



Planet Depos
We Make It Happen™

Transcript of Hearing

Date: May 28, 2021
Case: Depp, II -v- Heard

Planet Depos
Phone: 888.433.3767
Email: transcripts@planetdepos.com
www.planetdepos.com

WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

V I R G I N I A:

IN THE CIRCUIT COURT FOR FAIRFAX COUNTY

-----x

JOHN C. DEPP, II, :

Plaintiff,:

v. : Case No. CL2019-0002911

AMBER LAURA HEARD, :

Defendant.:

-----x

Hearing on Motions

Before the HONORABLE PENNEY AZCARATE, Judge

Conducted Virtually

Friday, May 28, 2021

11:35 a.m. EST

Job No.: 377021

Pages: 1 - 42

Transcribed by: Bobbi J. Fisher, RPR

1 Hearing on Motions before the HONORABLE PENNEY
2 AZCARATE, Judge, conducted virtually.

3

4

5 Pursuant to Docketing, before Sarah Loiler, Digital
6 Court Reporter.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF MR. DEPP:

BENJAMIN CHEW, ESQ.

CAMILLE VASQUEZ, ESQ.

BROWN RUDNICK, LLP

601 Thirteenth Street, NW, Suite 600

Washington, DC 20005

(202) 536-1700

ON BEHALF OF THE DEFENDANT MS. HEARD:

ELAINE CHARLSON BREDEHOFT, ESQUIRE

CHARLSON BREDEHOFT COHEN & BROWN, PC

11260 Roger Bacon Drive, Suite 201

Reston, VA 20190

(703) 318-6800

J. BENJAMIN ROTTENBORN, ESQUIRE

WOODS ROGERS, PLC

10 South Jefferson Street, Suite 1400

Roanoke, VA 24011-1319

(540) 983-7600

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

I N D E X

PAGE

Argument by Ms. Bredehoft	5
Argument by Mr. Chew	24
Further Argument by Ms. Bredehoft	32

E X H I B I T S

(None.)

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

2 THE COURT: We are here on the motions
3 today filed by Ms. Heard as far as amending the
4 plea in bar and the answer and also request to stay
5 discovery. All right. So I have read the motions,
6 but anything you want to add to that,
7 Ms. Bredehoft, since it's your motions?

8 MS. BREDEHOFT: Thank you, Your Honor.
9 And just for introduction purposes, Your Honor,
10 Elaine Bredehoft, and with me is Ben Rottenborn.
11 We represent Amber Heard.

12 THE COURT: Okay. I'm sorry. Let me
13 just swear in your court reporter. I'm sorry.

14 (The court reporter was duly sworn.)

15 THE COURT: Okay. Thank you. I'm sorry,
16 Ms. Bredehoft. Go ahead.

17 MS. BREDEHOFT: Okay. Thank you, Your
18 Honor. And just for clarification, Your Honor,
19 it's a motion for leave to -- we filed the amended
20 answer and grounds of defense, supplemental plea in
21 bar, and also to request a hearing and briefing
22 schedule as well as stay discovery, just for --

1 prepared to try this case on May 17th. We received
2 notice with less than three months. We received it
3 after February 17th that we had to have a new trial
4 date. We were ready to go to trial within three
5 months at that time. We're now almost 11 months
6 from trial. Staying this for two to three months
7 to be able to fully brief, fully hear and let the
8 Court have time to decide this is not going to
9 prejudice either parties in this case. In fact --
10 and I'm going to quote Mr. Depp's counsel in an
11 earlier hearing when he said that, when trial at
12 that time was seven and a half months away, quote,
13 "No exigency exists," end of quote.

14 The only motions in the queue, Your
15 Honor, after meet-and-confers, are all of ours. We
16 have motions to compel on three sets of RFPs, we
17 have two sets of RFAs, we have two sanctions
18 motions partially because a number of things were
19 given to us during a deposition that related to the
20 deposition. All of those would be rendered moot.
21 There would be no reason for me to bring those if
22 we are going to win this motion. But, otherwise, I

1 because this is clearly futile. Thank you, Your
2 Honor.

3 THE COURT: Thank you, Mr. Chew.
4 Anything further, Ms. Bredehopt?

5 MS. BREDEHOFT: Your Honor, I would -- in
6 addition to the fact that I just cited a whole
7 bunch of cases that absolutely support the
8 position, this is an example of Mr. Chew making
9 representations. And I was able to pull this up.

10 On April 12, in our email exchanges back
11 and forth on filing the amended plea in bar -- the
12 supplemental plea in bar and amended -- Mr. Chew
13 just represented to the Court that I said there
14 were no cases and that this would be a case of
15 first impression. In fact, I'm going to read to
16 Your Honor what I wrote as part of that email.

17 Quote: "On the demand for our
18 authorities for the underlying issues we intend to
19 raise in our pleadings, that is not the issue on
20 the motion for leave, but I am happy to discuss
21 this with you. I believe your email ignores the
22 concept of privity altogether. Some of the

1 authorities upon which we rely and expect to rely
2 in the underlying hearing on the supplemental plea
3 in bar are Lee v. Spoden, 290 Va. 235, a 2015
4 Supreme Court case; Lane v. Bayview Loan Servicing,
5 LLC, 297 Va. 645, a 2019 case; Bates v. Devers, 214
6 Va. 667 (1974); and Funny Guy, LLC v. Lecego, 293
7 Va. 135, 2017 Virginia Supreme Court case."

8 This is in my email that I sent to him.
9 I didn't say I have no cases. I said I'm happy to
10 discuss it with you and here are five Virginia
11 Supreme Court cases that we intend to rely on,
12 which is exactly the opposite of what he just
13 contended to you now.

14 Your Honor, there's an enormous amount,
15 an enormous body of support in Virginia -- in the
16 Virginia Supreme Court and in the courts -- that
17 stand for the proposition of exactly what we're
18 asking. We believe we have a very, very strong
19 case. We believe we will be able to convince Your
20 Honor to apply the UK decision. But more
21 importantly, Your Honor, at this hearing, we're
22 just asking for leave to file the defenses and the

1 Honor decides on the number, but I will represent
2 that these are not easy issues. They're complex
3 issues. There are many cases that relate to these
4 very ones, and I tried to give a good smattering of
5 them in this hearing today, but there are even
6 more. And I think it would be helpful -- this is
7 such an important case, Your Honor, such an
8 important decision that I think it would be good to
9 be able to fully prepare that before the Court.

10 THE COURT: All right. Thank you, ma'am.

11 When I look at the motion, on first
12 blush, I must say the requested motion does appear
13 to be futile, but I may be missing something, and
14 therefore, I think it's only right to give a full
15 opportunity to hear the motion and to have the
16 motion briefed and to argue the motion and allow
17 amendments to the answer and grounds of defense.
18 It should be liberally allowed. I'll allow that as
19 well.

20 So what I'm going to do, I'll grant the
21 request for supplemental plea in bar for a motion
22 to dismiss and grant the -- to allow the amended

1 answer and grounds of defense. I will note,
2 however, if it does come after everything and that
3 I am right, at this point, that it is futile and
4 not based on any sound legal basis, I mean, it will
5 be sanctionable. I just want to make sure we all
6 understand that.

7 But, again, I may be missing something,
8 and I want the opportunity to have a full hearing
9 and have the issue briefed.

10 As far as discovery, the rule does give
11 the Court the discretion, and there's no basis to
12 stay discovery, so discovery will be ongoing while
13 we prepare for this motion.

14 All right. So I have here that the 25
15 pages is fine. You said you can -- Ms. Bredehoft,
16 you can get that by June 14th; is that correct?

17 MS. BREDEHOFT: That's correct, Your
18 Honor.

19 THE COURT: All right. And then,
20 Mr. Chew, can you respond with your 25 pages by
21 June 28?

22 MR. CHEW: Yes, Your Honor, for sure.