 that, but I think you all are well experienced in 20 that sort of thing. 21 MR. CHEW: And, Your Honor, just for 22 point of clarification, should the motion be denied</p>
<p style="text-align: right;">34</p> <p>1 of craziness that is out there. 2 I can promise you -- one thing about the 3 protective order. We're not saying everything 4 should be protected. We're not -- want to produce 5 every single thing and have it be protected, but 6 things like diaries, medical records, photographs, 7 of that sort surely should be and almost always are 8 in every case. 9 I was not counsel for the divorce, Your 10 Honor. But what Ms. Heard has just informed me is 11 that the minute she filed for divorce, she sought 12 the divorce from Mr. Depp on grounds of abuse, the 13 very next day -- that day there were articles in the 14 paper all over that she was a gold digger, that she 15 was abusive, all the kinds of things that you are 16 seeing floating around this case now. There has 17 been efforts by both sides to go to try this case in 18 the press. That should stop, Your Honor, and it 19 will stop certainly on our side, and if you enter a 20 protective order on their side, at least with 21 respect to private, confidential information like 22 what her doctors said, what she said to her</p>	<p style="text-align: right;">36</p> <p>1 in part and granted in part? 2 THE COURT: Yeah. Okay. 3 Anything else then before we wrap up for 4 the day? When can you all get that order to me? 5 MR. CHEW: We'll try to do that right 6 now, Your Honor. 7 THE COURT: Good. 8 MR. ROTTENBORN: So, Your Honor, just to 9 clarify, we can get that order to you as soon as 10 possible, but the order would include the medical 11 records, identifying information of both parties and 12 other witnesses or potential witnesses, Ms. Heard's 13 personal diary. And then would it include 14 confidential financial records -- 15 THE COURT: No. 16 MR. ROTTENBORN: -- and photographs of 17 her body? 18 THE COURT: No. 19 MR. ROTTENBORN: Your Honor, can certain 20 aspects of the financial records be redacted, you 21 know, outside of the context of a global protective 22 order?</p>

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10 (37 to 40)

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1 THE COURT: Social Security numbers,
2 addresses, those type of things, sure.
3 MR. ROTTENBORN: Bank account numbers?
4 THE COURT: If that's what you're talking
5 about, yeah.
6 Okay. If you all would just pass that
7 order up when you're done. Thank you.
8 MR. CHEW: Thank you, Your Honor.
9 THE COURT: Hope everybody has a good
10 weekend.
11 (The hearing was concluded at 11:19 a.m.)
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2 CERTIFICATE OF SHORTHAND REPORTER
3 I, Theresa R. Hollister, the court
4 reporter before whom the foregoing hearing was
5 taken, do hereby certify that the foregoing
6 transcript is a true and correct record of the
7 testimony given; that said testimony was taken by me
8 stenographically and thereafter reduced to
9 typewriting under my supervision; and that I am
10 neither counsel for, related to, nor employed by any
11 of the parties to this case and have no interest,
12 financial or otherwise, in its outcome.
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18 Theresa R. Hollister
19 Court Reporter
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