

IN THE COURT OF APPEALS OF VIRGINIA

AMBER LAURA HEARD,

*Appellant,*

v.

JOHN C. DEPP, II,

*Appellee.*

Record No. 1062-22-4

**APPELLANT’S DESIGNATION OF ASSIGNMENTS OF ERROR**

COMES NOW Appellant Amber Laura Heard, by counsel, and designates the following as her Assignments of Error pursuant to Rule 5A:25:

1. The trial court erred in declining to dismiss the action on the ground of *forum non conveniens*.
2. The trial court erred in denying the supplemental plea in bar and in ruling that the November 2, 2020 judgment of the United Kingdom High Court of Justice, Queen’s Bench Division in *Depp v. News Group Newspapers, Ltd., et al.*, Case No. QB-2018-006323, does not foreclose Mr. Depp’s claims.
3. The trial court erred in denying the demurrer and plea in bar and in ruling as a matter of law that the three allegedly defamatory statements in the challenged op-ed are (a) actionable as statements of fact rather than non-actionable expressions of opinion, and (b) actionable as defamation by implication.

4. The trial court erred in excluding from evidence at trial the November 2, 2020 judgment of the United Kingdom High Court of Justice, Queen's Bench Division in *Depp v. News Group Newspapers, Ltd., et al.*, Case No. QB-2018-006323.
5. The trial court erred in excluding from evidence at trial (a) medical records, including Ms. Heard's contemporaneous communications with medical providers such as Dr. Laura Anderson, Dr. David Kipper, Ms. Debbie Lloyd, Ms. Erin Falatib, Dr. Amy Banks, Dr. Connell Cowan, and Dr. Bonnie Jacobs, and (b) Ms. Heard's communications with several third parties, including Mr. Depp's employees and Ms. Heard's employees, friends, and family, about interactions with Mr. Depp, including reports of drug use, aggressive and abusive conduct, physical abuse, and her fear for her safety.
6. The trial court erred in admitting evidence at trial related to Ms. Heard's pledge to donate money to charity and evidence related to Ms. Heard's alleged abuse of third parties.
7. The trial court erred in excluding evidence at trial of Mr. Depp's reputation as it existed prior to publication of the challenged op-ed and after the op-ed was published.
8. The trial court erred in sustaining an objection during the cross-examination of Mr. Depp to a question about the truth of one of the allegedly defamatory statements on the ground that it called for a legal conclusion.
9. The trial court erred in allowing Mr. Depp to argue or suggest at trial that the jury could award damages based on statements or conduct occurring prior to the publication of the challenged op-ed.
10. The trial court erred in allowing Mr. Depp to argue or suggest at trial, and the jury to consider, whether the allegedly defamatory statements in the challenged op-ed were republications of statements Ms. Heard made in 2016 in connection with a domestic violence temporary restraining order she obtained against Mr. Depp.
11. The trial court, which rejected Proposed Jury Instruction CC, improperly instructed the jury on actual malice.

12. The trial court erred in denying the motions to strike and to set aside the jury's verdict with regard to Mr. Depp's failure to prove publication by Ms. Heard of the statement, "I spoke up against sexual violence—and faced our culture's wrath. That has to change."
13. The trial court erred in denying the motion to set aside the jury's verdict with regard to Mr. Depp's failure to prove that the allegedly defamatory statements in the challenged op-ed each conveyed a defamatory meaning about him by implication and that any such implication was both designed and intended by Ms. Heard.
14. The trial court erred in denying the motions to strike and to set aside the jury's verdict with regard to Mr. Depp's failure to prove actual malice by clear and convincing evidence.
15. The trial court erred in denying the motion to set aside the jury's verdict and in ruling that the jury's verdicts in favor of Mr. Depp on his claims against Ms. Heard and in favor of Ms. Heard on her claims against Mr. Depp were not inherently and irreconcilably inconsistent.
16. The trial court erred in denying the motion to set aside the jury's verdict and upholding the amount of the jury's damages award in light of (a) Mr. Depp's failure to prove pecuniary damages, and (b) the excessiveness of the compensatory and punitive damages awards.

Respectfully submitted,

*s/ Jay Ward Brown*

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